



Registration of a Charge

Company name: **G & J PROPERTIES LIMITED**

Company number: **02966888**



X8X6B1MZ

Received for Electronic Filing: **22/01/2020**

Details of Charge

Date of creation: **20/01/2020**

Charge code: **0296 6888 0095**

Persons entitled: **ATELIER CAPITAL PARTNERS LIMITED**

Brief description: **ST BARNABAS' OLD SCHOOL, WATERY LANE, DARWEN BB3 2EB - LA818449**

Contains fixed charge(s).

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

Contains negative pledge.

Authentication of Form

This form was authorised by: **a person with an interest in the registration of the charge.**

Authentication of Instrument

Certification statement: **I CERTIFY THAT THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by:

HOWARD KENNEDY LLP



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 2966888

Charge code: 0296 6888 0095

The Registrar of Companies for England and Wales hereby certifies that a charge dated 20th January 2020 and created by G & J PROPERTIES LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 22nd January 2020 .

Given at Companies House, Cardiff on 23rd January 2020

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



Companies House



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES

DEBENTURE

DATE *20 January* 2020
PARTIES

- (1) The Person identified as the Chargor in the Particulars below (the Chargor); and
- (2) **ATELIER CAPITAL PARTNERS LIMITED** a company incorporated and registered in England and Wales (registered number 11888767) whose registered office is at 10 Fenchurch Avenue, London, England, EC3M 5AG (the Chargee)

PARTICULARS

The Chargor	Full name: G & J Properties Limited Registered number: 02966888 Address: 454 Darwen Road, Bromley Cross, Bolton BL7 9DX
The Borrower	Full name: G & J Properties Limited Registered number (if a company): 02966888 Address: 454 Darwen Road, Bromley Cross, Bolton BL7 9DX
The Property	Administrative area: Blackburn With Darwen Description: St Barnabas' Old School, Watery Lane, Darwen BB3 2EB Tenure: Freehold Land Registry title number: LA818449
The Prior Security	None.
Facility Agreements	1. The Loan Facility Agreement dated on or about the date hereof (incorporating the terms and conditions referred to therein) between the Chargee and the Borrower; and 2. Any other agreement, deed or document made at any time between the Chargee and the Borrower which provide that the Borrower's liabilities and obligations to the Chargee are to be secured on the Property, and Facility Agreement means any one of them.
Default Rate	The rate specified in the relevant Facility Agreement or, where no rate is specified for the sum in question, the rate of 3% per annum.

AGREED TERMS

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this debenture words and expressions defined in the Particulars will have the meanings given to them in the Particulars. In addition the following words have the meanings given to them below:

Administrator	any person appointed to be an administrator of the Chargor under Schedule B1 to the Insolvency Act.
Bank Accounts	in relation to the Chargor, all its accounts (held by it or by any trustee or nominee on its behalf) with any bank, financial institution or other person together with all sub-accounts, additions to or sub-divisions, renewals or replacements of those accounts (in whatever currency).
Blocked Accounts	any Bank Account designated a 'Blocked Account' by the Chargor and the Chargee (or, following an Event of Default, by the Chargee alone) together with all sub-accounts, additions to or sub-divisions, renewals or replacements of those accounts (in whatever currency).
Business Day	any day (other than a Saturday, Sunday or public holiday) during which clearing banks in the City of London are open for normal business.
Charged Assets	all property and assets from time to time charged by or pursuant to this debenture (and includes any part of them).
Certificate of Title	any report on or certificate of title relating to the Property supplied to the Chargee by or on behalf of the Chargor or the Borrower.
Costs	all costs, charges, expenses, taxes and liabilities of any kind, including (without limitation) costs and damages in connection with litigation, professional fees, disbursements and any VAT charged on Costs which the Chargee or any Receiver may charge or properly incur.
Encumbrance	any mortgage, charge (whether fixed or floating, legal or equitable), pledge, lien, assignment by way of security or other security interest securing any obligation of any person, or any other agreement or arrangement having a similar effect.
Environment	the natural and man-made environment including all or any of the following media, namely air, water and land (including air within buildings and other natural or man-made structures above or below the ground) and any living organisms (including man) or systems supported by those media.
Environmental Law	all laws, directions and regulations and all codes of practice, circulars and guidance notes issued by any competent authority or agency (whether in the United Kingdom or elsewhere and whether or not having the force of law) concerning the protection of the environment or human health, including the conservation of natural resources, the production, storage, transportation, treatment, recycling or disposal of any waste or any noxious, offensive or dangerous substance or the liability of any person, whether civil or criminal, for any damage to or pollution of the environment or its rectification or any related matters.
Environmental	any permit, licence, authorisation, consent or other approval

Permit	required by any Environmental Law.
Equipment	in relation to the Chargor, all equipment, plant, machinery, tools, vehicles, furniture, fittings, installations, apparatus and other tangible moveable property owned by it (or any trustee or nominee on its behalf), including any part of it and all spare parts, replacements, modifications and additions and the benefit of all manuals, instructions, warranties, licences and maintenance agreements relating to the equipment;
Event of Default	<ol style="list-style-type: none"> 1. any Event of Default (howsoever described) occurring under any Facility Agreement, and 2. any breach of the terms of this debenture.
Facility	any loan or other facility provided by the Chargee under the terms of a Facility Agreement;
Financial Collateral	has the meaning given in the Financial Collateral Regulations.
Financial Collateral Regulations	the Financial Collateral Arrangements (No 2) Regulations 2003 (SI 2004/3226).
Insolvency Act	the Insolvency Act 1986
Insurances	any policies of insurance in respect of or which relate to the Charged Assets in which the Chargor has an interest from time to time.
Intellectual Property	<p>in relation to the Chargor, all its intellectual property rights or equivalent (held by it or by any trustee or nominee on its behalf), including:</p> <ol style="list-style-type: none"> (a) patents, utility models, trade marks and service marks, business names, domain names, rights in get-up and trade dress, goodwill and right to sue for passing off or unfair competition, copyright and neighbouring and related rights, moral rights, rights in designs, rights in and to inventions, plant variety rights, database rights, rights in computer software and topography rights; (b) registrations and applications for any or all of the rights in (a) above, together with the right to apply for registration of and be granted, renewals, extensions or and right to claim priority from those rights; and (c) rights to use and protect the confidentiality of confidential information (including, know-how, trade secrets, technical information, customer and supplier lists) and any other proprietary knowledge or information of whatever nature and however arising, <p>in each case whether registered or unregistered and together with any rights or types of protection of the same or of a similar nature to those listed in (a), (b) or (c) above which subsist or may subsist in the future anywhere in the world and in each case for their full term (including any reversions or extensions) and effect (and any reference to Intellectual Property includes any part of it).</p>
LPA	the Law of Property Act 1925.

Material Contracts	all contracts entered into by the Chargor for any building or development works carried on or intended to be carried on at the Property including any building contract to carry out development works, any development agreement, agreements for the appointment of all professional advisors, contractors, subcontractors and any other person engaged in relation to the development, all guarantees, warranties and contracts entered into with manufacturers, suppliers or installers of all plant, fixtures, fittings and other items in the buildings on the Property and all agreements for lease or other agreements for the disposal of the Property, including without limitation the Development Documents as defined in the Facility Agreements.
Planning Acts	the Town and Country Planning Act 1990 and the Planning (Listed Buildings and Conservation Areas) Act 1990, the Planning (Hazardous Substances) Act 1990, the Planning (Consequential Provisions) Act 1990, the Planning and Compensation Act 1991, the Planning and Compulsory Purchase Act 2004, the Planning Act 2008, the Localism Act 2011, the Growth and Infrastructure Act 2013 and any other legislation from time to time regulating the use or development of land.
Property	the property described in the Particulars together with the benefit of all rights, easements and privileges in relation to it (and references to the Property include any part of it).
Receivables	<p>in relation to the Chargor:</p> <ul style="list-style-type: none"> (a) all book and other debts owing to it; (b) all other monetary claims or money due and owing to it; (c) any rights in respect of any item listed in paragraph (a) and (b) above, <p>but excluding any such debts or claims in relation to the Blocked Accounts, the Material Contracts and the Insurances.</p>
Receiver	any receiver, manager or receiver and manager appointed by the Chargee under this debenture.
Related Rights	<p>in connection with any Securities:</p> <ul style="list-style-type: none"> (a) all dividends, interest and other distributions paid or payable; (b) all rights, money or property accruing or offered at any time by way of redemption, substitution, exchange, bonus or preference, under option rights or otherwise; and (c) any other rights.
Rental Income	the aggregate of all amounts paid or payable to or for the account of the Chargor in connection with the letting, licence or grant of other rights of use or occupation of any part of the Property.
Required Insurance	any contract of insurance required under clause 12.
Secured Liabilities	<ul style="list-style-type: none"> (i) all present and future monies, obligations and liabilities owed by the Borrower to the Chargee under or in connection with any Facility; (ii) all other monies and liabilities, present and future whether actual or contingent and whether owed jointly or severally, as

	principal or surety and/or in any other capacity whatsoever owed by the Borrower to the Chargee; and
	(iii) all monies and liabilities of the Chargor to the Chargee payable or arising under or in connection with this debenture.
Securities	in relation to the Chargor, all its stocks, shares, loan capital, debentures, bonds, warrants, coupons or other securities or investments (whether or not marketable) (including its Subsidiary Shares) (held by it or by any trustee or nominee on its behalf) together with all Related Rights
Security Financial Collateral Arrangement	has the meaning given in the Financial Collateral Regulations
Security Interest	a mortgage, charge (whether fixed or floating, legal or equitable), pledge, trust, assignment by way of security, lien, hypothecation or other encumbrance, arrangement or security interest securing any obligation of any person or any other agreement or arrangement having a similar effect or any title retention rights or set-off rights created by agreement.
Subsidiaries	a subsidiary undertaking within the meaning of section 1162 and/or a subsidiary within the meaning of section 1159 of the Companies Act 2006
Subsidiary Shares	in relation to the Chargor, any Securities owned by it (or held by any trustee or nominee on its behalf) in any of its Subsidiaries, in each case including all Related Rights.
Tax	any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same).
Third Parties Act	the Contracts (Rights of Third Parties) Act 1999.
Valuation	any valuation relating to the Property supplied to the Chargee by or on behalf of the Borrower.
VAT	value added tax provided for in the Value Added Tax Act 1994 and any other Tax of a similar nature.

1.1

1.2 In this debenture, a reference to:

- 1.2.1 a clause or a schedule is, unless otherwise stated, a reference to a clause of, or a schedule to, this debenture;
- 1.2.2 a provision of law includes a reference to that provision as replaced, modified or re-enacted from time to time and any subordinate legislation made under that statutory provision from time to time;
- 1.2.3 a person includes any individual, firm, company, corporation, government, state or agency of state or any association, trust, joint venture, consortium or partnership;
- 1.2.4 a "Party", the "Chargor", or the "Chargee" shall be construed so as to include its successors in title, permitted assigns and permitted transferees;

- 1.2.5 "disposal" includes any sale, transfer, assignment, grant, lease, licence, declaration of trust or other disposal, whether voluntary or involuntary and "dispose" will be construed accordingly;
- 1.2.6 a company shall be construed so as to include any company, corporation or other body corporate, wherever and however incorporated or established;
- 1.2.7 writing shall include any mode of reproducing words in a legible and non-transitory form;
- 1.2.8 this debenture or any provision of this debenture or any other agreement, document or instrument is to this debenture, that provision or that agreement, document or instrument as amended, novated, supplemented, extended or restated; and
- 1.2.9 a time of day is a reference to London time.
- 1.3 The schedules and the Particulars form part of this debenture and have the same effect as if they were expressly set out in the body of this debenture.
- 1.4 Headings in this debenture are for convenience only and do not affect interpretation or construction.
- 1.5 The singular includes the plural and vice versa and words of one gender include every gender.
- 1.6 The words "other", "include", "including" and "in particular" do not limit the scope of any words to which they relate and are not to be construed as limiting the scope where a wider construction is possible.
- 1.7 Paragraph 14 of Schedule B1 to the Insolvency Act applies to the floating charge created by this debenture.
- 1.8 For the purposes of section 2 Law of Property (Miscellaneous Provisions) Act 1989, the terms of the Facility Agreements and of any side letters between any parties relating to them are incorporated into this debenture.
- 1.9 Where there is any conflict between the terms of this debenture and the Facility Agreements, the terms of the Facility Agreements will take precedence.

2. Covenant to Pay

The Chargor covenants with the Chargee that it will pay or discharge the Secured Liabilities on demand when they fall due.

3. Default Interest

Any amount which is not paid under this debenture on its due date will bear interest in accordance with the terms of the Facility Agreement. Unless the Chargee confirms by written notice to the Chargor that it intends to disapply such interest, interest at the Default Rate will be payable on a daily basis (both before and after judgment and payable on demand) from the due date (or, in the case of costs, fees or expenses incurred, from the date they are incurred) until the date on which the relevant amount is unconditionally and irrevocably received by the Chargee.

4. Grant of Security

- 4.1 **Fixed Charges.** As a continuing security for the payment of the Secured Liabilities, the Chargor with full title guarantee charges, and agrees to charge, in favour of the Chargee the following assets which are at any time owned by the Chargor or in which it is from time to time interested;

- 4.1.1 by way of **first legal mortgage**, the Property together with the benefit of all rights, easements and privileges in relation to it and all buildings and fixtures (including trade fixtures) at any time attached to it;
- 4.1.2 by way of **first fixed charge** all proceeds of sale of the Property or any buildings, fixtures or fittings (including trade fixtures and fittings) at any time on or attached to the Property, the benefit of all covenants given in respect of the Property or any such buildings, fixtures or fittings and all licences to enter upon or use land and the benefit of all other agreements relating to land;
- 4.1.3 to the extent not effectively assigned pursuant to clause 4.2.1, by way of **first fixed charge** all rights and interests of the Chargor in, and claims under, the Insurances and all proceeds of such Insurances held by, or written in favour of, the Chargor or in which the Chargor is otherwise interested;
- 4.1.4 to the extent that they are not effectively assigned by clause 4.2.3, by way of **first fixed charge** all Rental Income;
- 4.1.5 to the extent that they are not effectively assigned by clause 4.2.2 by way of **first fixed charge** all Material Contracts;
- 4.1.6 by way of **first fixed charge** the benefit of all licences, consents, agreements and authorisations held or used by the Chargor in connection with the Chargor's business or the Property or the use of any of the Charged Assets;
- 4.1.7 by way of **first fixed charge** all of the Chargor's goodwill present and future together with the Chargor's uncalled capital from time to time; and
- 4.1.8 by way of **first fixed charge** the Equipment;
- 4.1.9 by way of **first fixed charge** any of Securities owned by the Chargor in any of its Subsidiaries;
- 4.1.10 by way of **first fixed charge** all of the Chargor's other Securities;
- 4.1.11 by way of a **first fixed charge** the Blocked Accounts;
- 4.1.12 by way of a **first fixed charge** all of the Chargor's other Bank Accounts;
- 4.1.13 by way of a **first fixed charge** the Intellectual Property;
- 4.1.14 by way of a **first fixed charge** the Receivables.
- 4.2 **Assignment.** As a continuing security for the payment of the Secured Liabilities, the Chargor with full title guarantee **assigns and agrees to assign** absolutely in favour of the Chargee all of the Chargor's rights, title, interest and benefit in and to:
- 4.2.1 the Insurances (together with all proceeds of the Insurances);
- 4.2.2 the Material Contracts and the benefit of any guarantee or Security Interest for the performance of a Material Contract; and
- 4.2.3 the Rental Income.
- 4.3 **Floating Charge.** The Chargor with full title guarantee charges by way of first floating charge all its assets which are not effectively mortgaged, charged or assigned by fixed mortgage, fixed charge or assignment under clauses 4.1 and 4.2.

- 4.4 If:
- 4.4.1 an Event of Default is continuing; or
- 4.4.2 the Chargee, in its reasonable opinion:
- (a) considers any Charged Asset to be in danger of being seized or sold under any form of distress, attachment, execution or other legal process or to be otherwise in jeopardy; or
 - (b) considers it desirable to protect the priority of this debenture, the Chargee may, by written notice to the Chargor, convert the floating charge created by this deed into a fixed charge over those Charged Assets specified in the notice.
- 4.4.3 The floating charge created by clause 4.3 will (in addition to the circumstances in which this will occur under general law) automatically crystallise and be converted into a fixed charge over any Charged Asset:
- (a) if the Chargor creates or attempts to create any Security Interest in breach of clause 5 over any Charged Asset;
 - (b) if any person levies or attempts to levy any distress, execution, attachment or other process against any Charged Asset;
 - (c) if any person presents a petition to wind up the Chargor or an application is made to the court for an administration order in respect of the Chargor or a notice of intention to appoint an Administrator is filed at court or served on any party; or
 - (d) if the Chargee enforces this debenture.
- 4.5 The security created by this debenture shall rank subject only to the Prior Security (if any).
- 4.6 Where there are two or more persons named as the Chargor, the security created by this debenture shall be a charge over the Charged Assets and over any separate interest whether legal or equitable of each such person in the Charged Property or any part of it.
- 4.7 If the Chargor's interest in the Property or the Charged Assets is less than the whole legal and equitable interest or is in respect of less than the whole of the Property or the Charged Assets, then in every such case, this debenture shall take effect as a charge upon such interest (whether legal or equitable or partly legal and partly equitable) as the Chargor has in the Property or the Charged Assets.
5. **Restriction on creating Security**
- The Chargor covenants with the Chargee that, during the continuance of the security created by this debenture, it will not without the Chargee's prior written consent:
- 5.1 create, purport to create or allow any Security Interest to exist over any of the Charged Assets; or
- 5.2 sell, transfer, lease, licence, lend, part possession with, grant any interest in, or otherwise dispose of (whether by one transaction or a number of separate transactions) the whole or any part of the Charged Assets.
6. **Blocked Accounts**

The Chargor must not attempt or be entitled to withdraw (or direct any transfer of) any money in the Blocked Accounts without the prior written consent of the Chargee.

7. Intellectual Property

- 7.1 The Chargor must:
- 7.2 take all necessary action to safeguard and maintain present and future rights in, or relating to, the Intellectual Property including by complying with all laws and obligations relating to those rights, and by paying all applicable renewal fees, licence fees and other outgoings.
- 7.3 properly register, and keep registered, all Intellectual Property (along with any related assignments, licences and mortgages that can be registered);
- 7.4 not allow any disclaimer, condition, restriction, memorandum or other thing to be entered on the registration of any trade mark that forms part of the Intellectual Property;
- 7.5 take all reasonable steps (including commencing legal proceedings) necessary to safeguard and maintain the validity, reputation, integrity, registration or subsistence of the Intellectual Property and not allow it to be used in such a way that it is at risk of becoming generic;
- 7.6 not permit any Intellectual Property to be abandoned, cancelled or to lapse;
- 7.7 when reasonably requested, promptly provide the Chargee with a comprehensive, detailed and up-to-date record of all Intellectual Property; and
- 7.8 inform the Chargee if it becomes aware of any infringement of, or challenge to, the Intellectual Property and take (or permit the Chargee to take, in the name and at the expense of the Chargor) whatever action is necessary to prevent that infringement, defeat that challenge and/or to recover damages or an account of profits.

8. Receivables

- 8.1 The Chargee appoints the Chargor as its agent for:
 - 8.1.1 administering and collecting all Receivables; and
 - 8.1.2 at the Chargor's own expense, taking any enforcement action and legal or other proceedings necessary or that the Chargee requires for collection of the Receivables,in each case for the benefit of the Chargee and following any directions given by the Chargee from time to time. The Chargor accepts that appointment.
- 8.2 The Chargee may terminate the agency under clause 8.1 at any time.
- 8.3 While the agency in clause 8.1 continues, the Chargor will not hold itself out to third parties as agent of the Chargee other than for the purposes it is appointed for.
- 8.4 The Chargor must not, without the Chargee's prior written consent:
 - 8.4.1 exercise (or allow any other person to exercise) set-off against any Receivables;
 - 8.4.2 sell, assign, charge, factor or discount or in any other manner deal with any Receivables; or
 - 8.4.3 extend the due date for payment of any Receivables;
 - 8.4.4 waive any right of recovery nor fail to do anything which may delay or prejudice recovery of any Receivables.
- 8.5 All Receivables collected under clause 8.1:

- 8.5.1 will be held on trust for the Chargee; and
- 8.5.2 if the Chargee requests, be promptly paid into any bank account required by the Facilities Agreement or otherwise any bank account the Chargee directs.

9. **Land Registry**

- 9.1 The Chargor covenants with the Chargee to apply promptly to the Chief Land Registrar for the registration of a Restriction against the registered titles in respect of the Property in the following terms:

"No disposition of the registered estate by the proprietor of the registered estate is to be registered without a written consent signed by the proprietor for the time being of the charge dated 20[●] in favour of Atelier Capital Partners Limited referred to in the charges register."

- 9.2 The security created by this debenture is made to secure further advances. The Chargee covenants with the Chargor that the Chargee will perform its obligations to make an advance or advances under the Facility Agreements (including any obligation to make available further advances).
- 9.3 Any obligation on the part of the Chargee to make further advances to the Chargor or the Borrower is deemed to be incorporated in the debenture and the Chargee agrees that it will apply to the Chief Land Registrar confirming that there is an obligation to make further advances on the security of this debenture and applying for a note to be entered to that effect in the Register of Title of the Property.
- 9.4 If the title to the Property is not registered at the Land Registry, the Chargor agrees to ensure that no person (other than the Chargor) is registered under the Land Registration Act 2002 as the proprietor of all or any part of the Property, without the Chargee's prior written consent.
- 9.5 Whether or not title to the Property is registered at the Land Registry, if any caution against first registration or any notice (whether agreed or unilateral) is registered against the Chargor's title to the Property, the Chargor will give full details to the Chargee as soon as reasonably practicable.

10. **Representations and Warranties**

- 10.1 The Chargor represents and warrants to the Chargee that:

10.1.1 **Status**

- (a) the Chargor is duly organised, validly existing and registered under the relevant laws of its jurisdiction of incorporation;
- (b) it has the power to own its assets and carry on its business as it is being conducted;

10.1.2 **Authority**

it is empowered to enter into and perform its obligations contained in this debenture and has taken all necessary action to authorise the execution, delivery and performance of this debenture, to create the security to be constituted by this debenture and to observe and perform its obligations under this debenture;

10.1.3 **Binding obligations**

the obligations expressed to be assumed by it in this debenture are legal, valid, binding and enforceable obligations;

10.1.4 Non-conflict with other obligations

the entry into, performance and the granting of this debenture and security created by this debenture do not and will not conflict with:

- (a) any law or regulation applicable to it;
- (b) its constitutional documents; or
- (c) any agreement or instrument which the Chargor has entered into or any of its assets or constitute a default or termination event of any type under any such agreement or instrument;

10.1.5 The Property

it is the legal and beneficial owner of the Property free from any Security Interest other than this debenture and any Prior Security;

10.1.6 the Chargor has not received, or acknowledged notice of, any adverse claim by any person in respect of the Property or any interest in it;

10.1.7 so far as the Chargor is or should, acting reasonably, be aware:

- (a) there are no covenants, agreements, reservations, conditions, interests, rights or other matters of any type which materially and adversely affect the Property; and
- (b) there is no breach of any law or regulation which materially and adversely affects the Property;
- (c) no facility necessary for the enjoyment and use of the Property is subject to terms entitling any person to terminate or curtail its use, except as set out in the lease of the Property where the Property is leasehold;
- (d) no person has an interest which could take priority over the Chargee's interest under this debenture as an overriding interest in the Property;
- (e) none of the Security expressed to be created by this debenture is liable to be avoided, or otherwise set aside, on the Chargor's bankruptcy or insolvency;

10.1.8 Information Supplied

All written information supplied by or on behalf of the Chargor or the Borrower for the purpose of each Valuation and Certificate of Title:

- (a) was true and accurate in all material respects as at its date or as at the date on which it was given;
- (b) was, as at its date or as at the date (if any) on which it was stated to be given, complete and did not omit any information which, if disclosed, would adversely affect the Valuation or Certificate of Title;
- (c) has not been affected by any occurrence between the date or dates when the information was supplied and the date of this debenture which would adversely affect the Valuation or Certificate of Title.

10.1.9 Environmental matters

- (a) the Chargor has complied with all Environmental Laws and Environmental Permits which affect the Charged Assets;

- (b) there has been no discharge, spillage, release or emission of any prescribed, dangerous, noxious or offensive substance or any controlled waste on, into or from any Charged Asset or any adjoining premises and no such substances or any controlled waste have been stored or disposed of on any Charged Asset or, so far as the Chargor is aware, in any adjoining property except in accordance with the requirements of Environmental Laws; and
- (c) it is not in breach of and has not incurred or become subject to any civil or criminal liability under any Environmental Laws or the terms of any Environmental Permit and it has not done anything or omitted to do anything which could result in any liability being imposed on the Chargee under any Environmental Law.

10.2 When the warranties are given

The Chargor makes the representations and warranties set out in clause 10.1 on the date of this debenture and they are deemed to be repeated on each day during the continuance of the security created by this debenture.

11. Covenants of the Chargor

The Chargor covenants with the Chargee that it will:

11.1 Maintenance and use

- 11.1.1 keep all buildings and erections forming part of the Property in a good state of repair;
- 11.1.2 keep all fixtures, fittings, drains, pipes, sanitary, water and other effects and services to or forming part of the Property in good working order and condition and ensure that the same is properly serviced in accordance with any relevant warranties or manuals;
- 11.1.3 keep all Equipment in good repair, working order and condition and fit for its purpose; and
- 11.1.4 where it is uneconomic to repair any part of the Charged Assets replace that part with another similar asset of equal or greater quality and value.

11.2 Outgoings

duly and punctually pay all rates, rents, taxes, charges and other outgoings which it is liable to pay in respect of the Charged Assets;

11.3 Inspection

- 11.3.1 permit the Chargee or its designated representatives to have, on reasonable notice, access during normal office hours to its accounts and accounting records and to any books and records relating to the Charged Assets, to inspect and take extracts from and make photocopies of the same and the Chargor shall provide, at its cost and expense, such clerical and other assistance as the Chargee may reasonably request;
- 11.3.2 permit the Chargee or its designated representatives to have, on reasonable notice, access during normal office hours to the Property to view, inspect examine and photograph it;

11.4 Comply with statutes

in relation to the Charged Assets, comply with all obligations under any present or future statute, regulation, order and instrument or under any by-laws, regulations or requirements of any competent authority or other approvals, licences or consents and, if requested by the Chargee, produce to the Chargee, within 14 days of receipt of the same, every material notice, order or proposal given or made in relation to the Charged Assets by any competent authority and either comply with the same or make such objections and representations against the same as the Chargee may require or approve;

11.5 Comply with covenants

observe and perform all covenants and stipulations from time to time affecting any part of the Charged Assets, or the manner of use or the enjoyment of them and that it will not, except with the Chargee's prior written consent, enter into any onerous or restrictive obligations affecting any part of the Charged Assets;

11.6 Conduct of business

carry on its business in accordance with the standards of good management for that type of trade or business;

11.7 Leases and Licences

11.7.1 enforce the Chargor's rights as landlord under any lease of the Property and perform the Chargor's obligations as landlord under any such lease;

11.7.2 observe and perform all the lessee's covenants in any lease under which the Chargor holds the Property;

11.7.3 not, except with the prior written consent of the Chargee:

- (a) part with or share possession or occupation of the Property;
- (b) enter into any lease or otherwise grant any lease or other right or licence to occupy any land or buildings forming part of the Property or any licence to assign or sub-let any part of the Property;
- (c) forfeit, determine, accept or agree to accept the surrender of any lease of the Property;
- (d) vary the terms of any lease of the Property;
- (e) agree any rent review under any lease of the Property;
- (f) surrender or agree to surrender any leasehold interest held by it in relation to the Property or allow such interest to be forfeited;
- (g) create or permit to arise any overriding interest on the Property; or
- (h) permit any person to become entitled to any right, easement, covenant or other matter which might adversely affect the use, value or marketability of the Property.

11.8 Environmental Law and Permits

11.8.1 comply with all Environmental Laws and obtain, maintain and comply with all relevant Environmental Permits and provide copies to the Chargee of any Environmental Permits if the Chargee so requests;

- 11.8.2 notify the Chargee as soon as practicable of any Environmental Claim made or threatened against the Chargor and any condition imposed by any Environmental Permit or Environmental Law which requires the Chargor to incur any capital expenditure or materially alter the nature or manner of conduct of the Chargor's business which could, in the Chargee's opinion, materially reduce the value of the Charged Assets (or any of them); and
- 11.8.3 keep the Chargee informed of any steps taken or intended to be taken by the Chargor in respect of any of the matters referred to in clause 11.8.2 and notify the Chargee as soon as practicable of any new or additional requirements under any Environmental Law imposed on the Chargor or any Charged Asset;

11.9 Planning Acts

not carry out any development (within the meaning of the Planning Acts) on the Property without first obtaining all required permissions under the Planning Acts and, in the case of any development involving a substantial change in the structure or a change of use of the Property or any part it, without first obtaining the Chargee's written consent;

11.10 Material Contracts

- 11.10.1 notify the Chargee of any breach of a Material Contract whether by the Chargor or another party;
- 11.10.2 observe and perform all its obligations under each Material Contract and enforce the obligations of each other party to a Material Contract;

11.11 Deposit of documents

- 11.11.1 unless the Chargee otherwise confirms in writing, immediately on entering into this debenture deposit with the Chargee all certificates, deeds and documents of title relating to or representing the Charged Assets and all planning consents, building regulation approvals and like documents relating to the Property;
- 11.11.2 immediately on entering into this debenture or when it receives the same, provide the Chargee with a copy of any report, notices, circulars, accounts, invoice, certificate or other material communication received relating to the Charged Assets;
- 11.11.3 immediately on entering into this debenture or when it receives the same, provide the Chargee with a copy of the policy documents setting out the terms applicable to the Required Insurances; and
- 11.11.4 if requested by the Chargee, deposit with it original copies of all Material Contracts;

11.12 Provision of Information

The Chargor agrees that it will:

- 11.12.1 promptly provide to the Chargee whatever information, documents or papers relating to the Charged Property and/or the Chargor's business and assets as the Chargee may from time to time request; and
- 11.12.2 notify the Chargee as soon as the Chargor acquires or enters into any contract to acquire, any freehold, leasehold or other interest in property.

11.13 Option to tax

The Chargor shall not, without the Chargee's prior written consent:

- 11.13.1 exercise any VAT option to tax in relation to the Property, or
- 11.13.2 revoke any VAT option to tax exercised prior to and disclosed to the Chargee in writing prior to the date of this deed.

12. Insurance

12.1 The Chargor covenants with the Chargee that it will ensure that at all times required insurances ("Required Insurances") are maintained in full force and effect, which:

- 12.1.1 insure the Chargor's interests in the Charged Assets, (including the Property and the plant and machinery on the Property and also including fixtures and improvements) for their full replacement value (being the total cost of entirely rebuilding, reinstating or replacing the relevant asset if it is completely destroyed, together with all related fees and demolition costs);
- 12.1.2 provide cover against loss or damage by fire, storm, tempest, flood, earthquake, lightning, explosion, impact, aircraft and other aerial devices and articles dropped from them, riot, civil commotion and malicious damage, bursting or overflowing of water tanks, apparatus or pipes and all other normally insurable risks of loss or damage for an asset of the type of the relevant Charged Asset;
- 12.1.3 provide cover for site clearance, shoring or propping up, professional fees and value added tax together with adequate allowance for inflation;
- 12.1.4 provide cover against acts of terrorism, including any third party liability arising from such acts;
- 12.1.5 provide cover for loss of rent (in respect of a period of not less than three years or, if longer, the minimum period required under any lease of the Property) including provision for any increases in rent during the period of insurance;
- 12.1.6 include property owners' public liability and third party liability insurance;
- 12.1.7 insure such other risks as a prudent company in the same business as the Chargor would insure; and
- 12.1.8 in each case are in an amount, and in form, and with an insurance company or underwriters, acceptable at all times to the Chargee.

12.2 The Chargor must ensure that the Chargee is named as composite insured in respect of its own separate insurable interest under each of the Required Insurances (other than public liability and third party liability insurances) but without any liability on the part of the Chargee or any Receiver for any premium in relation to those Required Insurances.

12.3 The Chargor must ensure that the Required Insurances comply with the following requirements:

- 12.3.1 each of its Required Insurances must contain:
 - (a) a non-invalidating and non-vitiating clause under which the Required Insurance will not be avoided or vitiated as against the Chargee as a result of any circumstances beyond the control of the Chargee or any misrepresentation, non-disclosure, or breach of any policy term or condition;

- (b) a waiver of the rights of subrogation of the insurer as against the Chargor and the Chargee and any tenants of the Property other than any rights which arise in connection with any fraud or criminal offence committed by any of those persons in respect of any Charged Asset or any Required Insurance; and
 - (c) a loss payee clause under which the Chargee is named as first loss payee in respect of any claim or series of connected claims in excess of an amount which the Chargee notifies to the Chargor from time to time;
- 12.3.2 each insurer must give at least 30 days' notice to the Chargee if it proposes to
 - (a) repudiate, rescind or cancel any Required Insurance;
 - (b) treat any Required Insurance as avoided in whole or in part;
 - (c) treat any Required Insurance as expired due to non-payment of premium; or
 - (d) otherwise decline any valid claim under any Required Insurance by or on behalf of any insured party

and, in respect of clause (c) above, must in the notice give the Chargee the opportunity to rectify any non-payment of premium within the notice period; and
- 12.3.3 the Chargor must be free to assign or otherwise grant a Security Interest over all amounts payable to it under each of its Required Insurances and all its rights in connection with those amounts in favour of the Chargee.
- 12.4 The Chargor must use all reasonable endeavours to ensure that the Chargee receives copies of the Required Insurances, receipts for the payment of premiums for insurance and any information in connection with the insurances and claims under them which the Chargee may reasonably require.
- 12.5 The Chargor must promptly notify the Chargee of:
 - 12.5.1 the proposed terms of any future renewal of any of the Required Insurances;
 - 12.5.2 any amendment, supplement, extension, termination, avoidance or cancellation of any of the Required Insurances made or, to its knowledge, threatened or pending;
 - 12.5.3 any claim, and any actual or threatened refusal of any claim, under any of the Required Insurances; and
 - 12.5.4 any event or circumstance which has led or may lead to a breach by the Chargor of any term of this clause.
- 12.6 The Chargor must:
 - 12.6.1 comply with the terms of the Required Insurances;
 - 12.6.2 not do or permit anything to be done which may make any of the Required Insurances void or voidable; and
 - 12.6.3 comply with all reasonable risk improvement requirements of its insurers.
- 12.7 The Chargor must ensure that:

- 12.7.1 each premium for the Required Insurances is paid promptly and in any event prior to the commencement of the period of insurance for which that premium is payable;
- 12.7.2 all other things necessary are done so as to keep each of the Required Insurances in force; and
- 12.7.3 a copy of each policy in respect of each of the Required Insurances is supplied to the Chargee promptly on request, together with the current premium receipts relating to it.
- 12.8 If the Chargor fails to comply with any term of this clause, the Chargee may, at the Chargor's expense put in place any insurance and generally do such things and take such other action as the Chargee may reasonably consider necessary to prevent or remedy any breach of this clause.
- 12.9 The Chargor agrees that:
 - 12.9.1 except as provided below, the proceeds of any Required Insurances will, if the Chargee requires, be applied in reduction of the Secured Liabilities in such order as the Chargee sees fit.
 - 12.9.2 the Chargor must apply moneys received under any Required Insurances in respect of the Property towards replacing, restoring or reinstating the same part of the Property.
 - 12.9.3 the proceeds of any loss of rent insurance will be treated as rental income and applied in such manner as the Chargee (acting reasonably) requires to have effect as if it were rental income received over the period of the loss of rent.
 - 12.9.4 moneys received under liability policies held by the Chargor which are required by the Chargor to satisfy established liabilities of the Chargor to third parties must be used to satisfy these liabilities.
- 13. **Enforcement of Security**
- 13.1 The security created by this debenture becomes immediately enforceable upon or at any time after:
 - 13.1.1 the occurrence of an Event of Default;
 - 13.1.2 the Chargor requesting the appointment of a Receiver or Administrator;
 - 13.1.3 an administration application being made in respect of the Chargor; or
 - 13.1.4 any person giving a notice of intention to appoint an Administrator,and the Chargee may, in its absolute discretion, enforce all or any part of it as it sees fit.
- 13.2 The power of sale and other powers given by section 101 LPA (as varied or extended by this debenture) will arise on and be exercisable without further notice immediately after the date of creation of this debenture. Sections 93 and 103 LPA do not apply to the security created by this debenture.
- 14. **Redemption of Prior Security**

When the security created by this debenture has become enforceable, the Chargee may, at the sole cost of the Chargor (payable to the Chargee on demand):

 - 14.1.1 redeem any prior Security Interest over any Charged Asset; and/or
 - 14.1.2 procure the transfer of that Security Interest to itself; and/or

- 14.1.3 settle the accounts of any prior mortgagee, chargee or encumbrancer. Any settlement will be final and binding on the Chargor.

All money paid by the Chargee to a prior mortgagee, chargee or encumbrancer under those accounts will form part of the Secured Liabilities.

15. **Appointment and Powers of Receiver**

- 15.1 When the security created by this debenture becomes enforceable, or if the Chargor so requests by written notice at any time, the Chargee may:

- 15.1.1 appoint any person to be a Receiver of the Charged Assets; and/or
- 15.1.2 to the extent they are not a Charged Asset, the Chargee may, at the expense of the Chargor and as agent of the Chargor, remove, store, preserve, sell or otherwise dispose of any moveable items at the Property without liability to the Chargor for any loss in connection with the disposal;
- 15.1.3 exercise all or any of the powers and remedies of a mortgagee in respect of the Charged Assets.

- 15.2 The Chargee may remove any Receiver which it appoints and appoint a new Receiver in his place. If there is more than one Receiver, they will have the power to act individually (unless the deeds or other instruments appointing them say otherwise).

- 15.3 Any Receiver will have all the powers conferred by the LPA and, although he is not an administrative receiver, by schedule 1 to the Insolvency Act (but without any of the restrictions imposed on the exercise of those powers by such statutes). In addition, a Receiver will have the following powers:

- 15.3.1 the same powers to do, or to omit to do, in the name of and on behalf of the Chargor, anything which the Chargor itself could have done or omitted to do with Charged Assets if they were not the subject of this debenture;
- 15.3.2 to take possession of, collect and get in the Charged Assets and/or income in respect of which he was appointed;
- 15.3.3 to manage the Charged Assets and the business of the Chargor;
- 15.3.4 to redeem any Security Interest;
- 15.3.5 to borrow or raise any money and secure the payment of any money in priority to the Secured Liabilities for the exercise of his powers and/or defraying any costs or liabilities incurred by him in such exercise;
- 15.3.6 to alter, develop, complete, construct, refurbish or repair any Charged Asset;
- 15.3.7 to complete or agree to the completion or undertaking (with or without modification) of any project in which the Chargor is interested before his appointment, being a project for the alteration, development, completion, construction, refurbishment or repair of any Charged Asset;
- 15.3.8 to sell or agree to dispose of the Charged Assets over which he was appointed without being limited by any restriction imposed by section 103 or 109 LPA and, for that purpose, to enter into covenants and other contractual obligations in the name of, and to bind, the Chargor;

- 15.3.9 to lease, make agreements for leases, accept surrenders of leases and grant options the Chargee or the Receiver considers suitable and without the need to comply with any of the terms of sections 99 and 100 LPA;
- 15.3.10 to take any proceedings, in the name of the Chargor or otherwise in respect of the Charged Assets including proceedings for recovery of arrears on his appointment;
- 15.3.11 to insure, and renew any insurances over, the Charged Assets he considers suitable, or as the Chargee directs;
- 15.3.12 to appoint and employ managers, officers and workmen and engage professional advisers as he considers suitable, including power to employ his partners and firm;
- 15.3.13 to operate any rent review clause for any Property in respect of which he was appointed and to apply for any new or extended lease;
- 15.3.14 to exercise or revoke any VAT option to tax as he reasonably thinks fit; and
- 15.3.15 to agree any arrangement or compromise he considers suitable and to do all other things incidental or conducive to any other power vested in him to realise the Charged Assets.
- 15.4 In making any disposal a Receiver or the Chargee may accept, as consideration, cash, shares, loan capital or other obligations on any terms he may agree. Any contract for disposal may contain conditions excluding or restricting the personal liability of the Receiver and the Chargee.
- 15.5 Any Receiver will be the agent of the Chargor and the Chargor will be solely responsible for his acts and defaults and for his remuneration.
- 15.6 Any Receiver will be entitled to charge for his services at a rate to be fixed by agreement between him and the Chargee (or failing agreement to be fixed by the Chargee) without the limits contained in section 109 LPA.
- 15.7 Only money actually paid by a Receiver to the Chargee in satisfaction or discharge of the Secured Liabilities may be applied by the Chargee in satisfaction of the Secured Liabilities.
- 15.8 Neither the Chargee nor any Receiver will be liable:
 - 15.8.1 in respect of the Charged Assets; or
 - 15.8.2 for any loss or damage which arises out of the exercise or the attempted or purported exercise of, or the failure to exercise any of, their respective powers, unless the loss or damage is caused by his gross negligence or wilful misconduct.
- 15.9 Without prejudice to the generality of clause 15.8, taking possession of the Charged Assets will not make the Chargee or any Receiver liable to account as mortgagee in possession. If the Chargee or any Receiver takes possession of the Charged Assets, it may at its discretion, give up possession.
- 15.10 All or any of the powers which are given to a Receiver by this debenture may be exercised by the Chargee without first appointing a Receiver or where a Receiver is appointed.
- 15.11 Except to the extent provided by law, the occurrence of an insolvency event to the Chargor will not affect any of the powers given in this clause.
- 15.12 No purchaser from, or other person dealing with the Chargee or with any Receiver need:

- 15.12.1 enquire whether the right:
- (a) of the Chargee to appoint a Receiver; or
 - (b) of any person to exercise any of the powers given by this debenture,
- has arisen or become exercisable by the Chargee or by any Receiver;
- 15.12.2 have any regard to any notice to the contrary, or with the propriety of the exercise or purported exercise of any of those powers. The Chargor may not challenge the title of a buyer on account of any of the matters mentioned in this clause.

16. Financial Collateral

16.1 To the extent that:

- 16.1.1 any of the Charged Assets constitute Financial Collateral; and
- 16.1.2 this deed and the obligations of the Chargor under it amount to a Security Financial Collateral Arrangement,

the Chargee has the right, at any time after this debenture becomes enforceable under clause 13.1, to appropriate all or any of those Charged Assets in or towards the payment or discharge of the Secured Liabilities in any order the Chargee in its absolute discretion decides.

16.2 The value of any Charged Assets appropriated under clause 16.1 is:

- 16.2.1 if it is listed on a recognised exchange, the value at which it could have been sold on the exchange at the date of appropriation;
- 16.2.2 in the case of cash, the amount of cash appropriated; or
- 16.2.3 in any other case, such value as determined by any method the Chargee reasonably selects (including independent valuation).

16.3 The Chargor agrees that any of its Charged Assets that are Financial Collateral may, at the Chargee's option, be held or designated so they are under the control of the Chargee for all purposes of the Financial Collateral Regulations.

16.4 The Chargor agrees that the methods of valuation provided for in clause 16.2 are commercially reasonable for the purposes of the Financial Collateral Regulations.

17. Application of Proceeds

17.1 All monies received by the Chargee or any Receiver appointed under this debenture shall (subject to the rights and claims of the holder of any prior-ranking Security) be applied in the following order:

- 17.1.1 in payment of the costs, charges and expenses of the appointment of the Receiver and the payment of his remuneration;
- 17.1.2 in payment and discharge of any liabilities incurred by the Receiver on behalf of the Chargor in the exercise of any of the powers of the Receiver;
- 17.1.3 in providing for the matters (other than the remuneration of the Receiver) specified in the first three paragraphs of section 109(8) LPA;
- 17.1.4 in or towards the satisfaction of the Secured Liabilities; and
- 17.1.5 any surplus shall be paid to the Chargor or other person entitled to it.

17.2 The provisions of clause 17.1 will take effect as a variation and extension to the provisions of Section 109 LPA.

18. **Clawback**

If the Chargee considers, on reasonable grounds, that an amount paid by the Chargor or the Borrower in respect of the Secured Liabilities is capable of being avoided or otherwise set aside on the bankruptcy or other insolvency of the Chargor or the Borrower, then that amount shall not be considered to have been irrevocably paid for the purposes of this debenture.

19. **Waiver of Rights**

The obligations of the Chargor under this debenture will not be affected by:

- 19.1 any time, waiver or consent given by the Chargee to the Chargor or any other person;
- 19.2 any incapacity or lack of power, authority or legal personality of or change in the constitution, members or status of the Chargor or any other person or any defective or excessive exercise of the Chargor's powers or authority;
- 19.3 any insolvency, bankruptcy, liquidation, administration, winding-up, dissolution, limitation, disability, the discharge by operation of law or any similar proceedings in respect of the Chargor or any other person;
- 19.4 any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) termination or replacement of the Secured Liabilities or any document, guarantee or Security related to the Secured Liabilities;
- 19.5 any unenforceability, illegality, invalidity, irregularity or frustration of any obligation (actual or purported) of any person under this debenture or any other document, guarantee or Security held in connection with the Secured Liabilities; or
- 19.6 any other act, omission or circumstance which but for this provision, might operate to discharge the Chargor or otherwise reduce or extinguish its liability under this debenture.

20. **Continuing Security**

20.1 This debenture will remain in full force and effect as a continuing security until the Chargee certifies in writing that the Secured Liabilities have been discharged in full.

20.2 This debenture shall be in addition to (and will not in any way affect) any other right, remedy, guarantee or Security which the Chargee may at any time hold for any of the Secured Liabilities. The Chargee may enforce it without first having:

- 20.2.1 enforced any other right, remedy, guarantee or Security held or available to it;
- 20.2.2 to take action or obtain judgment in any court against the Chargor or any other person;
- 20.2.3 to make or file any claim in a bankruptcy, liquidation, administration or insolvency of the Chargor or any other person; or
- 20.2.4 to make demand, enforce or seek to enforce any claim, right or remedy against the Chargor or any other person.

21. **Further Assurance and Power of Attorney**

21.1 Further assurance

- 21.1.1 The Chargor agrees to take any action or sign any documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Chargee may reasonably require:
- (a) to perfect the Security created or intended to be created by this debenture or for the exercise of any of the Chargee's rights, powers and remedies under this debenture or by law;
 - (b) to assist in the realisation of the assets which are the subject of this debenture.
- 21.1.2 The Chargor agrees to take all action available to it as may be necessary for the purpose of the creation, perfection, protection or maintenance of any Security Interest created or intended to be created by this debenture.
- 21.1.3 The Chargor agrees to pay the cost of preparing any document which the Chargee requires the Chargor to sign under clause 21.1.1.

21.2 Power of attorney

- 21.2.1 The Chargor by way of security irrevocably appoints the Chargee and any Receiver (in writing under hand signed by an officer of the Chargee or any Receiver) severally to be its agents and attorneys in its name and on its behalf to:
- (a) do all things which the Chargor may be required to do under this debenture;
 - (b) sign, execute (using the company seal where appropriate), deliver and otherwise perfect any Security Interest required to be signed or executed under the terms of this debenture; and
 - (c) sign, execute (using the company seal where appropriate), deliver and complete any deeds, instruments or other documents and to do everything which may be required by the Chargee or any Receiver in the exercise of any of their powers under this debenture, or to perfect or vest in the Chargee or any Receiver, its nominees or any purchaser, title to any Charged Assets or which they may deem expedient in connection with the getting in, disposal of, or realisation of any Charged Assets.
- 21.2.2 Each agent and attorney may appoint a substitute or delegate his authority. The Chargor ratifies and confirms (and agrees to ratify and confirm) anything which an attorney does under the power of attorney given under clause 21.2.1.

22. New Accounts

- 22.1 If the Chargee receives notice (whether actual or otherwise) that any subsequent Security Interest has been created over any of the Charged Assets and/or their proceeds of sale, it may open a new account or accounts for the Chargor.
- 22.2 If the Chargee does not open a new account immediately after receiving any notice under clause 22.1, then all payments made by the Chargor to the Chargee shall be treated as if they have been paid into a new account of the Chargor.

23. Consolidation of Accounts and Set Off

- 23.1 The Chargee may at any time (both before and after demand):
- 23.1.1 combine or consolidate all balances on accounts of the Chargor with the Chargee with the liabilities which the Chargor owes to the Chargor; and
 - 23.1.2 set-off or transfer the amount of any credit balance on any of those accounts in or towards satisfaction of any of the liabilities which the Chargor owes to the Chargee.
- 23.2 The liabilities referred to in this clause 23.1 may be actual, contingent, primary, collateral, several or joint liabilities, and the accounts, sums and liabilities referred to in this clause may be denominated in any currency.
- 23.3 If any obligation or liability is unliquidated or unascertained the Chargee may set-off the amount it estimates (in good faith) will be the final amount of that obligation or liability once it becomes liquidated or ascertained.
24. **Appropriation and Suspense Account**
- 24.1 Subject to clause 24.2, the Chargee may apply all payments which it receives for the Secured Liabilities against any part of those liabilities as it sees fit.
- 24.2 The Chargee may at its discretion credit all monies which it receives, recovers or realises under this debenture to any suspense account for so long as the Chargee determines. Interest on amounts held in the suspense account will accrue at such rate, if any, as the Chargee may determine. The Chargee is not obliged to apply the monies held in the suspense account in or towards the discharge of any of the Secured Liabilities.
25. **Costs, Expenses and Indemnities**
- 25.1 The Chargor agrees to reimburse the Chargee and any Receiver for all reasonable expenses, including reasonable legal, valuation, accountancy and consultancy fees (and any VAT payable) they incurred in connection with:
- 25.1.1 the negotiation, preparation, execution and completion of this debenture, or any of the documents referred to in it; and
 - 25.1.2 any actual or proposed amendment, replacement, restatement or extension of, or any waiver or consent under, this debenture.
- 25.2 The Chargor must reimburse the Chargee and any Receiver on demand for all costs incurred in connection with the enforcement, attempted enforcement or preservation of any of their rights under:
- 25.2.1 This debenture; or
 - 25.2.2 any of the documents referred to in this debenture.
- 25.3 The Chargor must, on demand, indemnify the Chargee and any Receiver for all claims and losses which may be incurred by or made against any of them at any time relating to or arising directly or indirectly out of:
- 25.3.1 the exercise or purported exercise of the powers contained in this debenture;
 - 25.3.2 a claim of any kind made which would not have arisen if this debenture had not been executed and/or registered;
 - 25.3.3 the creation, imposition, recording or registration of any Security Interest over any Charged Asset securing the repayment to or recovery by any third party of any costs, expenses or other sums incurred because of:
 - (a) a breach, contravention or violation of any Environmental Law; or

- (b) the release, discharge or emission of any harmful or hazardous material; and
 - (c) the redemption, removal, vacation or discharge of any such Security Interest;
- 25.3.4 any Environmental Claim against any of the Chargee, any Receiver or the Chargor in respect of any Charged Asset and/or any business operations or activities on any Charged Asset;
- 25.3.5 any liability or potential liability of the Chargee or any Receiver to cure, clean up or make good:
 - (a) any breach, contravention or violation of any Environmental Law by the Chargor; or
 - (b) any harm, actual or potential, to the Environment caused directly or indirectly by any release, emission or discharge of any harmful or hazardous material from in or to the Charged Assets; or
- 25.3.6 a breach by the Chargor of any of its obligations under this debenture

unless it was caused by the gross negligence or wilful misconduct of the Chargee or any Receiver (as appropriate).

- 25.4 Neither the Chargee nor any Receiver will in any way be liable or responsible to the Chargor for any loss or liability of any kind arising from any act or omission by it (whether as mortgagee in possession or otherwise) in relation to the Charged Assets, except to the extent caused by its own gross negligence or wilful misconduct;
- 25.5 The Chargor must pay all present and future stamp, registration and similar taxes or charges which may be payable, or determined to be payable, in connection with the execution, delivery, performance or enforcement of this debenture or any judgment given in connection with this debenture.
- 26. **Assignment and Transfer**
- 26.1 The Chargee may:
 - 26.1.1 assign any of its rights, or
 - 26.1.2 transfer by novation any of its rights and obligations,
 under this debenture to any other person (the "New Lender") following which the New Lender will become a party to the debenture as Chargee from the relevant date of transfer.
- 26.2 In addition to the rights contained in clause 26.1:
 - 26.2.1 the Chargee and any New Lender may in connection with its own treasury operations assign, mortgage, charge, transfer, sell, discount or securitise any of its rights and obligations under this debenture; and
 - 26.2.2 the Chargee may assign by way of security its rights, title and interest under this debenture to any prospective lender or group of lenders.
- 26.3 The Chargee may disclose to any actual or proposed assignee, transferee or New Lender such information about the Chargor, the Charged Property and this debenture as the Chargee considers appropriate.
- 26.4 The Chargor may not assign, transfer, charge, make the subject of a trust or deal in any other manner with this debenture or any of its rights under this

debenture or purport to do any of the same without the Chargee's prior written consent.

27. Third Party Rights

- 27.1 Subject to clauses 27.2 and 27.3 or unless otherwise expressly provided to the contrary, a person who is not a Party will have no rights under the Third Parties Act to enforce or rely on a provision of this debenture. This clause 27.1 does not affect any right or remedy of any person which exists, or is available, other than under the Third Parties Act.
- 27.2 Any person to whom the benefit of any term of this debenture is assigned under the terms of this debenture may under the Third Parties Act enforce any term of this debenture which confers (expressly or impliedly) any benefit on any such person.
- 27.3 Any Receiver may, subject to the Third Parties Act, rely on any clause of this debenture which expressly confers rights on it.
- 27.4 The Chargee and the Chargor may enter into a written variation of any of the terms in this debenture or waive or settle any right or claim under it in any way without the consent of any third party.

28. Notices

- 28.1 Any notice given under this debenture must be in writing signed by, or on behalf of, the person issuing the notice. Any notice may be delivered by hand or by prepaid recorded delivery first class post or email to:

28.1.1 in the case of the Chargor, its address appearing in the Particulars or, where the Chargor is a company, its registered office address for the time being; and

28.1.2 in the case of the Chargee:

(a) address: 6 Bevis Marks, Bury Court, London EC3A 7HL

(b) email: enquiries@ateliercp.co.uk

(c) marked for the attention of: Head of Credit

or, in relation to any Party, such other address for service in the United Kingdom as that Party may from time to time notify to the other.

- 28.2 In the absence of evidence of it having been received earlier and subject to clause 28.3, a notice served by the Chargee in accordance with clause 28.1 will be deemed to have been received by the Chargor:

28.2.1 if delivered by hand, at the time of actual delivery to the address referred to in clause 28.1;

28.2.2 if delivered by prepaid recorded delivery first class post, two Business Days from the date of posting; and

28.2.3 if delivered by email, at the time of transmission provided that the sender receives confirmation that the notice has been correctly transmitted.

A notice served by the Chargor in accordance with clause 28.1 will only be deemed to have been received by the Chargee when actually received.

- 28.3 If deemed receipt under clause 28.2 occurs on a day which is not a Business Day or after 5.00 pm on a Business Day, the relevant notice shall be deemed to have been received at 9.00 am on the next Business Day.
- 28.4 On execution of this deed, promptly on any Bank Account being designated a Blocked Account, and otherwise promptly on request by the Chargee from time

to time, the Chargor must immediately give notice of this security to any bank or financial institution that it holds a Blocked Account with.

29. GENERAL

- 29.1 No variation to this debenture will be effective unless it is made in writing and signed by or on behalf of all the parties to this debenture. A waiver given or consent granted by the Chargee under this debenture will be effective only if it is given in writing and then only on the occasion and for the purpose for which it is given.
- 29.2 Each provision of this debenture is severable and distinct from the others. If at any time any provision of this debenture is or becomes unlawful, invalid or unenforceable to any extent or in any circumstances for any reason, it shall to that extent or in those circumstances be deemed not to form part of this debenture but (except to that extent or in those circumstances in the case of that provision) the legality, validity and enforceability of that and all other provisions of this debenture shall not be affected in any way.
- 29.3 If any provision of this debenture is found to be illegal, invalid or unenforceable in accordance with clause 29.2 but would be legal, valid or enforceable if some part of the provision were deleted, the relevant provision shall apply with such modification(s) as may be necessary to make it legal, valid or enforceable.
- 29.4 The failure or delay in exercising a right or remedy provided by this debenture or by law does not constitute a waiver of that (or any other) right or remedy. No single or partial exercise, or non-exercise or non-enforcement of any right or remedy provided by this debenture or by law prevents or restricts any further or other exercise or enforcement of that (or any other) right or remedy.
- 29.5 The Chargee's rights and remedies contained in this debenture are cumulative and not exclusive of any rights or remedies provided by law.
- 29.6 This debenture may be executed in any number of counterparts each of which when executed and delivered shall be an original. All the counterparts together shall constitute one and the same document.

30. GOVERNING LAW

This debenture and any non-contractual obligations arising out of or in connection with it are governed by English law.

31. JURISDICTION

- 31.1 The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this debenture (including a dispute relating to the existence, validity or termination of this debenture or any non-contractual obligation arising out of or in connection with this debenture) (a **Dispute**).
- 31.2 The parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

CHARGOR

EXECUTED as a DEED by G & J }
PROPERTIES LIMITED acting by a }
director in the presence of:

Director

Witness Signature

Witness Name
(in BLOCK CAPITALS)

Address

GREG FRENCH
Solicitor

AFG LAW
14a Market Street
Bury, BL9 0AJ

Occupation

CHARGE

SIGNED by _____ on _____)
behalf of **Atelier Capital Partners Limited**: _____)
_____)

Director

OR:

SIGNED by _____ as _____)
attorney for **Atelier Capital Partners**)
Limited under a power of attorney dated _____)
_____)

Attorney for Atelier Capital Partners Limited