

MR01

Particulars of a charge

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Companies House

A fee is payable with this form
Please see 'How to pay' on the
last page

You can use the WebFiling service to file this form online
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☒ **What this form is for**
You may use this form to register
a charge created or evidenced by
an instrument

☐ **What this form is for**
You may not use this form to
register a charge created or evidenced by
an instrument

FRIDAY



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30/10/2015

#319

COMPANIES HOUSE

For information, please
visit www.companieshouse.gov.uk

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

☒ 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 08750878

Company name in full WBC (HOLDINGS) LIMITED

For official use

→ Filing in this form

Please complete in typescript or in
bold black capitals

All fields are mandatory unless
specified or indicated by *

2 Charge creation date

Charge creation date 26/10/2015

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 WOKINGHAM BOROUGH COUNCIL

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

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4

Brief description

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

Brief description

None

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

Please limit the description to the available space

5

Other charge or fixed security

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

☐ Yes☒ No

6

Floating charge

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

☒ Yes Continue☐ No Go to **Section 7**

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

☒ Yes

7

Negative Pledge

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

☒ Yes☐ No

8

Trustee statement ¹

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

☐

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

9

Signature

Please sign the form here

Signature

Signature

X

J

Anna-Jane Brewerton
Hared Legal Solutions

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 Emma-Jane Brewerton

Company name Shared Legal Solutions

Address Wokingham Borough Council

Shute End

Post town Wokingham

County/Region Berkshire

Postcode RG40 1BN

Country England

DX 33506 Wokingham

Telephone 07824 527588



Certificate

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



Checklist

We may return forms completed incorrectly or with information missing

Please make sure you have remembered the following

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



Important information

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



How to pay

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

Make cheques or postal orders payable to 'Companies House.'



Where to send

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

For companies registered in England and Wales

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

For companies registered in Scotland

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

For companies registered in Northern Ireland

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



Further information

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

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



FILE COPY

DX

CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 8750878

Charge code: 0875 0878 0001

The Registrar of Companies for England and Wales hereby certifies that a charge dated 26th October 2015 and created by WBC (HOLDINGS) LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 30th October 2015

Given at Companies House, Cardiff on 5th November 2015



Companies House



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES

DATED

26 October 2015

FACILITY AGREEMENT

between

WBC (HOLDINGS) LIMITED (BORROWER)

and

WOKINGHAM BOROUGH COUNCIL (LENDER)

I hereby certify that this is a
true copy of the original.

Carole Pratt

WOKINGHAM BOROUGH COUNCIL
SOLICITOR

DATE *29/10/15*

THIS AGREEMENT is dated 26 October 2015

PARTIES

- (1) WBC (HOLDINGS) LIMITED incorporated and registered in England and Wales with company number 08750878 whose registered office is at Council Offices, Shute End, Wokingham, Berkshire RG40 1BN (**Borrower**).
- (2) WOKINGHAM BOROUGH COUNCIL of Civic Offices, Shute End, Wokingham, RG40 1BN (**Lender**).

BACKGROUND

- (A) The Lender has agreed to provide the Borrower with a secured Sterling term loan facility of £18,600,000.00 (Eighteen Million and Six-Hundred Thousand Pounds)
- (B) This deed provides security which the Borrower has agreed to give the Lender for the loan facilities made or to be made available pursuant to this deed

AGREED TERMS

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

The following definitions apply in this deed.

Administrator: an administrator appointed to manage the affairs, business and property of the Borrower pursuant to this deed

Availability Period: the period from and including the date of this deed to and including 1 August 2019.

Borrowed Money: any Indebtedness the Borrower owes as a result of:

- (a) borrowing or raising money (with or without security), including any premium and any capitalised interest on that money;
- (b) any bond, note, loan stock, debenture, commercial paper or similar instrument;
- (c) any acceptance credit facility or dematerialised equivalent, bill-discounting, note purchase or documentary credit facilities;
- (d) monies raised by selling, assigning or discounting receivables or other financial assets on terms that recourse may be had to the Borrower if those receivables or financial assets are not paid when due;

- (e) any deferred payment for assets or services acquired, other than trade credit that is given in the ordinary course of trading and which does not involve any deferred payment of any amount for more than 60 days;
- (f) any rental or hire charges under finance leases (whether for land, machinery, equipment or otherwise);
- (g) any counter-indemnity obligation in respect of any guarantee, bond, indemnity, standby letter of credit or other instrument issued by a third party in connection with the Borrower's performance of contracts;
- (h) any other transaction that has the commercial effect of borrowing (including any forward sale or purchase deed and any liabilities which are not shown as borrowed money on the Borrower's balance sheet because they are contingent, conditional or otherwise);
- (i) any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price (and when calculating the value of any derivative transaction, only the mark to market value shall be taken into account); and
- (j) any guarantee, counter-indemnity or other assurances against financial loss that the Borrower has given for any of the items referred to in paragraphs (a) to (i) of this definition incurred by any person.

When calculating Borrowed Money, no liability shall be taken into account more than once.

Business Day: a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

Delegate: any person appointed by the Lender or any Receiver pursuant to this deed and any person appointed as attorney of the Lender, Receiver or Delegate

Event of Default: any event or circumstance listed in clause 13.1 to clause 13.14.

Facility: the term loan facility made available under this deed.

Final Repayment Date: 1 August 2045 (30 years from the date hereof).

Finance Document: this deed, the Security Document and any other document designated as such by the Lender and the Borrower

Indebtedness: any obligation to pay or repay money, present or future, whether actual or contingent, sole or joint and any guarantee or indemnity of any of those obligations.

Insurance Policy: each contract and policy of insurance effected or maintained by the Borrower from time to time in respect of its assets or business

Loan: the Facility the Indebtness made or to be made by the Lender to the Borrower under this deed or (as the context requires) the principal amount outstanding for the time being of that loan.

Potential Event of Default: any event or circumstance specified in clause 13.1 to clause 13.14 that would, on the giving of notice, expiry of any grace period or making of any determination under this deed, or satisfaction of any other condition (or any combination thereof), become an Event of Default.

Receiver: a receiver, receiver and manager or administrative receiver of any or all of the Secured Assets appointed by the Lender

Repayment Date: 1 August 2045 (30 years from the date hereof)

Secured Assets: All the assets, property and undertaking for the time being subject to the Security created by or pursuant to this deed (and reference to Secured Assets shall include reference to any part of them)

Secured Liabilities: all present and future monies, obligations and liabilities of the Borrower to the Lender, whether actual or contingent and whether owned jointly or severally, as principal or surety or in any other capacity, under or in connection with the Finance Document together with all interest accrued in respect of those monies, obligations or liabilities

Security: 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 deed or arrangement having a similar effect.

Security Document: the MR01 in the agreed form, executed or to be executed by the Borrower

Security Period: the period starting on the date of this deed and ending on the date on which the Lender is satisfied that all Secured Liabilities have been unconditionally and irrevocably paid and discharged in full and no further Secured Liabilities are capable of being outstanding

Sterling and £: the lawful currency of the UK.

Total Facility Amount: the maximum principal amount of the Facility referred to in clause 2.

12 Interpretation

In this deed:

- (a) clause, Schedule and paragraph headings shall not affect the interpretation of this deed;

- (b) a reference to a **person** shall include a reference to an individual, firm, company, corporation, partnership, unincorporated body of persons, government, state or agency of a state or any association, trust, joint venture or consortium (whether or not having separate legal personality) and that person's personal representatives, successors, permitted assigns and permitted transferees;
- (c) unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular;
- (d) unless the context otherwise requires, a reference to one gender shall include a reference to the other genders;
- (e) a reference to a party shall include that party's successors, permitted assigns and permitted transferees;
- (f) a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time;
- (g) a reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision;
- (h) a reference to a time of day is to London time;
- (i) a reference to **writing** or **written** includes fax but not email;
- (j) an obligation on a party not to do something includes an obligation not to allow that thing to be done;
- (k) a reference to a **Finance Document** (or any provision of it) or to any other deed or document referred to in this deed is a reference to this Finance Document, that provision or such other deed or document as amended (in each case, other than in breach of the provisions of this deed) from time to time;
- (l) unless the context otherwise requires, a reference to a clause or Schedule is to a clause of, or Schedule to, this deed and a reference to a paragraph is to a paragraph of the relevant Schedule;
- (m) any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms;
- (n) a reference to a document **in agreed form** is to that document in the form agreed by the Lender and the Borrower and initialled by or on their behalf for identification,
- (o) a reference to an **amendment** includes a novation, re-enactment, supplement or variation (and **amended** shall be construed accordingly);

- (p) a reference to **assets** includes present and future properties, undertakings, revenues, rights and benefits of every description;
 - (q) a reference to an **authorisation** includes an approval, authorisation, consent, exemption, filing, licence, notarisation, registration and resolution;
 - (r) a reference to a **certified copy** of a document means a copy certified to be a true, complete and up-to-date copy of the original document, in writing and signed by a director or the secretary of the party delivering the document;
 - (s) a reference to **continuing** in relation to an Event of Default means an Event of Default that has not been [remedied or] waived;
 - (t) a reference to **determines** or **determined** means, unless the contrary is indicated, a determination made at the discretion of the person making it;
 - (u) a reference to a **disposal** of any asset, undertaking or business includes a sale, lease, licence, transfer, loan or other disposal by a person of that asset, undertaking or business (whether by a voluntary or involuntary single transaction or series of transactions); and
 - (v) a reference to a **regulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, inter-governmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation.
- 1.3 The Schedule forms part of this deed and shall have effect as if set out in full in the body of this deed. Any reference to this deed includes the Schedule.
- 1.4 If the Lender considers that an amount paid by the Borrower in respect of the Secured Liabilities is capable of being avoided or otherwise set aside on the liquidation or administration of the Borrower or otherwise, then that amount shall not be considered to have been irrevocably paid for the purposes of this deed
- 1.5 A reference in this deed to a charge or mortgage of or over any property includes:
- (a) All buildings and fixtures and fittings (including trade and tenant's fixtures and fittings) that are situated on or form part of that property at any time;
 - (b) The proceeds of the sale of any part of that property and any other monies paid or payable in respect of or in connection with that property.

2 THE FACILITY

- 2.1 The Lender grants to the Borrower the Facility being a secured Sterling term loan facility of a total principal amount not exceeding £18,600,000.00 (EIGHTEEN MILLION SIX HUNDRED THOUSAND POUNDS) on the terms, and subject to the conditions, of this deed. This part of the Facility to be used solely for the purpose in clause 3.1 of this deed.
- 2.2 The Lender shall grant to the Borrower (or to such nominee of the Borrower) a long lease in the property in clause 3.2 for a term of no less than 99 years and at nil rent in consideration of an Indebtedness obligation by the Borrower (or such nominee of the Borrower) to pay the principal amount of £6,627,000.00 (SIX MILLION SIX HUNDRED AND TWENTY SEVEN THOUSAND POUNDS) to the Lender on the terms and, subject to the conditions, of this deed.
- 2.2 Where the Lender agrees to provide additional facilities other than those stated in clause 2.1 such facilities shall be provided to the Borrower on the same terms as this Facility Deed mutatis mutandis and such facilities shall be effected by way of letter of variation to this deed

3. PURPOSE

- 3.1 The Borrower shall use the Facility in 2.1 for the purposes of lending to Wokingham Housing Limited (Company Registration Number: 07685172) and / or Loddon Homes Limited (Company Registration Number: 08847846) for housing purposes.
- 3.2 The Lender shall secure a leasehold title to the Borrower (or such nominee of the Borrower) in the properties known as (i) Hillside Park, Wokingham (ii) Eustace Crescent, Wokingham and (iii) Fosters, Wokingham
- 3.3 The Lender is not obliged to monitor or verify how any amount advanced under this deed is used.

4. DRAWING

- 4.1 Subject to clause 5, the Borrower may utilise the Facility in a single amount on any Business Day during the Availability Period. To do this, the Borrower shall give the Lender at least fourteen Business Day's prior notice of the date on which the Borrower wants to draw down the Loan specifying the amount of the proposed Loan, the Business Day on which it is to be made and the

bank account to which payment is to be made. The amount of the Loan shall not exceed the Total Facility Amount.

4.2 Any notice given under clause 4.1 will be irrevocable.

4.3 Any amount of the Facility not drawn down during the Availability Period will automatically be cancelled at the end of the Availability Period.

5. CONDITIONS PRECEDENT

5.1 This clause 5 is inserted solely for the benefit of the Lender.

5.2 The Borrower may not give notice to draw the Loan unless the Lender has received all the documents and evidence specified in the Schedule in form and substance satisfactory to the Lender. The Lender shall notify the Borrower promptly upon being so satisfied.

5.3 The Lender's obligation to make the Loan is subject to the further conditions precedent that, on both the date of the notice to draw down the Loan and the proposed drawdown date of the Loan (specified in the notice referred to in clause 4.1):

- (a) the representations and warranties in clause 11 are true and correct in all material respects and will be true and correct in all material respects immediately after the Lender has made the proposed Loan; and
- (b) no Event of Default or Potential Event of Default is continuing or would result from the proposed Loan.

6. COVENANT TO PAY

6.1 The Borrower shall pay to the Lender the Loan by the Repayment Date and discharge the Secured Liabilities on demand when they become due pursuant to the Finance Document.

6.2 The Borrower shall be permitted to repay the Loan at any time.

7. INTEREST

7.1 The Borrower shall pay interest on the Loan at the rate of ^{5.5%}~~6.0%~~ above the base rate for the time being of NATWEST BANK PLC. 802.

7.2 Interest shall accrue daily and shall be payable quarterly in arrear on the last Business Day of March, June, September and December of each year throughout the Security Period

7.3 If the Borrower fails to make any payment due under this deed on the due date for payment, interest on the unpaid amount shall accrue daily, from the date of non-payment to the date of actual payment (both before and after judgment), at 7% above the base rate for the time being of NATWEST BANK PLC.

8. GRANT OF SECURITY

8.1 As a continuing security for the payment and discharge of the Secured Liabilities, the Borrower with full title guarantee charges to the Lender, by way of first floating charge, all the undertaking, property assets and rights of the Borrower at any time

8.2 The floating charge created by clause 8.1 shall automatically and immediately (without notice) convert into a fixed charge over the assets subject to that floating charge if:

(a) The Borrower

(i) Creates, or attempts to create, without the prior written consent of the Lender, a Security or a trust in favour of another person over all or any part of the Secured Assets (except as expressly permitted by the terms of this deed or the Facility Deed); or

(ii) Disposes, or attempts to dispose of, all or any part of the Secured Assets (other than Secured Assets that are only subject to the floating charge while it remains uncrystallised);

(b) Any person levies (or attempts to levy) any distress, attachment, execution or other process against all or any part of the Secured Assets; or

(c) A resolution is passed or an order is made for the winding-up, dissolution, administration or re-organisation of the Borrower

(d) An Event of Default occurs

8.3 Paragraph 14 of Schedule B1 of the Insolvency Act 1986 applies to the floating charge created by clause 8.1

8.4 The Lender may, in its sole discretion, at any time and by written notice to the Borrower, convert the floating charge created under this deed into a fixed

charge as regards any part of the Secured Assets specified by the Lender in that notice

8 5 Any asset acquired by the Borrower after any crystallisation of the floating charge created under this deed that, but for that crystallisation, would be subject to a floating charge under this deed, shall (unless the Lender confirms otherwise to the Borrower in writing) be charged to the Lender by way of first fixed charge

8 6 The Borrower's liability under this deed in respect of any of the Secured Liabilities will not be discharged, prejudiced or affected by:

- (a) Any security, guarantee, indemnity, remedy or other right held by, or available to, the Lender that is, or becomes wholly or partially illegal, void or unenforceable on any ground
- (b) The Lender renewing,, determining, varying or increasing any facility or other transaction in any manner or concurring in accepting or varying any compromise, arrangement or settlement, or omitting to claim or enforce payment from any other person, or
- (c) Any other act of omission that, but for this clause 8.5 might have discharged, or otherwise prejudiced or affected, the liability of the Borrower

8 7 The Borrower waives any right it may have to require the Lender to enforce any security or other right, or claim any payment from, or otherwise proceed against, any other person before enforcing this deed against the Borrower

9. Costs

9 1 The Borrower shall pay on demand, all costs and expenses (together with any value added tax on them) that the Lender incurs in connection with the negotiation and preparation, execution, amendment, extension, alteration, preservation and enforcement of the Loan and/or the Finance Documents.

9 2 The Borrower shall pay any stamp, documentary and other similar duties and taxes to which this deed may be subject, or give rise and shall indemnify the Lender against any losses or liabilities that it may incur as a result of any delay or omission by the Borrower in paying any such duties or taxes.

10. PAYMENTS

10 1 All payments made by the Borrower under the Finance Documents shall be in Sterling and in immediately available cleared funds to the Lender at such account as the Lender may notify the Borrower in writing.

10 2 If any payment becomes due on a day that is not a Business Day, the due date of such payment will be extended to the next succeeding Business Day, or, if that Business Day falls in the following calendar month, such due date shall be the immediately preceding Business Day.

10 3 All payments made by the Borrower under this deed shall be made in full, without set-off, counterclaim or condition, and free and clear of, and without any deduction or withholding, provided that, if the Borrower is required by law or regulation to make such deduction or withholding, it shall:

- (a) ensure that the deduction or withholding does not exceed the minimum amount legally required;
- (b) pay to the relevant taxation or other authorities, as appropriate, the full amount of the deduction or withholding;
- (c) furnish to the Lender, within the period for payment permitted by the relevant law, either:
 - (i) an official receipt of the relevant taxation authorities concerned on payment to them of amounts so deducted or withheld; or
 - (ii) if such receipts are not issued by the taxation authorities concerned on payment to them of amounts so deducted or withheld, a certificate of deduction or equivalent evidence of the relevant deduction or withholding; and
- (d) pay to the Lender such additional amount as is necessary to ensure that the net full amount received by the Lender after the required deduction or withholding is equal to the amount that the Lender would have received had no such deduction or withholding been made.

11. REPRESENTATIONS AND WARRANTIES

The Borrower represents and warrants to the Lender on the date of this deed:

11 1 It:

- (a) is a duly incorporated limited liability company validly existing under the laws of its jurisdiction of incorporation; and
- (b) has the power to own its assets and carry on its business as it is being conducted.

11 2

- (a) It has the power to enter into, deliver and perform, and has taken all necessary action to authorise its entry into, delivery and performance of, the Finance Documents and the transactions contemplated by it
 - (b) No limit on its powers will be exceeded as a result of the borrowing or grant of security contemplated by the Finance Documents.
- 11.3 The entry into and performance by it of, and the transactions contemplated by, the Finance Documents, do not and will not contravene or conflict with:
 - (a) its constitutional documents;
 - (b) any deed or instrument binding on it or its assets or constitute a default or termination event (however described) under any such deed or instrument; or
 - (c) any law or regulation or judicial or official order, applicable to it.
- 11.4 It has obtained all required or desirable authorisations to enable it to enter into, exercise its rights and comply with its obligations in the Finance Documents and to make it admissible in evidence in its jurisdiction of incorporation. All such authorisations are in full force and effect.
- 11.5 Its obligations under the Finance Documents are legal, valid, binding and enforceable in accordance with its terms.
- 11.6 The Borrower is the sole legal and beneficial owner of the Secured Assets.
- 11.7 The Secured Assets are free from any Security other than the Security created by this deed.
- 11.8 The Borrower has not received, or acknowledged notice of, any adverse claim by any person in respect of the Secured Assets or any interest in them.
- 11.9 There are no covenants, deeds, reservations, conditions, interests, rights or other matters whatsoever that materially and adversely affect the Secured Assets.
- 11.10 There is no breach of any law or regulation that materially and adversely affects the Secured Assets
- 11.11 This deed constitutes and will constitute the legal, valid, binding and enforceable obligations of the Borrower, and is, and will continue to be, effective security over all and every part of the Secured Assets in accordance with its terms

- 11 12 The Borrower shall not do, or permit to be done, any act or thing that would or might depreciate, jeopardise or otherwise prejudice the security held by the Lender, or materially diminish the value of any of the Secured Assets or the effectiveness of the security created by this deed
- 11 13 The Borrower waives any present or future right of set-off it may have in respect of the Secured Liabilities (including sums payable by the Borrower under this Deed)
- 11 14 It is not necessary to file, record or enroll any Finance Document (other than the registration of the Security Document under the Companies Act 2006) with any court or other authority or pay any stamp, registration or similar taxes relating to any Finance Document or the transactions contemplated by any Finance Document.
- 11 15 No Event of Default or Potential Event of Default has occurred or is continuing, or is reasonably likely to result from making the Loan or the entry into, the performance of, or any transaction contemplated by the Finance Document.
- 11 16 No other event or circumstance is outstanding which constitutes (or, with the expiry of a grace period, the giving of notice, the making of any determination or any combination thereof, would constitute) a default or termination event (howsoever described) under any other deed or instrument which is binding on the Borrower or to which any of its assets is subject which has or is reasonably likely to have a material adverse effect on its business, assets or condition or ability to perform its obligations under the Finance Documents
- 11 17 No litigation, arbitration or administrative proceedings are taking place, pending or, to the Borrower's knowledge, threatened against it, any of its directors or any of its assets, which, if adversely determined, might reasonably be expected to have a material adverse effect on its business, assets or condition, or its ability to perform its obligations under this deed
- 11 18 The information, in written or electronic format, supplied by, or on its behalf, to the Lender in connection with the Facility and the Finance Documents was, at the time it was supplied or at the date it was stated to be given (as the case may be), to the best of its knowledge and belief having made all due enquiry:
- (a) if it was factual information, complete, true and accurate in all material respects;

- (b) if it was a financial projection or forecast, prepared on the basis of recent historical information and on the basis of reasonable assumptions and was fair and made on reasonable grounds; and
- (c) if it was an opinion or intention, made after careful consideration and was fair and made on reasonable grounds; and
- (d) not misleading in any material respect, nor rendered misleading by a failure to disclose other information,

except to the extent that it was amended, superseded or updated by more recent information supplied by, or on behalf of, the Borrower to the Lender.

11 19 Each of the representations and warranties in this clause 11 is deemed to be repeated by the Borrower on:

- (a) the date of the request to draw down the Loan;
- (b) the date that the Loan is actually drawn down; and
- (c) each date immediately succeeding the date on which interest is paid under this deed,

by reference to the facts and circumstances existing on each such date.

12. COVENANTS

The Borrower covenants with the Lender that, as from the date of this deed until all its liabilities under the Finance Document have been discharged:

12 1 It will deliver to the Lender:

- (a) within nine months after the end of each of its financial years, its audited accounts;
- (b) within 30 days after the end of each month, its monthly management accounts;
- (c) promptly, all notices or other documents dispatched by the Borrower to its shareholders (or any class of them) or to its creditors generally; and
- (d) promptly such financial or other information as the Lender may, from time to time, request.

12 2 It will promptly, after becoming aware of them, notify the Lender of any litigation, arbitration or administrative proceedings or claim of the kind described in clause 11.14.

- 12.3 It will promptly obtain all consents or authorisations necessary (and do all that is needed to maintain them in full force and effect) under any law or regulation to enable it to perform its obligations under the Finance Documents and to ensure the legality, validity, enforceability and admissibility in evidence of the Finance Documents in its jurisdiction of incorporation.
- 12.4 It will procure that any of its unsecured and unsubordinated obligations and liabilities under the Finance Documents rank, and will rank, at least *pari passu* in right and priority of payments with all its other unsecured and unsubordinated obligations and liabilities, present or future, actual or contingent, except for those obligations and liabilities mandatorily preferred by law of general application to companies.
- 12.5 It will comply, in all respect, with all laws, if failure to do so has or is reasonably likely to have a material adverse effect on its business, assets or condition, or its ability to perform its obligations under this deed.
- 12.6 The Borrower shall not do, or permit to be don't, any act or thing that would or might depreciate, jeopardise or otherwise prejudice the security held by the Lender, or materially diminish the value of any of the Secured Assets or the effectiveness of the security created by this deed.
- 12.7 It will notify the Lender of any Potential Event of Default or Event of Default (and the steps, if any, being taken to remedy it) promptly on becoming aware of its occurrence.
- 12.8 The Borrower waives any present or future right of set-off it may have in respect of the Secured Liabilities (including sums payable by the Borrower under this deed).
- 12.9 It will not:
- (a) create, or permit to subsist, any Security on or over any of its Secured Assets other than Security created pursuant to the Security Document;
 - (b) sell, transfer or otherwise dispose of any of its Secured Assets on terms whereby such assets are or may be leased to or re-acquired or acquired by it; or
 - (c) sell, transfer or otherwise dispose of any of its receivables on recourse terms; or
 - (d) enter into any arrangement under which money or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts; or

- (e) enter into any other preferential arrangement having a similar effect, in circumstances where the arrangement or transaction is entered into primarily as a method of raising Borrowed Money or of financing the acquisition of an asset.
- 12 10 It will not sell, assign, lease, transfer or otherwise dispose of in any manner (or purport to do so) all or any part of, or any interest in, its assets other than:
- (a) trading stock in the ordinary course of its business; and
 - (b) assets exchanged for other assets comparable or superior as to type, value and quality.
- 12 11 The Borrower shall, promptly on becoming aware of any of the same, notify the Lender in writing of:
- (a) Any representation or warranty set out in clause 11 which is incorrect or misleading in any material respect which when made or deemed to be repeated; and
 - (b) Any breach of any covenant set out in this deed.
- 12 12 It will not incur or permit to subsist, any obligation for Borrowed Money.
- 12 13 The Borrower shall insure and keep insured the Secured Assets against:
- (a) Loss or damage by fire or terrorist acts;
 - (b) Other risks, perils and contingencies that would be insured against by reasonably prudent persons carrying on the same class of business as the Borrower; and
 - (c) Any other risk, perils and contingencies as the Lender may reasonably require.
- Any such insurance must be with an insurance company or underwriters, and on such terms, as are reasonably acceptable to the Lender and must be for not less than the replacement value of the relevant Secured Assets.
- 12 14 The Borrower shall promptly pay all premiums in respect of each insurance policy maintained by it in accordance with clause 12.13 and do all other things necessary to keep that policy in full force and effect
- 12 15 All monies received or receivable by the Borrower under any insurance policy maintained by it in accordance with clause 12.13 (including all monies received or receivable by it under any Insurance Policy) at any time (whether or not the security constituted by this deed has become enforceable shall be

applied in making good or recouping expenditure in respect of the loss or damage for which those monies are received or, after the security constituted by this deed has become enforceable and if the Lender so directs, in or towards discharge or reduction of the Secured Liabilities.

12 16 The Borrower shall promptly pay all taxes, fees, licence duties, registration charges, insurance premiums and other outgoings in respect of the Secured Assets and, on demand, produce evidence of payment to the Lender.

12 17 The Borrower shall:

- (a) Give the Lender such information concerning the location, condition, use and operation of the Secured Assets as the Lender may require;
- (b) Permit any persons designated by the Lender and any Receiver to enter on its premises and inspect and examine any secured Asset and the records relating to that secured Asset at all reasonable times and on reasonable prior notice; and
- (c) Promptly notify the Lender in writing of any action, claim, notice or demand made by or against it in connection with all or any part of a Secured Asset or of any fact, matter or circumstance which may, with the passage of time, give rise to such an action, claim, notice or demand, together with, in each case, the Borrower's proposals for settling, liquidating, compounding or contesting any such action, claim, notice or demand and shall, subject to the Lender's prior approval, implement those proposals at its own expense

13. EVENTS OF DEFAULT

Each of the events or circumstances set out in this clause 13 (other than clause 13.15) is an Event of Default.

13 1 The Borrower fails to pay any sum payable by it under any Finance Document unless its failure to pay is caused solely by an administrative error or technical problem and payment is made within three Business Days of its due date.

13 2 The Borrower fails (other than by failing to pay), to comply with any provision of any Finance Document and (if the Lender considers, acting reasonably, that the default is capable of remedy), such default is not remedied within 14 Business Days of the earlier of:

- (a) the Lender notifying the Borrower of the default and the remedy required;
- (b) the Borrower becoming aware of the default.

- 13 3 Any representation, warranty or statement made, repeated or deemed made by the Borrower in, or pursuant to, this deed is (or proves to have been) incomplete, untrue, incorrect or misleading in any material respect when made, repeated or deemed made.
- 13 4 If:
- (a) any Borrowed Money is not paid when due or within any originally applicable grace period; or
 - (b) any Borrowed Money becomes due, or capable or being declared due and payable prior to its stated maturity by reason of an event of default (howsoever described);
 - (c) any commitment for Borrowed Money is cancelled or suspended by a creditor of the Borrower by reason of an event of default (howsoever described); or
 - (d) any creditor of the Borrower becomes entitled to declare any Borrowed Money due and payable prior to its stated maturity by reason of an event of default (howsoever described).
- 13 5 The Borrower stops or suspends payment of any of its debts, or is unable to, or admits its inability to, pay its debts as they fall due.
- 13 6 The value of the Borrower's assets is less than its liabilities (taking into account contingent and prospective liabilities).
- 13 7 A moratorium is declared in respect of any Indebtedness of the Borrower.
- 13 8 Any action, proceedings, procedure or step is taken for:
- (a) the suspension of payments, a moratorium of any Indebtedness, winding up, dissolution, administration or reorganisation (using a voluntary arrangement, scheme of arrangement or otherwise) of the Borrower; or
 - (b) the composition, compromise, assignment or arrangement with any creditor; or
 - (c) the appointment of a liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of the Borrower or any of its assets; or
 - (d) the enforcement of any Security over any assets of the Borrower.
- 13 9 The Borrower commences negotiations, or enters into any composition, compromise, assignment or arrangement, with one or more of its creditors

with a view to rescheduling any of its Indebtedness (because of actual or anticipated financial difficulties).

- 13 10 Any event occurs in relation to the Borrower similar to those in clause 13.6 to clause 13.9 (inclusive) under the laws of any applicable jurisdiction.
- 13 11 Any provision of any Finance Document is or becomes, for any reason, invalid, unlawful, unenforceable, terminated, disputed or ceases to be effective or to have full force and effect.
- 13 12 The Borrower repudiates or evidences an intention to repudiate any Finance Document.
- 13 13 The Borrower suspends or ceases to carry on (or threatens to suspend or cease to carry on) all or a substantial part of its business.
- 13 14 Any event occurs (or circumstances exist) which, in the opinion of the Lender, has or is likely to materially and adversely affect the Borrower's ability to perform all or any of its obligations under, or otherwise comply with the terms of, any Finance Document.
- 13 15 At any time after an Event of Default has occurred which is continuing, the Lender may, by notice to the Borrower:
 - (a) cancel all outstanding obligations of the Lender under this deed whereupon they shall immediately be cancelled; and/or
 - (b) declare that the Loan (and all accrued interest and all other amounts outstanding under the Finance Documents) is immediately due and payable, whereupon they shall become immediately due and payable; and/or
 - (c) declare that the Loan be payable on demand, whereupon it shall become immediately payable on demand by the Lender; and/or
 - (d) declare the Security Document to be enforceable.

14. WHEN SECURITY BECOMES ENFORCEABLE

- 14 1 The security constituted by this deed shall become immediately enforceable if an Event of Default occurs
- 14 2 After the security constituted by this deed has become enforceable, the Lender may, in its absolute discretion enforce all or any part of that security at the times, in the manner and on the terms it thinks fit, and take possession of and hold or dispose of all or any part of the Secured Assets

- 14.3 To the extent permitted by law, any right, power or discretion conferred by this deed on a Receiver may, after the security constituted by this deed has become enforceable, be exercised by the Lender in relation to any of the Secured Assets whether or not it has taken possession of any secured Assets and without first appointing a Receiver or notwithstanding the appointment of a Receiver
- 14.4
- (a) For the purposes of all powers implied by statute, the Secured Liabilities are deemed to have become due and payable on the date of this deed.
 - (b) The power of sale and other powers conferred by section 101 of the LPA 1925 (as varied or extended by this deed) shall be immediately exercisable at any time after the security constituted by this deed has become enforceable under clause 14.1
 - (c) Section 103 of the LPA 1925 does not apply to the security constituted by this deed
- 14.5 At any time after the Lender has demanded payment of the Secured Liabilities or if the Borrower defaults in the performance of its obligations under this deed, the Borrower will allow the Lender or its Receiver, without further notice or demand, immediately to exercise all its rights, powers and remedies in particular (and without limitation) to take possession of any Secured Asset and for that purpose to enter on any premises where a Secured Asset is situated without incurring any liability to the Borrower
- 14.6 The Lender may, without notice to the Borrower, appoint any one or more persons to be an Administrator of the Borrower pursuant to Paragraph 14 of Schedule B1 of the Insolvency Act 1986 if the security constituted by this deed becomes enforceable
- 14.7 Any appointment under clause 14.3 shall:
- (a) Be in writing signed by a duly authorised signatory of the Lender; and
 - (b) Take effect, in accordance with paragraph 19 of Schedule B1 of the Insolvency Act 1986
- 14.8 The Lender may apply to the court for an order removing an Administrator from office and may by notice in writing in accordance with this clause 14 appoint a replacement for any Administrator who has died, resigned, been removed or who has vacated office upon ceasing to be qualified

- 14 9 At any time after the security constituted by this deed has become enforceable or at the request of the Borrower, the Lender may, without further notice, appoint by way of deed, or otherwise in writing, by one or more persons to be A Receiver of all or any part of the Secured Assets
- 14 10 Each Receiver and the Lender is entitled to all the rights, powers, privileges and immunities conferred by the LPA 1925 on mortgagees and receivers
- 14 11 The power to appoint a Receiver conferred by this deed shall be in addition to all statutory and other powers of the Lender under the Insolvency Act 1986 , the LPA 1925 or otherwise, and shall be exercisable without the restrictions contained in sections 103 and 109 of the LPA 1925 or otherwise
- 14 12 The power to appoint a Receiver (whether conferred by this deed or by statute) shall be, and remain, exercisable by the Lender despite any prior appointment in respect of all or any part of the Secured Assets
- 14 13 Any Receiver appointed by the Lender under this deed shall be the agent of the Borrower and the Borrower shall be solely responsible for the contracts engagements, acts, omissions, defaults, losses and remuneration of that Receiver and for liabilities incurred by that Receiver. The agency of each Receiver shall continue until the Borrower goes into liquidation and after that the Receiver shall act as principal and shall not become the agent of the Lender
- 14 14 A Receiver may delegate his powers in accordance with this deed
- 14 15 A Receiver may, in relation to any of the Secured Assets, exercise all powers, authorisations and rights he would be capable exercising, and do all those acts and things, as an absolute beneficial owner could exercise or do in the ownership and management of the Secured Assets or any part of the Secured Assets
- 14 16 A Receiver may do any other acts and things that he:
- (a) may consider desirable or necessary for realising any of the Secured Assets;
 - (b) may consider incidental or conducive to any of the rights or powers conferred on a Receiver under or by virtue of this deed or law; or
 - (c) lawfully may or can do as agent for the Borrower
- 14 17 The Lender or any Receiver may delegate (either generally or specifically) by power of attorney or in any other manner to any person any right, power,

authority or discretion conferred on it by this deed (including the power of attorney granted under clause 14.20

- 14 18 The Lender and each Receiver may make a delegation on the terms and conditions (including the power to sub-delegate) that it thinks fit
- 14 19 Neither the Lender nor any Receiver shall be in any way liable or responsible to the Borrower for any loss or liability arising from any act, default, omission or misconduct on the part of the Delegate
- 14 20 By way of security the Borrower irrevocably appoints the Lender, every Receiver and every delegate separately to be the attorney of the Borrower and, in its name, on its behalf and as its act and deed, to execute any documents and do any acts and things that:
- (a) The Borrower is required to execute and do under this deed, or
 - (b) Any attorney deems proper or desirable in exercising any of the rights, powers, authorities and discretions conferred by this deed or by law on the Lender, any Receiver or delegate
- 14 21 The Borrower ratifies and confirms, and agrees to ratify and confirm, anything that any of its attorneys may do in the proper and lawful exercise, or purported exercise, of all or any of the rights, powers, authorities and discretions referred to in clause 14.20
- 14 22 All monies received by the Lender, a Receiver or Delegate pursuant to this deed, after the security has become enforceable, shall (subject to the claims of any person, having prior rights and by way of variation of the LPA 1925) be applied in the following order or priority:
- (a) In or towards payment or provision for all costs, charges and expenses incurred by or on behalf of the Lender (and any Receiver, Delegate, attorney, or agent appointed by it) under or in connection with this deed, and of all remuneration due to any Receiver under or in connection with this deed;
 - (b) In or towards payment of or provision for the Secured Liabilities in any order and manner that the Lender determines; and
 - (c) In payment of the surplus (if any) to the Borrower or other person entitled to it
- 14 23 Neither the Lender, any Receiver nor any Delegate shall be bound (whether by virtue of section 109(8) of the LPA 1925, which is varied accordingly, or otherwise) to pay or appropriate any receipt or payment first towards interest

rather than principal or otherwise in any particular order between any of the Secured Liabilities

15. SET-OFF

- 15.1 The Lender may at any time set off any liability of the Borrower to the Lender against any liability of the Lender to the Borrower, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under this deed. If the liabilities to be set off are expressed in different currencies, the Lender may convert either liability at a market rate of exchange for the purpose of set-off. Any exercise by the Lender of its rights under this clause 15.1 shall not limit or affect any other rights or remedies available to it under the Finance Documents or otherwise.
- 15.2 The Lender is not obliged to exercise any of its rights under clause 15.1, but if the rights are exercised, the Lender shall promptly notify the Borrower of the set-off that has been made.

16. CALCULATIONS, ACCOUNTS AND CERTIFICATES

- 16.1 Any interest, commission or fee under this deed shall accrue on a day-to-day basis, calculated according to the number of actual days elapsed and a year of 365 days
- 16.2 The Lender shall maintain accounts evidencing the amounts owed to it by the Borrower, in accordance with its usual practice. Entries in those accounts shall be prima facie evidence of the existence and amount of the Borrower's obligations as recorded in them
- 16.3 If the Lender issues any certificate, determination or notification of a rate or any amount payable under a Finance Document, it shall be (in the absence of manifest error) conclusive evidence of the matter to which it relates.

17. AMENDMENTS, WAIVERS AND CONSENTS AND REMEDIES

- 17.1 No amendment of any Finance Document shall be effective unless it is in writing and signed by, or on behalf of, each party to it (or its authorised representative).
- 17.2 A waiver of any right or remedy under any Finance Document or by law, or any consent given under this deed, is only effective if given in writing by the waiving or consenting party and shall not be deemed a waiver of any other breach or default. It only applies in the circumstances for which it is given

and shall not prevent the party giving it from subsequently relying on the relevant provision.

17.3 A failure or delay by a party to exercise any right or remedy provided under any Finance Document or by law shall not constitute a waiver of that or any other right or remedy, prevent or restrict any further exercise of that or any other right or remedy or constitute an election to affirm any Finance Document. No single or partial exercise of any right or remedy provided under any Finance Document or by law shall prevent or restrict the further exercise of that or any other right or remedy. No election to affirm any Finance Document by the Lender shall be effective unless it is in writing.

17.4 The rights and remedies provided under the Finance Documents are cumulative and are in addition to, and not exclusive of, any rights and remedies provided by law.

18. SEVERANCE

If any provision (or part of a provision) of this deed is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision (or part of a provision) shall be deemed deleted. Any modification to or deletion of a provision (or part of a provision) under this clause shall not affect the legality, validity and enforceability of the rest of the Finance Documents.

19. ASSIGNMENT AND TRANSFER

19.1 The Lender may assign any of its rights under the Finance Documents or transfer all its rights or obligations by novation

19.2 The Borrower may not assign any of its rights or transfer any of its rights or obligations under any Finance Document.

20. COUNTERPARTS

20.1 Each Finance Document may be executed in any number of counterparts, each of which when executed shall constitute a duplicate original, but all the counterparts shall together constitute one deed.

20.2 No counterpart shall be effective until each party has executed at least one counterpart

21. THIRD PARTY RIGHTS

- 21.1 A person who is not a party to this deed has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any term of this deed. This does not affect any right or remedy of a third party which exists, or is available, apart from that Act

22. FURTHER PROVISIONS

- 22.1 The security constituted by this deed shall be in addition to, and independent of, any other security or guarantee that the Lender may hold for any of the Secured Liabilities at any time. No prior security held by the Lender over the whole or any part of the Secured Assets shall merge in the security created by this deed
- 22.2 The security constituted by this deed shall remain in full force and effect as a continuing security for the Secured Liabilities, despite any settlement of account, or intermediate payment, or other matter or thing, unless and until the Lender discharged this deed in writing
- 22.3 Any release, discharge or settlement between the Borrower and the Lender shall be deemed conditional on no payment or security received by the Lender in respect of the Secured Liabilities being avoided, reduced or ordered to be refunded pursuant to any law relating to insolvency, bankruptcy, winding up, administration, receivership or otherwise. Despite any such release, discharge or settlement:
- (a) The Lender or its nominee may retain this deed and the security created by it or pursuant to it, including all certificates and documents relating to the whole or any part of the Secured Assets, for any period that the Lender deems necessary to provide the Lender with security against any such avoidance, reduction or order for refund, and
 - (b) The Lender may recover the value or amount of such security or payment from the Borrower subsequently as if the release, discharge or settlement had not occurred
- 22.4 A certificate or determination by the Lender as to any amount for the time being due to it from the Borrower under this deed shall be, in the absence of any manifest error, conclusive evidence of the amount due
- 22.5 The restriction of the right of consolidation contained in section 93 of the LPA 1925 shall not apply to this deed

23 NOTICES

23.1 Any notice or other communication given to a party under or in connection with, this deed shall be:

- (a) in writing;
- (b) delivered by hand, by pre-paid first-class post or other next working day delivery service; and
- (c) sent to:

(i) the Borrower at:

WBC (HOLDINGS) LIMITED, COUNCIL OFFICES, SHUTE END,
WOKINGHAM RG40 1WH

Attention:

(ii) the Lender at:

WOKINGHAM BOROUGH COUNCIL, CIVIC OFFICES, SHUTE
END, WOKINGHAM, RG40 1BN

Attention:

or to any other address as is notified in writing by one party to the other from time to time.

23.2 Any notice or other communication that the Lender gives to the Borrower under or in connection with, this deed shall be deemed to have been received:

- (a) if delivered by hand, at the time it is left at the relevant address;
- (b) if posted by pre-paid first-class post or other next working day delivery service, on the second Business Day after posting; and

23.3 A notice or other communication given as described in clause 23.2(a) on a day that is not a Business Day, or after normal business hours, in the place it is received, shall be deemed to have been received on the next Business Day

23.4 Any notice or other communication given to the Lender shall be deemed to have been received only on actual receipt.

23.5 A notice or other communication given under or in connection with the Finance Documents is not valid if sent by email.

24. GOVERNING LAW AND JURISDICTION

- 24 1 This deed and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales
- 24 2 Each party irrevocably agrees that, subject as provided below, the courts of England and Wales shall have exclusive jurisdiction over any dispute or claim that arises out of, or in connection with this deed or its subject matter or formation (including non-contractual disputes or claims). Nothing in this clause shall limit the right of the Lender to take proceedings against the Borrower in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdictions, whether concurrently or not, to the extent permitted by the law of such other jurisdiction.

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

Schedule Conditions precedent

1. CONSTITUTIONAL DOCUMENTS

1 1 A copy of the constitutional documents of the Borrower.

1 2 A copy of the resolutions duly passed by the Borrower's board of directors:

- (a) approving the entry into, and terms of, and transactions contemplated by, the Finance Documents and resolving that the Borrower executes the Finance Documents;
- (b) authorising a specified person or persons to execute the Finance Documents on its behalf, to give notices and take all other action in connection with this deed; and
- (c) confirming that entry into the Finance Documents is in the commercial interests of the Borrower (stating the reasons for such conclusion).

2. FINANCE DOCUMENTS

2 1 This deed, duly executed by the Borrower.

2 2 The Security Document duly completed

Executed as a DEED by)
WBC (HOLDINGS) LIMITED)
Acting by two Directors)

.....
Director Name

A. Jorgensen
.....
Director Signature

.....
Director Name

[Signature]
.....
Director Signature

The Common Seal of)
WOKINGHAM BOROUGH COUNCIL)
was hereunto affixed in the)
presence of:-)

JANE R. DANIELSON
.....
Authorised Signatory

