

MR01

Particulars of a charge

laserform

TUESDAY



Go online to file this information
www.gov.uk/companieshouse

A fee is be payable with
Please see 'How to pay'



☒ **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**
You may not use this form to
register a charge where
instrument. Use form MR

RCS *R7J30875* #41
20/11/2018
COMPANIES HOUSE
A07 13/11/2018 #376
COMPANIES HOUSE

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 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. This will be scanned and placed on the public record. **Do not send the original.**

1 Company details

Company number 0 7 4 6 3 9 9 8 ✓

Company name in full Ballyclare Limited ✓

0004 For official use

→ **Filling 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 0 7 1 1 2 0 1 8 ✓

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 Mountain Berg 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.

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.

Brief description

X

First fixed charge over the properties with title numbers LA633761, LA776693, LA861150 and LA825899 (as defined in more detail at Schedule 1 of the charge).

All fixtures, fitting, plant and machinery situated on or forming party of the above property, and all Associated Benefits relating to the above property (as defined in the charge).

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

X

Signature

X Andrew Robertson

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 **Andrew Robertson**

Company name **Clyde & Co LLP**

Address **The St Botolph Building**

138 Houndsditch

Post town **London**

County/Region

Postcode

E	C	3	A		7	A	R
---	---	---	---	--	---	---	---

Country **United Kingdom**

DX **160030 LIME STREET 5**

Telephone **+44 (0) 20 7876 5000**



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:

- ☒ [x] The company name and number match the information held on the public Register.
- ☒ [x] You have included a certified copy of the instrument with this form.
- ☒ [x] You have entered the date on which the charge was created.
- ☒ [x] You have shown the names of persons entitled to the charge.
- ☒ [x] You have ticked any appropriate boxes in Sections 3, 5, 6, 7 & 8.
- ☒ [x] You have given a description in Section 4, if appropriate.
- ☒ [x] You have signed the form.
- ☒ [x] You have enclosed the correct fee.
- ☒ [x] 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 £23 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.gov.uk/companieshouse or email enquiries@companieshouse.gov.uk

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

PROFORMA

Company Number	07463998 ✓
Company Name	Ballyclare Limited ✓
Contact Name/ Organisation	Andrew Robertson / Clyde & Co LLP
Address	St Botolph Building, 138 Houndsditch, London EC3A 7AR

- **The following details will need to be added, amended or deleted to the Form MG01/LL MG01/MG01s/LL MG01s/OS MG01/MG09/LL MG09**

Particulars of the charge to be added, amended or deleted (please tick as appropriate)

Date of Creation of Charge ☐

Description ☐

Amount Secured ☐

Mortgagee(s) or person(s) entitled
to the charge ☐

Short particulars of all the property
mortgaged or charged ☒

Date charge presented
(applies to MG09/LL MG09) ☐

Date of execution
(applies to MG09/LL MG09) ☐

Date and parties to the charge
(applies to MG09/LL MG09) ☐

Jurisdiction
(applies to MG09/LL MG09) ☐

Floating charge statement
(applies to MG01s/LLMG01s/OSMG01) ☐

- **The following details will need to be added, amended or deleted to the Form MG06/LL MG06/MG06s/LL MG06s**

Particulars of the charge to be added, amended or deleted (please tick as appropriate)

Date of creation of charge	<input type="checkbox"/>
Description	<input type="checkbox"/>
Date of acquisition	<input type="checkbox"/>
Amount secured	<input type="checkbox"/>
Mortgagee(s) or person(s) entitled to the charge	<input type="checkbox"/>
Short particulars of all the property Mortgaged or charged	<input type="checkbox"/>

- **The following details will need to be added, amended or deleted to the Form MG07/MG07s/LLMG07/LLMG07s/OSMG04**

Particulars of the charge to be added, amended or deleted (please tick as appropriate)

Date of covering deed	<input type="checkbox"/>
Total amount secured	<input type="checkbox"/>
Date of present issue	<input type="checkbox"/>
Amount of present issue	<input type="checkbox"/>
Date of resolution	<input type="checkbox"/>
Name of Trustee(s)	<input type="checkbox"/>
General description of property	<input type="checkbox"/>
Floating charge statement (applies to MG07s/LLMG07s/OSMG04)	<input type="checkbox"/>

(Please give the instructions in the box below)

Please amend the brief description of any land, ship aircraft or intellectual property registered in the UK which is subject to the charge as follows:

"First fixed charge over the property known as Unit C1 and C2, Hercules Office Park, Bird Hall Lane, Stockport SK3 OUX (title number MAN245672). (for further details of the property charged please see Schedule 1 of the charge). ✓"

All fixtures, fitting, plant and machinery situated on or forming party of the above property, and all Associated Benefits relating to the above property (as defined in the charge)."



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 7463998

Charge code: 0746 3998 0004

The Registrar of Companies for England and Wales hereby certifies that a charge dated 7th November 2018 and created by BALLYCLARE LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 20th November 2018.

(DX)

Given at Companies House, Cardiff on 20th November 2018



Companies House



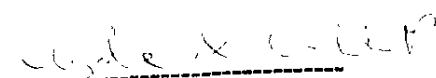
**THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES**

Dated: 7th November 2018

- (1) BALLYCLARE LIMITED
- (2) MOUNTAIN BERG LIMITED

Third Party Legal Charge

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



Clyde & Co LLP
The St Botolph Building
138 Houndsditch
London EC3A 7AR

CONTENTS

Clause		Page
1	INTERPRETATION	1
2	COVENANT TO PAY	2
3	GRANT OF SECURITY	3
4	REPRESENTATIONS	4
5	PROPERTY UNDERTAKINGS	5
6	GENERAL UNDERTAKINGS	9
7	RIGHTS OF ENFORCEMENT	10
8	POWERS OF A RECEIVER	11
9	APPLICATION OF PROCEEDS	12
10	PROTECTION OF THIRD PARTIES	13
11	PROTECTION OF LENDER	13
12	SAVINGS PROVISIONS	13
13	CHANGES TO THE PARTIES	15
14	COUNTERPARTS	16
15	GOVERNING LAW	16
16	JURISDICTION	16
Schedules		
1	Details of Charged Property	17
2	Notices	18

This Deed is made on 7th November 2018

between:

- (1) **BALLYCLARE LIMITED**, a company incorporated in England and Wales, with registration number 07463998 and whose registered office is at The Forum, Hercules Business Park, Bird Hall Lane, Cheadle Hulme, Stockport, Cheshire, England, SK3 0UX (the "**Charging Company**"); and
- (2) **MOUNTAIN BERG LIMITED**, a company incorporated in England and Wales with company number 07851252 (the "**Lender**").

1. **INTERPRETATION**

1.1 **Definitions**

In this Deed:

"**Agreement for Lease**" means an agreement to grant an Occupational Lease of all or part of the Charging Company's Mortgaged Property.

"**Associated Benefits**" means, in respect of any asset:

- (a) all monies including (where relevant) all rent, dividends, distributions, profits, compensation, damages, income, or interest paid or payable relating to that asset; and
- (b) all Authorisations, rights, benefits, claims or property at any time relating to that asset.

"**Authorisation**" means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration.

"**Borrower**" means Best Dressed Group Limited a company incorporated in England and Wales with company number 08820424.

"**Charged Property**" means the assets of the Charging Company which from time to time are, or are expressed to be, the subject of any Security created by this Deed.

"**Debt Document**" means the Loan Agreement and any other document designated as such by the Lender and the Borrower.

"**Delegate**" means any delegate, agent, attorney or co-trustee appointed by the Lender.

"**Enforcement Event**" means any of the events or circumstances described as an enforcement event in Clause 7.2.

"**Loan Agreement**" means the loan agreement dated on or about the date of this Deed between the Borrower and the Lender.

"**Insolvency Act**" means the Insolvency Act 1986.

"**Insurances**" means all contracts or policies of insurance of whatever nature which, from time to time, are taken out or maintained by or on behalf of the Charging Company or in which the Charging Company has an interest, in respect of the Charged Property.

"**Lease Document**" means an Agreement for Lease, Occupational Lease or any other document designated as such by the Lender or the Charging Company.

"**LPA**" means the Law of Property Act 1925.

"**Mortgaged Property**" means the property listed in Schedule 1 (*Details of Charged Property*).

"Occupational Lease" means any lease or licence or other right of occupation or right to receive rent to which the Charged Property may at any time be subject and includes any guarantee of a tenant's obligations under the same.

"Receiver" means a receiver or receiver and manager or administrative receiver of the whole or any part of the Charged Property.

"Secured Obligations" means all present and future liabilities and obligations at any time due, owing or incurred by the Borrower to the Lender under the Debt Documents, both actual and contingent and whether incurred solely or jointly and as principal or surety or in any other capacity.

1.2 Construction

1.2.1 Unless a contrary indication appears, any reference in this Deed to:

1.2.1.1 any asset includes present and future properties, revenues and rights of every description, all proceeds of sale of such asset, all rights under any agreement for the sale, lease or licence of such asset and any monies paid or payable in respect of such asset;

1.2.1.2 a **"Debt Document"** or any other agreement or instrument is a reference to that Debt Document or other agreement or instrument as validly amended, novated, supplemented, extended, restated or replaced from time to time;

1.2.1.3 an **"account"** is a reference to that account as re-designated, renumbered, substituted or replaced from time to time.

1.2.2 Where this Deed includes the words **"including"**, **"in particular"** or **"or otherwise"** (or similar words or phrases), the intention is to state examples and not to be exhaustive.

1.2.3 References to any Security **"created by this Deed"** are to be deemed to include such Security created or intended to be created, constituted, given, made or extended by, under or evidenced by this Deed.

1.3 Third party rights

1.3.1 Unless expressly provided to the contrary in this Deed, a person who is not a party to this Deed has no right under the Contracts (Rights of Third Parties) Act 1999 (the **"Third Parties Act"**) to enforce or enjoy the benefit of any term of this Deed.

1.3.2 Notwithstanding any term of this Deed, the consent of any person who is not a party to this Deed is not required to rescind or vary this Deed at any time.

2. COVENANT TO PAY

2.1 The Charging Company, as principal debtor and not just as surety, covenants with the Lender to pay or discharge the Secured Obligations immediately on demand by the Lender at any time when the Secured Obligations are due and payable under the Loan Agreement.

2.2 The total amount recoverable by the Lender from the Charging Company in relation to the Secured Obligations shall be limited to the amount realised from the proceeds of sale or other disposal or realisation of the Charged Property together with all costs, expenses, interest and other amounts payable by the Charging Company under the terms of this Deed.

2.3 Clause 2.2 shall only limit the liability of the Charging Company for the discharge of the Secured Obligations and shall not:

- 2.3.1 reduce or discharge the Secured Obligations themselves or limit or restrict the accrual of interest (including default interest) on any amount; or
- 2.3.2 limit the rights of the Lender to recover any amount from any other person other than the Charging Company under or in connection with the Debt Documents.

3. **GRANT OF SECURITY**

3.1 **Mortgage**

The Charging Company charges by way of first legal mortgage, the Mortgaged Property

3.2 **Fixed charges**

The Charging Company charges by way of first fixed charge:

- 3.2.1 to the extent not effectively mortgaged under Clause 3.1 (*Mortgage*), the Mortgaged Property;
- 3.2.2 all its fixtures, fittings, plant and machinery, situated on or forming part of the Mortgaged Property, excluding stock in trade, to the extent not otherwise effectively mortgaged or charged under this Deed; and
- 3.2.3 save to the extent assigned under Clause 3.3 (*Assignment*), all Associated Benefits relating to any of the Charged Property.

3.3 **Assignment**

The Charging Company assigns absolutely all its Insurances, including any listed in Part II of Schedule 1 (*Details of Charged Property*), together with all Associated Benefits relating to the Charged Property.

3.4 **General**

All Security created by this Deed

- 3.4.1 is created in favour of the Lender;
- 3.4.2 unless specifically stated otherwise, is created over the present and future assets of the Charging Company to the extent of its right, title and interest in, under and to such assets at any time; and
- 3.4.3 is created with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994.

3.5 **Continuing security**

The Security created by this Deed is continuing security for the payment and discharge of the Secured Obligations. The provisions of this Deed will apply at all times:

- 3.5.1 regardless of the date on which any of the Secured Obligations were incurred;
- 3.5.2 notwithstanding any intermediate payment or discharge; and
- 3.5.3 in respect of the full amount of the Secured Obligations at the relevant time even if the amount of the Secured Obligations had previously been less than that amount or had been nil at any time.

3.6 **Independent Security**

The Security created by this Deed is in addition to and is not in any way prejudiced by any other guarantee or Security now or subsequently held by the Lender. No prior Security held by the Lender over the whole or any part of the Charged Property will merge with the Security created by this Deed.

4. REPRESENTATIONS

The Charging Company represents to the Lender that:

4.1 Status

It is a limited liability corporation, duly incorporated and validly existing under the law of its jurisdiction of incorporation and it has the power to own its assets and carry on its business as it is being conducted.

4.2 Binding obligations

The obligations expressed to be assumed by it in this Deed are, subject to the Legal Reservations, legal, valid, binding and enforceable obligations.

4.3 Non-conflict with other obligations

The entry into and performance by it of, and the transactions contemplated by, this Deed and the granting of the Security under this Deed do not and will not conflict with any law or regulation applicable to it, its constitutional documents, or any agreement or instrument binding upon it or any of its assets or constitute a default or termination event (however described) under any such agreement or instrument.

4.4 Power and authority

It has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, this Deed and the transactions contemplated by this Deed. No limit on its powers will be exceeded as a result of the grant of security contemplated by this Deed.

4.5 Validity and admissibility in evidence

All Authorisations required or desirable:

4.5.1 to enable it lawfully to enter into, exercise its rights and comply with its obligations under this Deed; and

4.5.2 to make this Deed admissible in evidence in its jurisdiction of incorporation, have been obtained or effected and are in full force and effect.

4.6 Insolvency

No corporate action, legal proceedings or other procedure or step has been taken in relation to:

4.6.1 the suspension of its payments, a moratorium of its indebtedness, or for its winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise);

4.6.2 a composition, compromise, assignment or arrangement with any of its creditor; or

4.6.3 the appointment of a liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of itself or any of its assets.

4.7 Ownership of and title to Charged Property

It is the sole legal and beneficial owner of the Charged Property free from any Security. It has good, valid and marketable title to the Charged Property.

4.8 Ranking of Security

The Security created by this Deed constitutes a first priority security interest of the type described over the Charged Property and the Charged Property is not subject to any prior or *pari passu* Security.

4.9 Repetition

4.10 Each of the representations given in this Clause 4 are deemed to be made by the Charging Company by reference to the facts and circumstances then existing, on the date of delivery of this Deed and on the first day of each of its financial quarters following the delivery of this Deed.

5. PROPERTY UNDERTAKINGS

5.1 Registration

5.1.1 The Charging Company shall ensure that a restriction in the following terms is entered on the register of the title of any of its Charged Property at the Land Registry:

"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 [DATE] in favour of [LENDER] referred to in the charges register, or its conveyancer."

together with, where applicable, notice of any obligation on the Lender to make further advances under the terms of the Debt Documents. The Charging Company shall pay, when due and payable, all fees, costs and expenses incurred in connection with such applications.

5.1.2 The Charging Company shall promptly take all such steps as may be necessary or desirable to enable the Security created by this Deed to be registered, where appropriate, at the Land Registry.

5.1.3 If the title to the Charged Property is not registered at the Land Registry, the Charging Company shall ensure that no person (other than itself) will be registered under the Land Registration Act 2002 as the proprietor of all or any part of the Charged Property, without the prior written consent of the Lender.

5.1.4 Whether or not title to the Charged Property is registered at the Land Registry, if any caution against first registration or any notice (whether agreed or unilateral) is registered against the Charging Company's title to the Charged Property, the Charging Company shall immediately provide the Lender with full particulars of the circumstances relating to such caution or notice, and if such caution or notice was registered to protect a purported interest the creation of which is not permitted under this Deed, the Charging Company shall immediately, and at its own expense, take such steps as the Lender requires to ensure that the caution or notice, as applicable, is withdrawn or cancelled.

5.2 Title

5.2.1 The Charging Company must exercise its rights and comply in all respects with any covenant, stipulation or obligation (restrictive or otherwise) at any time affecting the Charged Property.

- 5.2.2 The Charging Company may not agree to any amendment, supplement, waiver, surrender or release of any covenant, stipulation or obligation (restrictive or otherwise) at any time affecting the Charged Property.

5.3 **Occupational Leases**

- 5.3.1 The Charging Company may not, without the prior written consent of the Lender:
- 5.3.1.1 enter into any Agreement for Lease,
 - 5.3.1.2 other than under an Agreement for Lease, grant or agree to grant any new Occupational Lease;
 - 5.3.1.3 in respect of any Lease Document, agree to any amendment, supplement, extension, waiver, surrender or release, nor exercise any right to break, determine or extend, or commence any forfeiture or irritancy proceedings;
 - 5.3.1.4 grant any licence or right to use or occupy any part of the Charged Property nor consent to any sublease or assignment of any tenant's interest under any Lease Document;
 - 5.3.1.5 agree to any change of use under, or (except where required to do so under the terms of the relevant Lease Document) rent review in respect of, any Lease Document nor serve any notice on any former tenant under any Lease Document (or on any guarantor of that former tenant) which would entitle it to a new lease or tenancy; or
 - 5.3.1.6 grant or agree to grant any Lease Document without including in the alienation covenant a provision for the proposed assignor on any assignment to guarantee the obligations of the proposed assignee until that assignee is released as tenant under the terms of the Landlord and Tenant (Covenants) Act 1995.
- 5.3.2 The Charging Company must exercise its rights and comply with its obligations under each Lease Document and use its reasonable endeavours to ensure that each tenant complies with its obligations under each Lease Document, in each case, in a proper and timely manner

5.4 **Maintenance**

The Charging Company must ensure that all buildings, plant, machinery, fixtures and fittings on the Charged Property are in, and maintained in, good and substantial repair and condition and, as appropriate, in good working order, and such repair, condition and order as to enable them to be let in accordance with all applicable laws and regulations. For this purpose, a law or regulation will be regarded as applicable if it is either in force or it is expected to come into force and a prudent property owner in the same business as the Charging Company would ensure that its buildings, plant, machinery, fixtures and fittings were in such condition, repair and order in anticipation of that law or regulation coming into force.

5.5 **Development**

- 5.5.1 The Charging Company may not:
- 5.5.1.1 make or allow to be made any application for planning permission in respect of any part of the Charged Property; or
 - 5.5.1.2 carry out, or allow to be carried out, any demolition, construction, structural alterations or additions, development or other similar operations in respect of any part of the Charged Property,

provided that this provision will not apply to the carrying out of non-structural improvements or alterations which affect only the interior of any building on the Charged Property.

- 5.5.2 The Charging Company must comply in all respects with all planning laws, permissions, agreements and conditions to which the Charged Property may be subject.

5.6 Managing Agent

The Charging Company may not appoint any managing agent in respect of any part of the Charged Property without the prior consent of, and on terms approved by, the Lender.

5.7 Insurance

- 5.7.1 The Charging Company must ensure that, at all times, there are maintained in full force and effect Insurances which provide cover:

5.7.1.1 for 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);

5.7.1.2 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;

5.7.1.3 for site clearance, shoring or propping up, professional fees and value added tax together with adequate allowance for inflation; and

5.7.1.4 against acts of terrorism, including any third party liability arising from such acts.

- 5.7.2 The Charging Company must procure that all Insurances include property owners' public liability and third party liability insurance, insure such other risks as a prudent company in the same business as the Charging Company would insure and be in an amount, and in form, and with an insurance company or underwriters, acceptable at all times to the Lender.

- 5.7.3 The Charging Company must procure that the Lender (as agent and trustee for the Lender) is named as co-insured under each of the Insurances (other than public liability and third party liability insurances) but without liability on the part of the Lender or any other Lender for any premium in relation to those Insurances.

- 5.7.4 The Charging Company must procure that each of the Insurances contains:

5.7.4.1 a non-invalidity and non-vitiation clause under which such Insurance will not be vitiated or avoided as against any insured party as a result of any circumstances beyond the control of that insured party or any misrepresentation, non-disclosure, or breach of any policy term or condition, on the part of any insured party or any agent of any Insured party;

5.7.4.2 a waiver of the rights of subrogation of the insurer as against the Charging Company, the Lender and the tenants of the Charged Property; and

- 5.7.4.3 a loss payee clause in such terms as the Lender may reasonably require in respect of insurance claim payments otherwise payable to the Charging Company.
- 5.7.5 The Charging Company must procure that each of the Insurances requires the insurers to give at least 30 days' notice to the Lender if any insurer proposes to repudiate, rescind or cancel any such Insurance, to treat it as avoided in whole or in part, to treat it as expired due to non-payment of premium or otherwise decline any valid claim under it by or on behalf of any insured party and must give the opportunity to rectify any such non-payment of premium within the notice period.
- 5.7.6 The Charging Company must procure that it is free to assign all amounts payable to it under each of its Insurances and all its rights in connection with those amounts in favour of the Lender.
- 5.7.7 The Charging Company must use all reasonable endeavours to ensure that the Lender receives copies of the Insurances, receipts for the payment of premiums for such Insurance and any information in connection with such Insurance and claims under them, in each case which the Lender may reasonably require.
- 5.7.8 The Charging Company must promptly notify the Lender of:
 - 5.7.8.1 the proposed terms of any future renewal of any of the Insurances;
 - 5.7.8.2 any amendment, supplement, extension, termination, avoidance or cancellation made to any of the Insurances or which, to its knowledge, is threatened or pending;
 - 5.7.8.3 any claim, and any actual or threatened refusal of any claim, under any of the Insurances; and
 - 5.7.8.4 any event or circumstance which has led or may lead to a breach by it of any term of this Clause.
- 5.7.9 The Charging Company must:
 - 5.7.9.1 comply with the terms of the Insurances;
 - 5.7.9.2 not do or permit anything to be done which may make void or voidable any of the Insurances;
 - 5.7.9.3 not amend, terminate, rescind or cancel any of the Insurances;
 - 5.7.9.4 comply with all reasonable risk improvement requirements of its insurers.
- 5.7.10 The Charging Company must ensure that each premium for the Insurances is paid promptly and in any event prior to the commencement of the period of insurance for which that premium is payable, and that all other things necessary are done so as to keep each of the Insurances in force.
- 5.7.11 If the Charging Company fails to comply with any term of this Clause 5.7 (*Insurance*), then the Lender may, at the expense of the Charging Company, effect any insurance and generally do such things and take such other action as the Lender may reasonably consider necessary or desirable to prevent or remedy any breach of this Clause 5.7 (*Insurance*).

5.8 **Environmental Indemnity**

The Charging Company indemnifies the Lender against any loss or liability which that Lender incurs as a result of any actual or alleged breach of any Environmental Law by any person and which would not have arisen if a Debt Document had not been entered into, unless it is caused by that Lender's gross negligence or wilful misconduct.

6 GENERAL UNDERTAKINGS

6.1 Negative pledge and restriction on dealing

The Charging Company may not (and may not agree to):

- 6.1.1 create or permit to subsist any Security over; nor
- 6.1.2 sell, assign, factor, discount, transfer, lease, release, terminate or otherwise dispose of any of; nor
- 6.1.3 permit any variation, waiver or termination of the rights attaching to the whole or any part of;

the Charged Property

6.2 Notice of charge or assignment

- 6.2.1 The Charging Company shall serve notice of each charge or assignment of its rights under each of its Insurances by sending a notice substantially in such form of Schedule 2 (*Form of notice relating to Insurances*) to the relevant insurer, on the date of this Deed (for any Insurances existing on the date of this Deed) and on the date of entry into any other Insurances (in the case of any Insurances entered into after the date of this Deed)
- 6.2.2 The Charging Company shall use all reasonable endeavours procure that any notice served by it under Clause 6.2.1 is acknowledged by the recipient in the form attached to such notice:
 - 6.2.2.1 in the case of any notice served on the date of this Deed, on or before the Closing Date; and
 - 6.2.2.2 in the case of all other notices, within 5 Business Days of service of the notice.

6.3 Charged Property

The Charging Company shall, promptly upon request by the Lender at any time:

- 6.3.1 deposit with the Lender all documents of title or other evidence of ownership, together with such deeds, certificates and documents as the Lender may require, relating to the Charged Property; and
- 6.3.2 provide the Lender with all information it may reasonably request in relation to the Charged Property.

6.4 Further assurance

The Charging Company shall promptly take all such actions, including executing all such documents, notices and instructions in such form as the Lender may reasonably require:

- 6.4.1 to create, perfect, protect and (if necessary) maintain the Security created or intended to be created over any of its assets under this Deed or for the exercise of any rights, powers and remedies of the Lender provided by or under this Deed or by law or regulation; and

- 6.4.2 to facilitate the realisation of the assets which are, or are intended to be, the subject of Security created by this Deed.

6.5 Power to remedy

If the Charging Company fails to comply with any of its obligations under this Deed, the Lender (or its nominee) may (at the Charging Company's expense) take such action as is necessary to protect any assets against the consequences of the Charging Company's non-compliance and to ensure compliance with such obligations. The Lender is not obliged to perform any obligation of the Charging Company or to take any action which it may be entitled to take under this Deed.

6.6 Power of attorney

- 6.6.1 As security for the performance of its obligations under this Deed, the Charging Company irrevocably and severally appoints the Lender, each Receiver and each Delegate to be its attorney, with full power of substitution.
- 6.6.2 The attorney may, in the Charging Company's name and at its expense, do anything which the Charging Company is obliged to under this Deed but has failed to do or which the Lender, Receiver or Delegate may in their absolute discretion consider appropriate in connection with the exercise of any of their rights, powers, authorities or discretions in relation to the Charged Property or under or otherwise for the purposes of any Debt Document or any law or regulation.
- 6.6.3 The Charging Company ratifies and confirms anything done by any attorney under this Clause 6.6. The Charging Company agrees to indemnify the attorney against all actions, claims, demands and proceedings taken or made against it and all costs, damages, expenses, liabilities and losses incurred by the attorney as a result of or in connection with anything lawfully done by it under or in connection with this power of attorney.

7. RIGHTS OF ENFORCEMENT

- 7.1 The Security created by this Deed is enforceable at any time following the occurrence of any of the Enforcement Events in Clause 7.2.
- 7.2 Each of the following shall be an Enforcement Event:
- 7.2.1 The Charging Company does not pay on the due date any amount payable pursuant to a Debt Document at the place at and in the currency in which it is expressed to be payable
- 7.2.2 The Charging Company does not comply with any provision of this Deed.
- 7.2.3 Any representation or statement made or deemed to be made by the Charging Company in the Deed or any other document delivered by or on behalf of the Charging Company under or in connection with any Debt Document is or proves to have been incorrect or misleading when made or deemed to be made.
- 7.2.4 The Charging Company:
- 7.2.4.1 is unable or admits inability to pay its debts as they fall due;
- 7.2.4.2 suspends or threatens to suspend making payments on any of its debts; or
- 7.2.4.3 by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors (excluding the Lender) with a view to rescheduling any of its indebtedness.

- 7.2.5 The value of the assets of the Charging Company is less than its liabilities (taking into account contingent and prospective liabilities).
- 7.2.6 A moratorium is declared in respect of any indebtedness of the Charging Company. If a moratorium occurs, the ending of the moratorium will not remedy any Enforcement Event caused by that moratorium.
- 7.2.7 Any corporate action, legal proceedings or other procedure or step is taken in relation to:
 - 7.2.7.1 the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of the Charging Company;
 - 7.2.7.2 a composition, compromise, assignment or arrangement with any creditor of the Charging Company;
 - 7.2.7.3 the appointment of a liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of the Charging Company or any of its assets; or
 - 7.2.7.4 enforcement of any Security over any assets of the Charging Company,
 or any analogous procedure or step is taken in any jurisdiction.
- 7.2.8 Any expropriation, attachment, sequestration, distress or execution affects any asset or assets of the Charging Company.
- 7.2.9 It is or becomes unlawful for the Charging Company to perform any of its obligations under this Deed or any Security created or expressed to be created or evidenced by this Deed ceases to be effective.
- 7.2.10 This Deed ceases to be in full force and effect or any Security created under this Deed ceases to be legal, valid, binding, enforceable or effective or is alleged by a party to it (other than the Lender) to be ineffective.

8. POWERS OF A RECEIVER

8.1 General powers

Any Receiver will have:

- 8.1.1 the rights, powers, privileges and immunities conferred on receivers, receivers and managers and mortgagees in possession under the LPA;
- 8.1.2 the rights, powers, privileges and immunities conferred on administrative receivers (whether or not the Receiver is an administrative receiver) under the Insolvency Act; and
- 8.1.3 all other rights, powers, privileges and immunities conferred by law or regulation on receivers, receivers and managers, mortgagees in possession and administrative receivers.

8.2 Specific powers

The rights, powers and remedies provided in this Deed are in addition to any rights powers and remedies under law or regulation. Any Receiver will have the following additional powers:

- 8.2.1 the power to do or omit to do anything which the Charging Company could do or omit to do in relation to the Charged Property which is the subject of the appointment;
- 8.2.2 the power to do all other acts and things which the Receiver may consider desirable or necessary for realising any of the Charged Property or incidental or conducive to any of the rights, powers and discretions conferred on a Receiver under this Deed or by law or regulation; and
- 8.2.3 the power to use the Charging Company's name for all the above purposes.

8.3 Variation of statutory powers

The following statutory provisions do not apply to this Deed or any Security created by this Deed

- 8.3.1 the restriction on the consolidation of mortgages in section 93 LPA;
- 8.3.2 the restrictions on the power to grant or accept the surrender of leases in sections 99 and 100 LPA;
- 8.3.3 the conditions to the exercise of a power of sale in section 103 LPA;
- 8.3.4 the restrictions on the application of proceeds by a mortgagee or receiver in sections 105, 107(2) and 109(8) LPA; and
- 8.3.5 the restrictions on the appointment of a receiver in section 109(1) LPA and the provisions regarding a receiver's remuneration in section 109(6) LPA.

9 APPLICATION OF PROCEEDS

9.1 Order of priority

All amounts received by the Lender or a Receiver in connection with the enforcement of the Security created under this Deed will be applied, to the extent permitted by applicable law, in the following order of priority:

- 9.1.1 in discharging any costs and expenses incurred by the Lender, any Receiver or any Delegate under or in connection with this Deed or any Debt Document;
- 9.1.2 in or towards discharging the Secured Obligations; and
- 9.1.3 in payment of the surplus (if any) to the Charging Company or other person entitled to it.

9.2 Suspense account

The Lender may credit any monies at any time received or realised under this Deed to an interest-bearing suspense account, for so long and on such terms as the Lender may determine pending their application towards discharging the Secured Obligations.

9.3 New accounts

If the Lender receives or is deemed to have received notice of subsequent Security over the Charged Property, then the Lender may open a new account with the Charging Company. If the Lender does not open a new account, it will be treated as having done so at the time when such notice was received and as from that time all payments made by or on behalf of the Charging Company to the Lender will be credited or be treated as having been credited to the relevant new account and not as having been applied in discharge of the Secured Obligations.

9.4 Release of Charged Property

If the Lender is satisfied that all the Secured Obligations have, subject to Clauses 12.1 (*Reinstatement*) and 12.2 (*Avoidable payments*), been unconditionally and irrevocably paid and discharged in full and all facilities which might give rise to Secured Obligations terminated, the Lender will, at the request and cost of the Charging Company, execute such documents and take such steps as may be necessary to release the Charged Property from the Security created by this Deed.

10. PROTECTION OF THIRD PARTIES

No buyer from, or other person dealing with the Lender or a Receiver will be concerned to enquire whether:

- 10.1.1 any money remains due under the Debt Documents;
 - 10.1.2 any power which the Lender or Receiver is purporting to exercise has arisen or become exercisable; or
 - 10.1.3 the Lender or any Receiver is validly appointed and acting within its powers in accordance with this Deed.
- 10.2 The receipt of the Lender, any Receiver or any Delegate will be an absolute and conclusive discharge to a purchaser of any of the Charged Property who will have no obligation to enquire how any monies are applied.

11. PROTECTION OF LENDER

11.1 No liability as mortgagee in possession

Neither the Lender nor any Receiver will be liable to account to the Charging Company as mortgagee in possession by reason of entering into possession of any of the Charged Property, or for any cost, loss or liability on realisation, nor for any default or omission for which a mortgagee in possession might be liable.

11.2 Tacking

The Security created by this Deed is intended to secure any further advances which the Lender is obliged to make under the Debt Documents.

11.3 Lender discretion

The Lender is entitled to exercise its rights, powers and discretions under this Deed in accordance with the terms of the Loan Agreement and the Charging Company has no right to control or restrict the Lender's exercise of any of its rights, powers or discretions under this Deed.

12. SAVINGS PROVISIONS

12.1 Reinstatement

If, at any time, there has been a release, settlement or discharge of any of the Company's obligations under this Deed and, as a consequence of any insolvency (or analogous) proceedings or for any other reason:

- 12.1.1 any payment made to any person in respect of any of the Secured Obligations is required to be repaid; and
- 12.1.2 any Security (or other right) held by the Lender in respect of any of the Secured Obligations (whether under this Deed or otherwise) is declared void, is set aside or is otherwise affected,

then the Charging Company's obligations under this Deed will continue in effect as if there had been no such release, settlement or discharge and as if the relevant payment had not

been made and (as applicable) the relevant obligation or Security (or other right) had not been so affected; and accordingly (but without limiting the Lender's other rights under this Deed) the Lender will be entitled to recover from the Charging Company the value which the Lender has placed upon such Security (or other right) or the amount of any such payment as if such release, settlement or discharge had not occurred.

12.2 Avoidable payments

If the Lender, acting reasonably, considers that any amount paid by the Charging Company in respect of the Secured Obligations is capable of being avoided, set aside or ordered to be refunded or reduced for any reason, then for the purposes of this Deed such amount will not be considered to have been irrevocably paid

12.3 Waiver of defences

The obligations of the Charging Company under this Deed and the Security created under this Deed will not be affected by any act, omission, matter or thing which, but for this Clause 12 would reduce, release or prejudice any of its obligations under this Deed (without limitation and whether or not known to it or any Secured Party) including:

- 12.3.1 any time, waiver or consent granted to, or composition with, the Charging Company or other person;
- 12.3.2 the release of the Charging Company or any other person under the terms of any composition or arrangement with any creditor of the Charging Company;
- 12.3.3 the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, the Charging Company or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- 12.3.4 any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of the Charging Company or any other person;
- 12.3.5 any amendment, novation, supplement, extension restatement (however fundamental and whether or not more onerous) or replacement of any Debt Document or any other document or security including, without limitation, any change in the purpose of, any extension of or increase in any facility or the addition of any new facility under any Debt Document or other document or security;
- 12.3.6 any unenforceability, illegality or invalidity of any obligation of any person under any Debt Document or any other document or security; or
- 12.3.7 any insolvency or similar proceedings.

12.4 Variations to the Debt Documents

Without prejudice to the generality of Clause 12.3 (*Waiver of defences*), the Charging Company expressly confirms that it intends that this Deed shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any of the Debt Document and/or any facility or amount made available under any of the Debt Documents for the purposes of or in connection with any of the following: acquisitions of any nature; increasing working capital; enabling investor distributions to be made; carrying out restructurings; refinancing existing facilities; refinancing any other indebtedness; making facilities available to new borrowers; any other variation or extension of the purposes for which any such facility or amount might be made available from time to time; and any fees, costs and/or expenses associated with any of the foregoing.

12.5 Immediate recourse

The Charging Company waives any right it may have of first requiring the Lender to proceed against or enforce any other rights or security or claim payment from any person before claiming from the Charging Company under this Deed. This waiver applies irrespective of any law or any provision of a Debt Document to the contrary

12.6 Appropriations

Until all amounts which may be or become payable by the Borrower or any other person under or in connection with the Debt Documents have been irrevocably paid in full, the Lender (or any trustee or agent on its behalf) may:

- 12.6.1 refrain from applying or enforcing any other moneys, security or rights held or received by the Lender (or any trustee or agent on its behalf) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and the Borrower shall not be entitled to the benefit of the same; and
- 12.6.2 hold in an interest-bearing suspense account any moneys received from the Charging Company or on account of its liability under this Deed.

12.7 Deferral of rights

Until all amounts which may be or become payable by Borrower under or in connection with the Debt Documents have been irrevocably paid in full and unless the Lender otherwise directs, the Charging Company will not exercise any rights which it may have by reason of performance by it of its obligations under the Debt Documents or by reason of any amount being payable, or liability arising, under this Deed

- 12.7.1 to be indemnified by the Borrower;
- 12.7.2 to claim any contribution from any other guarantor of the Borrower's obligations under the Debt Documents;
- 12.7.3 to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Lender under the Debt Documents or of any other guarantee or security taken pursuant to, or in connection with, the Debt Documents by the Lender;
- 12.7.4 to bring legal or other proceedings for an order requiring the Borrower to make any payment, or perform any obligation, in respect of which the Charging Company has granted security, undertakings or an indemnity under this Deed;
- 12.7.5 to exercise any right of set-off against the Borrower; and/or
- 12.7.6 to claim or prove as a creditor of the Borrower in competition with the Lender.

12.8 Trust

If the Charging Company receives any benefit, payment or distribution in relation to the rights referred to in Clause 12.7 (*Deferral of rights*), it shall hold that benefit, payment or distribution (to the extent necessary to enable all amounts which may be or become payable to Lender by the Borrower under or in connection with the Debt Documents to be repaid in full) on trust for the Lender and shall promptly pay or transfer the same to the Lender or as the Lender may direct for application in accordance with the Debt Documents.

13 CHANGES TO THE PARTIES

13.1 No assignment by the Charging Company

The Charging Company may not assign any of its rights or transfer any of its rights or obligations under this Deed

13.2 **Assignment by Lender**

The Lender may assign any of its rights or transfer any of its rights or obligations under this Deed in accordance with the terms of the Loan Agreement.

14. **COUNTERPARTS**

This Deed may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of the Deed.

15. **GOVERNING LAW**

This Deed and any non-contractual obligations arising out of or in connection with it are governed by the law of England and Wales.

16. **JURISDICTION**

16.1 The courts of England and Wales have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute regarding the existence, validity or termination of this Deed) and any non-contractual obligations arising out of or in connection with it (a "**Dispute**").

16.2 The parties to this Deed agree that the courts of England and Wales are the most appropriate and convenient courts to settle any Dispute and accordingly no party to this Deed will argue to the contrary.

16.3 Clause 16.1 is for the benefit of the Lender only. As a result, the Lender will not be prevented from taking proceedings relating to a Dispute in any other court with jurisdiction. To the extent allowed by law, the Lender may take concurrent proceedings in any number of jurisdictions.

This Deed is executed as a deed and delivered on the date stated at the beginning of this Deed.

SCHEDULE 1

Details of Charged Property

Part 1 - Details of Mortgaged Property

Registered Land		
Address/description of the property	Title Number	Freehold/Leasehold
Unit C1 and C2, Hercules Office Park, Bird Hall Lane, Stockport, SK3 0UX	MAN245672	

Part 2 - Insurances

Brief description of policy, including policy number	Date of policy	Insurance Company/broker (include addresses for service of notices)

SCHEDULE 2

Notices

Form of notice relating to Insurances

To: [NAME AND ADDRESS OF INSURANCE COMPANY / UNDERWRITER]

Dated: [DATE]

Dear Sirs,

Notice of Security

1. We refer to [SPECIFY POLICY], policy number [NUMBER] between us and you (the "Policy").
1. We give you notice that, under a mortgage dated [DATE], we have assigned to [LENDER] (the "Lender") all of our present and future rights, title and interest in, under and to the Policy and all proceeds and claims arising from the Policy.
2. We may not agree to amend or terminate the Policy without the prior written consent of the Lender.
3. Until you receive written notice to the contrary from the Lender, you may continue to deal with us in relation to the Policy. After you receive such notice, we will cease to have any right to deal with you in relation to the Policy and you must deal directly with or upon the written instructions of the Lender.
4. With effect from the date of this notice, we irrevocably and unconditionally authorise and instruct you:
 - 4.1 to disclose such information relating to the Policy and to give such acknowledgements and undertakings relating to the Policy as the Lender may from time to time request; [and]
 - 4.2 to make all payments under or in connection with the Policy as directed by the Lender[; and]
 - 4.3 [to give at least 30 days' notice to the Lender if you propose to:
 - 4.3.1 repudiate, rescind or cancel the Policy;
 - 4.3.2 treat the Policy as avoided in whole or in part;
 - 4.3.3 treat the Policy as expired due to non-payment of premium (and in such notice you must give the Lender the opportunity to rectify any such non-payment of premium within the notice period); or
 - 4.3.4 otherwise decline any claim under the Policy by or on behalf of any insured party].
5. This notice and the authority and instructions it contains may only be revoked or amended with the written consent of the Lender.
6. This notice and any non-contractual obligations arising out of or in connection with it are governed by the law of England and Wales.
7. Please confirm your agreement to the above by signing the enclosed copy of this notice and returning it to the Lender (with a copy to us).

Yours faithfully,

.....
For and on behalf of
[COMPANY]

[To be included on copy notice:]

To: [NAME, ADDRESS AND DEPARTMENT OF LENDER]

Copy to: [NAME AND ADDRESS OF COMPANY]

Dated: [DATE]

Dear Sirs

Acknowledgement of notice of security

We acknowledge receipt of the above notice. Terms defined in the notice apply to this acknowledgement. We confirm that we:

1. have not received notice of any previous assignment of or charge over the Policy and will promptly notify you if we receive any such notice in the future;
2. will comply with the terms of the notice; and
3. will not claim or exercise any right of set-off, counterclaim or other similar right in relation to amounts payable in connection with the Policy.

Yours faithfully,

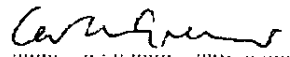
.....
For and on behalf of
[INSURANCE COMPANY / UNDERWRITER]

EXECUTION

The Charging Company

Executed as a deed by
BALLYCLARE LIMITED,
acting by one director in the presence of:

)
)
)



Director

Name: MR ORLAN GREEN

Witness signature:



Witness name: GLENN ROBERT WALKER

Witness address: The Forum, Hercules Business Park, Bird Hall Lane,
Oneadle Hulme, Stockport SK3 0UX

The Lender

Executed as a deed by
MOUNTAIN BERG LIMITED,
acting by one director in the presence of:


)
)
)



Director

Name: NICK TEAGUE

Witness signature:



Witness name: ELIZABETH WHIMBERLEY-DIXON

Witness address: 28 LIND ST
LONDON
SE8 4SE