



Registration of a Charge

Company Name: **HSCF EXETER NOMINEE NO 2 LIMITED**

Company Number: **09198300**



Received for filing in Electronic Format on the: **14/10/2022**

XBEMHE5N

Details of Charge

Date of creation: **14/10/2022**

Charge code: **0919 8300 0002**

Persons entitled: **AAREAL BANK AG (AS SECURITY AGENT)**

Brief description: **THE LEASEHOLD AT LAND AND BUILDINGS ON NORTH WEST SIDE OF SIDWELL STREET, EXETER AND COVERED ARCADE AT 31A-D SIDWELL STREET REGISTERED AT THE LAND REGISTRY UNDER TITLE NUMBER DN102186. THE LEASEHOLD LAND AT PART OF 160 SIDWELL STREET, EXETER EX4 6RR REGISTERED AT THE LAND REGISTRY UNDER TITLE NUMBER DN606179. THE LEASEHOLD LAND AT 188 SIDWELL STREET, 1 TO 29 (ODD) PARIS STREET, 183 TO 187 SIDWELL STREET AND 171 TO 182 SIDWELL STREET REGISTERED AT THE LAND REGISTRY UNDER TITLE NUMBER DN234669. THE LEASEHOLD LAND AT 162 TO 166 INCLUSIVE, SIDWELL STREET, EXETER EX4 6RH REGISTERED AT THE LAND REGISTRY UNDER TITLE NUMBER P194309. THE LEASEHOLD LAND BEING THE LAND AND BUILDINGS AT, CHEEKE STREET, EXETER REGISTERED AT THE LAND REGISTRY UNDER TITLE NUMBER DN513050. THE LEASEHOLD LAND AT 160 SIDWELL STREET, EXETER EX4 6RR REGISTERED AT THE LAND REGISTRY UNDER TITLE NUMBER DN343795. THE LEASEHOLD LAND AT 160 SIDWELL STREET, EXETER EX4 6RR REGISTERED AT THE LAND REGISTRY UNDER TITLE NUMBER DN364673.**

Contains fixed charge(s).

Contains negative pledge.

Authentication of Form

Authentication of Instrument

Certification statement: **I CERTIFY THAT SAVE FOR MATERIAL REDACTED PURSUANT TO S. 859G OF THE COMPANIES ACT 2006 THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by: **PINSENT MASONS LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 9198300

Charge code: 0919 8300 0002

The Registrar of Companies for England and Wales hereby certifies that a charge dated 14th October 2022 and created by HSCF EXETER NOMINEE NO 2 LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 14th October 2022 .

Given at Companies House, Cardiff on 19th October 2022

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



Companies House



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

DATED 14 October **2022**

(1) HSCF EXETER NOMINEE NO.1 LIMITED AND HSCF EXETER NOMINEE NO.2 LIMITED (AS MORTGAGORS)

**(2) AAREAL BANK AG
(AS SECURITY AGENT)**

LEGAL MORTGAGE



CONTENTS

1 INTERPRETATION	1
2 COVENANT TO PAY	3
3 GRANT OF SECURITY	3
4 UNDERTAKINGS BY THE MORTGAGORS	4
5 APPLICATION TO THE LAND REGISTRY	4
6 RESTRICTIONS AND FURTHER ASSURANCE	4
7 DEMAND AND ENFORCEMENT	5
8 RECEIVERS	5
9 APPLICATION OF MONEYS	6
10 POWER OF ATTORNEY	7
11 CONSOLIDATION	7
12 PROTECTION OF THIRD PARTIES	8
13 PROTECTION OF THE FINANCE PARTIES AND ANY RECEIVER	8
14 PROVISIONS RELATING TO THE SECURITY AGENT	9
15 PRESERVATION OF SECURITY	10
16 RELEASE	11
17 MISCELLANEOUS PROVISIONS	11
18 GOVERNING LAW	12
19 ENFORCEMENT	12
SCHEDULE 1 - THE PROPERTY	13

BETWEEN:-

- (1) **HSCF EXETER NOMINEE NO.1 LIMITED** (a company registered in England and Wales with company number 09198292) whose registered office is at 201 Bishopsgate, London, EC2M 3BN and **HSCF EXETER NOMINEE NO.2 LIMITED** (a company registered in England and Wales with company number 09198300) whose registered office is at 201 Bishopsgate, London, EC2M 3BN (each a "**Mortgagor**" and together the "**Mortgagors**"); and
- (2) **AAREAL BANK AG** as security trustee for itself and each of the Secured Parties (the "**Security Agent**").

IT IS AGREED as follows:-

1. INTERPRETATION

1.1 Definitions

In this Deed:-

"Charged Property"

means all the property, assets and undertaking of the Mortgagors which from time to time are, or are expressed to be, the subject of the Security created in favour of the Security Agent by or pursuant to this Deed

"Default Rate"

means the rate of interest specified in, and calculated in accordance with, clause 8.3 (*Default Interest*) of the Facility Agreement

"Facility Agreement"

means the term facility agreement dated 27 February 2017 made between, among others, the Mortgagors as nominees, HSCF Exeter Limited Partnership as Borrower, the Original Lender referred to therein and the Security Agent as amended by the amendment and waiver letter dated 15 December 2020 and as amended, restated, varied, supplemented, extended, novated or replaced from time to time

"Fixtures"

means all things of any kind now or at any time affixed to land for any purpose, including trade and tenants' fixtures

"Land"

means any estate, right or interest or over land, whether legal or equitable, and wherever the land is situated, including any buildings and Fixtures on land, and the benefit of any covenants or rights owned to any person or enforceable by them by virtue of the ownership, possession or occupation of land, but for these purposes, "**Land**" excludes heritable property situated in Scotland

"LPA"

means the Law of Property Act 1925

"Planning Acts"

means the Town and Country Planning Act 1990, the Planning (Listed Building and Conservation Areas) Act 1990, the Planning (Consequential Provisions) Act 1990, the Planning (Hazardous Substances) Act 1990 and the Local Government Planning and Land Act 1980 and any subsequent legislation of a similar nature

"Plant and Machinery"	means all fixed and moveable plant, machinery, tools, vehicles, computers and office and other equipment and the benefit of all related authorisations, agreements and warranties at any time and from time to time in, on or affecting or relating to the Charged Property
"Receiver"	means any receiver, receiver and manager or administrative receiver of the whole or any part of the Charged Property
"Related Rights"	means in relation to any Charged Property:- <ul style="list-style-type: none"> (a) the proceeds of sale of any part of the Charged Property; (b) all rights under any licence, agreement for sale or agreement for lease in respect of the Charged Property; (c) all rights, benefits, claims, contracts, warranties, remedies, security, indemnities or covenants for title in respect of the Charged Property; and (d) any moneys and proceeds paid or payable in respect of the Charged Property
"Secured Liability"	means all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or in any other capacity whatsoever) of each Transaction Obligor to any Secured Party under each Finance Document (together the "Secured Liabilities")
"Security"	means a mortgage, charge, pledge, lien or any other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect
"Security Period"	means the period beginning on the date of this Deed and ending on the date on which all the Secured Liabilities have been irrevocably and unconditionally paid and discharged in full

1.2 Incorporation of Terms

Unless the context otherwise requires or unless defined in this Deed, all words and expressions defined or whose interpretation is provided for in the Facility Agreement have the same meanings in this Deed.

1.3 Interpretation

The principles of interpretation set out in clauses 1.2 to 1.6 of the Facility Agreement shall apply to this Deed insofar as they are relevant to it and in this Deed, unless the context otherwise requires, a reference to a **"Finance Document"** or any other agreement or instrument is a reference to that Finance Document or other agreement or instrument as amended, novated, supplemented, restated or replaced (however fundamentally) and includes any increase in, extension of, or change to, any facility made available under that Finance Document or other agreement or instrument.

1.4 Acknowledgement

Each Mortgagor acknowledges that the Security Agent enters into this Deed for itself and as trustee for the Finance Parties who shall be entitled to the full benefit of this Deed.

1.5 Effect as a deed

This Deed shall take effect as a deed even if it is signed under hand on behalf of the Security Agent.

1.6 Law of Property (Miscellaneous Provisions) Act 1989

The terms of the other Finance Documents and of any side letters between any parties in relation to any Finance Document are incorporated in this Deed to the extent required to ensure that any purported disposition of an interest in Land contained in this Deed is a valid disposition in accordance with Section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.

1.7 Third party rights

A person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Deed.

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

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

2. COVENANT TO PAY

2.1 Secured Liabilities

Each Mortgagor covenants that it will on demand pay and discharge any or all of the Secured Liabilities when due.

2.2 Interest

Each Mortgagor covenants to pay interest on any sum demanded in accordance with Clause 2.1 (*Secured Liabilities*) until payment (both before and after judgment) at the Default Rate.

3. GRANT OF SECURITY

3.1 Security

As a continuing security for payment of the Secured Liabilities each Mortgagor:

3.1.1 charges to the Security Agent all its right, title and interest from time to time in and to each of the following:-

- (a) by way of first legal mortgage all Land described in Schedule 1 (*The Property*);
- (b) by way of first fixed charge:-
 - (i) all Plant and Machinery (to the extent not effectively charged by Clause 3.1.1(a)); and
 - (ii) all Related Rights in respect of the Charged Property.

3.2 Trust

If or to the extent that for any reason the assignment or charging of any Charged Property is prohibited, the Mortgagors shall hold it on trust for the Security Agent.

4. UNDERTAKINGS BY THE MORTGAGORS

4.1 Deposit of title documents

The Mortgagors will deposit with the Security Agent (or procure that there is held to the order of the Security Agent):

4.1.1 all deeds and documents of title relating to the Land described in Schedule 1 (*The Property*); and

4.1.2 all local land charges, land charges and Land Registry search certificates and similar documents received by or on behalf of the Mortgagors,

(each of which the Security Agent shall be entitled to retain during the Security Period).

4.2 Payments without deduction

The Mortgagors shall calculate and make all payments under this Deed without (and free and clear of any deduction for) set-off or counterclaim.

5. APPLICATION TO THE LAND REGISTRY

5.1 The Mortgagors and the Security Agent apply to the Land Registry for the following to be entered on to the registered title to the Land described in Schedule 1 (*The Property*):-

5.1.1 a restriction in the following terms:-

"No disposition of the registered estate by the proprietor of the registered estate is to be registered without a written consent signed by the proprietor for the time being of the charge dated [] in favour of Aareal Bank AG referred to in the charges register (Form P)".

6. RESTRICTIONS AND FURTHER ASSURANCE

6.1 Security

No Mortgagor shall create or permit to subsist any Security over any Charged Property, nor do anything else prohibited by clause 22.3 (*Negative pledge*) of the Facility Agreement.

6.2 Disposal

The Mortgagors shall not enter into or agree to enter into a single transaction or a series of transactions (whether related or not and whether voluntary or involuntary) to sell, lease, license, sub-license, transfer or otherwise dispose of any Charged Property except as permitted by clause 22.4 (*Disposals*) of the Facility Agreement.

6.3 Further assurance

The Mortgagors shall promptly do whatever the Security Agent requires:-

6.3.1 to perfect or protect the first legal mortgage created by this Deed over the Land described in Schedule 1 (*The Property*), or its priority; or

6.3.2 on or after the Security created by this Deed becoming enforceable, to facilitate the realisation of the Charged Property or the exercise of any rights vested in the Security Agent or any Receiver,

including executing any transfer, conveyance, charge, assignment or assurance of the Charged Property (whether to the Security Agent or its nominees or otherwise), making any registration and giving any notice, order or direction.

7. DEMAND AND ENFORCEMENT

7.1 Enforcement

The Security created by this Deed shall become enforceable:

7.1.1 if the Agent has served notice to the Borrower in accordance with clause 24.17(d)(*Acceleration*) of the Facility Agreement; and

7.1.2 any request being made by a Mortgagor to the Security Agent for the appointment of a Receiver or an administrator.

7.2 Powers on enforcement

At any time after the Security created by this Deed has become enforceable, the Security Agent may (without prejudice to any other rights and remedies and without notice to the Mortgagors) do all or any of the following:-

7.2.1 exercise the power of sale under section 101 of the LPA together with all other powers and rights conferred on mortgagees by the LPA, as varied and extended by this Deed, without the restrictions imposed by sections 103 or 109(1) of the LPA;

7.2.2 exercise the power of leasing, letting, entering into agreements for leases or lettings or accepting or agreeing to accept surrenders of leases in relation to any Charged Property, without the restrictions imposed by sections 99 and 100 of the LPA; and

7.2.3 subject to Clause 8.1 (*Method of appointment or removal*), appoint one or more persons to be a Receiver or Receivers of all or any of the Charged Property.

7.3 Disposal of the Charged Property

In exercising the powers referred to in Clause 7.2 (*Powers on enforcement*), the Security Agent or any Receiver may sell or dispose of all or any of the Charged Property at the times, in the manner and order, on the terms and conditions and for the consideration determined by it.

7.4 Same rights as Receiver

Any rights conferred by any Finance Document upon a Receiver may be exercised by the Security Agent, or to the extent permitted by law, an administrator, after the Security created by this Deed has become enforceable, whether or not the Security Agent shall have taken possession or appointed a Receiver of the Charged Property.

7.5 Delegation

The Security Agent may delegate in any manner to any person any rights exercisable by the Security Agent under any Finance Document. Any such delegation may be made upon such terms and conditions (including power to sub-delegate) as the Security Agent thinks fit.

8. RECEIVERS

8.1 Method of appointment or removal

Every appointment or removal of a Receiver, any delegate or any other person by the Security Agent under this Deed shall be in writing under the hand of any officer or manager of the Security Agent (subject to any requirement for a court order in the case of the removal of an administrative receiver).

8.2 **Removal**

The Security Agent may (subject to the application of section 45 of the Insolvency Act 1986) remove any person from office in relation to all or any part of the Charged Property of which they are the Receiver and at any time (before or after any person shall have vacated office or ceased to act as Receiver in respect of any of such Charged Property) appoint a further or other Receiver or Receivers over all or any part of such Charged Property.

8.3 **Powers**

Every Receiver shall have and be entitled to exercise all the powers:-

- 8.3.1 of the Security Agent under this Deed;
- 8.3.2 conferred by the LPA on mortgagees in possession and on Receivers appointed under the LPA;
- 8.3.3 of an administrative receiver set out in Schedule 1 to the Insolvency Act 1986, whether or not the Receiver is an administrative receiver;
- 8.3.4 in relation to any Charged Property, which they would have if they were the only beneficial owner; and
- 8.3.5 to do all things incidental or conducive to any functions, powers, authorities or discretions conferred or vested in the Receiver.

8.4 **Receiver as agent**

The Receiver shall be the agent of a Mortgagor (and the relevant Mortgagor shall be solely liable for the Receiver's acts, defaults, remuneration, losses and liabilities) unless and until the relevant Mortgagor goes into liquidation, from which time the Receiver shall act as principal and shall not become the agent of the Security Agent.

8.5 **Joint or several**

If two or more persons are appointed as Receivers of the same assets, they may act jointly and/or severally so that (unless any instrument appointing them specifies to the contrary) each of them may exercise individually all the powers and discretions conferred on Receivers by this Deed.

8.6 **Receiver's remuneration**

Every Receiver shall be entitled to remuneration for their services at a rate to be fixed by the Security Agent and the maximum rate specified in section 109(6) of the LPA shall not apply.

9. **APPLICATION OF MONEYS**

9.1 All sums received by virtue of this Deed and/or any other Transaction Security by the Security Agent or any Receiver shall, subject to the payment of any claim having priority to this Deed, be paid or applied in the following order of priority:-

- 9.1.1 **first**, in or towards satisfaction pro rata of, or the provision pro rata for, all costs, charges and expenses incurred and payments made by the Security Agent as agent for the Finance Parties and/or as trustee in relation to the Security Documents in relation to this Deed, or by any Receiver (including legal expenses), together with interest at the Default Rate (both before and after judgment) from the date those amounts became due until the date they are irrevocably paid in full or other person entitled to it;
- 9.1.2 **secondly**, in or towards the payment pro rata of, or the provision pro rata for, any unpaid fees, commission or remuneration of the Security Agent or any Receiver;

9.1.3 **thirdly**, in or towards payment of the Secured Liabilities in accordance with the Facility Agreement; and

9.1.4 **fourthly**, in the payment of the surplus (if any), to the Mortgagors or any other person entitled to it,

and section 109(8) of the LPA shall not apply.

10. **POWER OF ATTORNEY**

10.1 **Appointment**

The Mortgagors irrevocably and by way of security appoint:-

10.1.1 the Security Agent (whether or not a Receiver has been appointed);

10.1.2 any delegate or sub-delegate of, or other person nominated in writing by, an officer of the Security Agent; and

10.1.3 (as a separate appointment) each Receiver,

severally as the Mortgagors' attorney and attorneys with power to do any act, and execute and deliver any deed or other document, on behalf of and in the name of each Mortgagor, which the relevant Mortgagor could be required to do or execute under any provision of this Deed, or which the Security Agent in its sole opinion may consider necessary or desirable for perfecting its title to any of the Charged Property or enabling the Security Agent or the Receiver to exercise any of its rights or powers under this Deed.

10.2 **Ratification**

Each Mortgagor ratifies and confirms and agrees to ratify and confirm whatever any attorney appointed pursuant to Clause 10.1 (*Appointment*) does or purports to do in the exercise or purported exercise of all or any of the powers, acts or other matters referred to in Clause 10.1 (*Appointment*).

11. **CONSOLIDATION**

11.1 **Combination of accounts**

In addition to any general lien, right to combine accounts, right of set-off or other right which it may at any time have, the Security Agent and each Finance Party may at any time, without notice to a Mortgagor, combine or consolidate all or any accounts which it then has in relation to a Mortgagor (in whatever name) and any Secured Liabilities owed by a Mortgagor to it, and/or set-off or transfer any amounts standing to the credit of one or more accounts of a Mortgagor in or towards satisfaction of any Secured Liabilities owed it on any other account or otherwise.

11.2 **Application**

The Security Agent's and each Finance Party's rights under Clause 11.1 (*Combination of accounts*) apply:-

11.2.1 whether or not any demand has been made under this Deed, or any liability concerned has fallen due for payment;

11.2.2 whether or not any credit balance is immediately available or subject to any restriction;

11.2.3 irrespective of the currencies in which any balance or liability is denominated, and the Security Agent and the relevant Finance Party may, for the purpose of exercising its rights, elect to convert any sum or liability in one currency into any other at its spot rate applying at or about 11.00am on the date of conversion; and

11.2.4 in respect of any Secured Liabilities owed by each Mortgagor, however arising.

12. PROTECTION OF THIRD PARTIES

12.1 Statutory powers

In favour of any purchaser, the statutory powers of sale and of appointing a Receiver which are conferred upon the Security Agent, as varied and extended by this Deed, and all other powers of the Security Agent, shall be deemed to arise (and the Secured Liabilities shall be deemed due and payable for that purpose) immediately after the execution of this Deed.

12.2 Purchasers

No purchaser from or other person dealing with the Security Agent, any person to whom it has delegated any of its powers, or the Receiver, shall be concerned:-

12.2.1 to enquire whether any of the powers which the Security Agent or a Receiver have exercised has arisen or become exercisable;

12.2.2 to enquire whether the Secured Liabilities remain outstanding or whether any event has happened to authorise the Receiver to act; or

12.2.3 as to the propriety or validity of the exercise of those powers,

and the title and position of a purchaser or such person shall not be impeachable by reference to any of those matters.

12.3 Receipts

All the protection to purchasers contained in sections 104 and 107 of the LPA, section 42(3) of the Insolvency Act 1986 or in any other applicable legislation shall apply to any person purchasing from or dealing with the Security Agent, any Receiver or any person to whom any of them have delegated any of their powers.

13. PROTECTION OF THE FINANCE PARTIES AND ANY RECEIVER

13.1 No liability

None of the Security Agent, the other Finance Parties, any Receiver or any of their respective officers, employees or delegates shall be liable in respect of any cost, liability, expense, loss or damage which arises out of the exercise, or attempted or purported exercise of, or the failure to exercise, any of their respective rights under this Deed.

13.2 No mortgagee in possession

Without prejudice to any other provision of this Deed, entry into possession of any Charged Property shall not render the Security Agent, any Receiver or any of their respective officers or employees liable:-

13.2.1 to account as mortgagee in possession;

13.2.2 for any loss on realisation; or

13.2.3 for any default or omission for which a mortgagee in possession might be liable,

and if and whenever the Security Agent or any Receiver enters into possession of any Charged Property it shall be entitled at any time it or they think fit to relinquish possession.

13.3 Indemnity

The Mortgagors shall indemnify and keep indemnified the Security Agent, each other Finance Party, any Receiver, and their respective officers, employees and delegates, against all claims, costs, expenses and liabilities incurred by them in respect of all or any of the following:-

- 13.3.1 any act or omission by any of them in relation to all or any of the Charged Property;
- 13.3.2 any payment relating to or in respect of all or any of the Charged Property which is made at any time by any of them;
- 13.3.3 any stamp, registration or similar Tax or duty which becomes payable in connection with the entry into, or the performance or enforcement of, this Deed;
- 13.3.4 exercising or purporting to exercise or failing to exercise any of the rights, powers and discretions conferred on them or permitted under this Deed; and
- 13.3.5 any breach by a Mortgagor of any of its covenants or other obligations to the Security Agent or any other Finance Party,

except in the case of gross negligence or wilful misconduct on the part of that person.

13.4 Interest

The Mortgagors shall pay interest at the Default Rate on the sums payable under this Clause 13 (*Protection of the Finance Parties and any Receiver*) from the date on which the liability was incurred to the date of actual payment (both before and after judgment).

13.5 Indemnity out of the Charged Property

The Security Agent, the other Finance Parties, any Receiver and their respective officers, employees and delegates shall be entitled to be indemnified out of the Charged Property in respect of the actions, proceedings, demands, claims, costs, expenses and liabilities referred to in Clause 13.3 (*Indemnity*).

13.6 Continuing protection

The provisions of this Clause 13 (*Protection of the Finance Parties and any Receiver*) shall continue in full force and effect notwithstanding any release or discharge of this Deed or the discharge of any Receiver from office.

14. PROVISIONS RELATING TO THE SECURITY AGENT

14.1 Powers and discretions

The rights, powers and discretions given to the Security Agent in this Deed:-

- 14.1.1 may be exercised as often as and in such manner as, the Security Agent thinks fit;
- 14.1.2 are cumulative, and are not exclusive of any of its rights under the general law; and
- 14.1.3 may only be waived in writing and specifically, and any delay in exercising, or non-exercise of, any right, is not a waiver of it.

14.2 Trusts

The perpetuity period for any trusts constituted by this Deed shall be 125 years.

15. PRESERVATION OF SECURITY

15.1 Continuing Security

This Deed shall be a continuing security to the Security Agent and shall remain in force until expressly discharged in writing by the Security Agent notwithstanding any intermediate settlement of account or other matter or thing whatsoever.

15.2 Additional Security

This Deed is without prejudice and in addition to, and shall not merge with, any other right, remedy or Security of any kind which the Security Agent or any other Finance Party may have now or at any time in the future for or in respect of any of the Secured Liabilities.

15.3 Waiver of Defences

Neither the Security created by this Deed nor the obligations of a Mortgagor under this Deed will be affected by an act, omission, matter or thing which, but for this Clause, would reduce, release or prejudice that Security or any of those obligations (whether or not known to it or the Security Agent or any Finance Party) including:-

- 15.3.1 any time, waiver or consent granted to, or composition with, any Obligor or other person;
- 15.3.2 the release of any Obligor or any other person under the terms of any composition or arrangement with any person;
- 15.3.3 the taking, variation, compromise, exchange, renewal, enforcement or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or Security over, assets of any Obligor 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;
- 15.3.4 any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any Obligor or any other person;
- 15.3.5 any amendment (however fundamental), replacement, variation, novation, assignment or the avoidance or termination of a Finance Document or any other document or Security;
- 15.3.6 any unenforceability, illegality or invalidity of any obligation of, or any Security created by, any person under any Finance Document or any other document; or
- 15.3.7 an insolvency, liquidation, administration or similar procedure.

15.4 Immediate Recourse

Each Mortgagor waives any right it may have of first requiring the any Finance Party to proceed against or enforce any other rights of Security or claim payment from any person before claiming from that Mortgagor under this Deed. This waiver applies irrespective of any law or any provision of a Finance Document to the contrary.

15.5 Appropriations

During the Security Period each Finance Party may:-

- 15.5.1 refrain from applying or enforcing any monies, Security or rights held or received by it (or any trustee or agent on its behalf) in respect of the Secured Liabilities, or, subject to Clause 9 (*Application of moneys*), apply and enforce the same in such manner and order as it sees fit (whether against the Secured Liabilities or otherwise) and a Mortgagor shall not be entitled to the same; and

15.5.2 hold in an interest-bearing suspense account any moneys received from a Mortgagor on or account of the Secured Liabilities.

15.6 New Accounts

If the Security Agent or any other Finance Party receives notice (whether actual or otherwise) of any subsequent Security over or affecting any of the Charged Property or if a petition is presented or a resolution passed in relation to the winding up of a Mortgagor, it may close the current account or accounts and/or open a new account or accounts for each Mortgagor. If the Security Agent or any other Finance Party does not open a new account or accounts immediately it shall nevertheless be treated as if it had done so at the time when the relevant event occurred, and as from that time all payments made by a Mortgagor to the that Finance Party shall be credited or be treated as having been credited the new account or accounts and shall not operate to reduce the Secured Liabilities.

15.7 Tacking

For the purposes of section 94(1) of the LPA and section 49(3) of the Land Registration Act 2002 the Security Agent confirms on behalf of the Lenders that the Lenders shall make further advances to the Obligors on the terms and subject to the conditions of the Finance Documents.

16. RELEASE

16.1 Release

Upon the irrevocable and unconditional payment and discharge in full of the Secured Liabilities and the termination of all facilities which might give rise to Secured Liabilities, the Security Agent shall, or shall procure that its appointees will, at the request and cost of the Mortgagors:-

16.1.1 release the Charged Property from this Deed; and

16.1.2 re-assign the Charged Property that has been assigned to the Security Agent under this Deed.

16.2 Reinstatement

If the Security Agent considers that any amount paid or credited to the any Finance Party under any Finance Document (whether in respect of the obligations of any Obligor or any Security for those obligations or otherwise) is capable of being avoided, reduced or otherwise set aside:-

16.2.1 that amount shall not be considered to have been paid for the purposes of determining whether the Secured Liabilities have been irrevocably and unconditionally paid and discharged; and

16.2.2 the liability of the Mortgagors and the Security created by this Deed shall continue as if that amount had not been paid or credited.

16.3 Consolidation

Section 93 of the LPA dealing with the consolidation of mortgages shall not apply to this Deed.

17. MISCELLANEOUS PROVISIONS

17.1 Severability

If any provision of this Deed is illegal, invalid or unenforceable in any jurisdiction, that shall not affect:-

17.1.1 the validity or enforceability of any other provision, in any jurisdiction; or

17.1.2 the validity or enforceability of that particular provision, in any other jurisdiction.

17.2 Amendments and variations

This Deed shall remain in full force and effect notwithstanding any amendment, restatement, novation or supplementation of the Finance Documents (including any increase in the amount of the Secured Liabilities).

17.3 Remedies and waivers

No failure to exercise, nor any delay in exercising, on the part of the Security Agent, any right or remedy under this Deed shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Deed are cumulative and not exclusive of any rights or remedies provide by law.

17.4 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 this Deed.

18. GOVERNING LAW

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

19. ENFORCEMENT

19.1 Jurisdiction of English Courts

19.1.1 The courts of England 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 or any non-contractual obligation arising out of or in connection with this Deed) (a "**Dispute**").

19.1.2 The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.

19.1.3 Notwithstanding Clause 19.1.1, the Finance Parties shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Finance Parties and may take concurrent proceedings in any number of jurisdictions.

Executed and delivered as a deed on the date appearing at the beginning of this Deed.

SCHEDULE 1
THE PROPERTY

Brief Details of the Property	Title number at the Land Registry
Leasehold at land and buildings on North West side of Sidwell Street, Exeter and covered arcade at 31A-D Sidwell Street	DN102186
Leasehold land at part of 160 Sidwell Street, Exeter EX4 6RR	DN606179
Leasehold land at 188 Sidwell Street, 1 to 29 (odd) Paris Street, 183 to 187 Sidwell Street and 171 to 182 Sidwell Street	DN234669
Leasehold land at 162 to 166 inclusive, Sidwell Street, Exeter EX4 6RH	P194309
Leasehold land being the land and buildings at, Cheeke Street, Exeter	DN513050
Leasehold land at 160 Sidwell Street, Exeter EX4 6RR	DN343795
Leasehold land at 160 Sidwell Street, Exeter EX4 6RR	DN364673

The Mortgagors

EXECUTED as a Deed)
by **HSCF EXETER NOMINEE NO.1 LIMITED**)
acting by _____ Director _____, a director, in the)
presence of:-)



Signature of witness:  Director

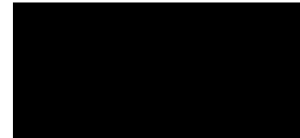
Name of witness: June Wicks

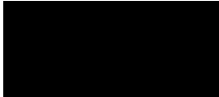
Address: 

Occupation: Housewife

I confirm
that I was
physically
present when
Stephen Wicks
signed this
deed

EXECUTED as a Deed)
by **HSCF EXETER NOMINEE NO.2 LIMITED**)
acting by _____ Director _____, a director, in the)
presence of:-)



Signature of witness:  Director

Name of witness: June Wicks

Address: 

Occupation: Housewife

I confirm
that I was
physically
present when
Stephen Wicks
signed this
deed

The Security Agent

SIGNED for and on behalf of)
AAREAL BANK AG)
)
)

The Mortgagors

EXECUTED as a Deed)
by HSCF EXETER NOMINEE NO.1 LIMITED)
acting by _____, a director, in the)
presence of:-)

Signature of witness: Director

Name of witness:

Address:

Occupation:

EXECUTED as a Deed
by HSCF EXETER NOMINEE NO.2 LIMITED
acting by _____, a director, in the)
presence of:-)

Signature of witness:)

Director

Name of witness:

Address:

Occupation:

The Security Agent

SIGNED for and on behalf of)
AAREAL BANK AG)
)
)

