



Registration of a Charge

Company Name: **1869 LIMITED**

Company Number: **09364401**



Received for filing in Electronic Format on the: **23/09/2022**

XBD4HIXM

Details of Charge

Date of creation: **20/09/2022**

Charge code: **0936 4401 0006**

Persons entitled: **TYROLESE (789) LIMITED**

Brief description: **ALL FREEHOLD AND LEASEHOLD LAND IN ENGLAND AND WALES NOW VESTED IN THE CHARGING COMPANY AND REGISTERED AT HM LAND REGISTERED, INCLUDING THE LAND DESCRIBED OPPOSITE ITS NAME IN SCHEDULE 3.. ALL OTHER FREEHOLD AND LEASEHOLD LAND IN ENGLAND AND WALES NOW VESTED IN THE CHARGING COMPANY AND NOT REGISTERED AT HM LAND REGISTRY.. ALL PRESENT AND FUTURE INTELLECTUAL PROPERTY RIGHTS.**

Contains fixed charge(s).

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

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

Certification statement: **I CERTIFY THAT 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:

GELDARDS LLP



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 9364401

Charge code: 0936 4401 0006

The Registrar of Companies for England and Wales hereby certifies that a charge dated 20th September 2022 and created by 1869 LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 23rd September 2022 .

Given at Companies House, Cardiff on 27th September 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

20 September

2022

(1) CHARGING COMPANIES

AND

(2) TYROLESE (789) LIMITED

**GUARANTEE AND DEBENTURE OF 1869 LIMITED
AND CERTAIN SUBSIDIARIES**

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THIS GUARANTEE AND DEBENTURE is made on 20 September 2022.

PARTIES

- 1 **The several companies** named in Schedule 1, and
- 2 **Tyrolese (789) Limited** incorporated and registered in England and Wales with company number 9348093 whose registered office is situate at 10 Lennox Gardens Mews, London SW1X 0DP(the "**Agent**").

BACKGROUND

- (A) The Beneficiaries have agreed in the Loan Agreement to make available a loan facility to the Companies.
- (B) It is a condition precedent to the availability of the loan facility that the Charging Companies guarantee the obligations of the Company under the Loan Agreement and grant the security created by this Deed.
- (C) The Charging Companies have agreed to enter into this Deed.

THE PARTIES AGREE:

1. Definitions and Interpretation

1.1 Definitions

- 1.1.1 In this Deed, words or expressions defined in the Loan Agreement (as defined below) have the same meaning in this Deed. In addition :

| | |
|--------------------|---|
| Agent | means Tyrolese (789) Limited acting as agent and security trustee for the Beneficiaries and includes any successor appointed by the Beneficiaries pursuant to the Security Trust Deed, |
| Beneficiaries | means the Agent and the Lenders, and the Beneficiary refers to any of the Beneficiaries relevant in the circumstances, |
| Charging Companies | means the companies named in Schedule 1 and includes any company which subsequently adopts the obligations of a charging company with effect from its execution and delivery of an agreement under which it accedes to this Deed or a guarantee and debenture in terms similar to this Deed, and the Charging Company refers to any of the Charging Companies relevant in the circumstances, |
| Company | means 1869 Limited incorporated and registered in England and Wales with company number 9364401 whose registered office is situate at 1 Hampton Park West, Melksham, Wiltshire SN12 6GU |
| Default Rate | means the rate of interest specified in clause 6.5 of the Loan Agreement, |
| Loan Agreement | means the loan agreement dated on or about the date hereof entered into by (1) 1869 Limited as borrower, (2) the Lenders and (3) the Agent, and shall include any amendments, supplements, accessions or additions to it, |

| | |
|---------------------|---|
| Loan Document | means the Loan Agreement, the Security Documents, any other document entered into by any Beneficiary in connection with any of them and any amendments, supplements or additions to them, |
| Receivables Account | has the meaning given to it by clause 6.1 |
| Secured Sums | means all money and liabilities covenanted and/or guaranteed to be paid or discharged by the Charging Companies to the Beneficiaries under clause 2.1, |
| Security Trust Deed | means the Security Trust Deed dated on or about the date hereof entered into by (1) The Company, (2) the Lenders, (3) the Agent, (4) the Charging Companies. |

- 1.1.2 references to **assets** in relation to any of the Charging Companies, are references to all the Charging Company's undertaking, property, assets, rights and revenues, present or future, wherever situated in the world, and an asset shall be interpreted accordingly.
- 1.1.3 references to an **encumbrance** are references to a mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.
- 1.1.4 references to **floating charge assets**, so far only as concerns the floating charge created by clause 3.3, are references to assets for the time being comprised within that floating charge.
- 1.1.5 references to **indebtedness** shall include references to any obligation in any currency, whether incurred as principal debtor or surety, for the payment or repayment of money, whether present or future, actual or contingent.
- 1.1.6 references to **intellectual property rights** are references to patents, other trade marks, service marks and all goodwill associated with them, brand and trade names, copyrights and rights in the nature of copyright, design rights and registered designs, documented trade secrets and know-how and other intellectual property, applications for the protection of any such rights in any part of the world and the benefit of all agreements and licences relating to the use or exploitation of any such rights, and an **intellectual property right** shall be interpreted accordingly;
- 1.1.7 references to **land** include references to freehold and leasehold land and, outside England and Wales, immovable property and, in each case, all buildings and structures upon and all things affixed to land including trade and tenant's fixtures;
- 1.1.8 references to **permitted encumbrances** are references to any encumbrances permitted to be created or to subsist under the Loan Agreement;
- 1.1.9 references to **receivables** in relation to any of the Charging Companies are references to all sums of money receivable by that Charging Company now or in the future consisting of, payable under, or derived from any of its assets, and a receivable shall be interpreted accordingly;
- 1.1.10 references to a **receiver** are references to any receiver and manager or receivers and managers appointed under clause 17.1 and includes any substituted receiver and manager or receivers and managers;

1.1.11 references to **securities** are references to all stocks, shares, debentures and loan stocks issued by any company or person and all other investments;

1.1.12 references to a **subsidiary** company are references to a subsidiary company within the meaning of the Companies Act 2006 section 1159, save that where a company has transferred shares to a lender as security subject to an equity of redemption it shall be deemed to have retained the legal title to those shares.

1.2 Interpretation

In this Deed, unless the context otherwise requires or unless otherwise expressly provided :

1.2.1 references to persons include references to natural persons, firms, partnerships, companies, corporations, associations, organisations, and trusts, in each case whether or not having a separate legal personality;

1.2.2 references to documents, instruments and agreements, including, without limitation, this Deed and any document referred to in this Deed, are references to such documents, instruments and agreements as modified, supplemented or novated from time to time;

1.2.3 references to an authorisation include references to an authorisation, consent, approval, resolution, licence, exemption, filing and registration;

1.2.4 references to a party to this Deed include references to its successors, transferees and assigns;

1.2.5 references to clauses and schedules are references to clauses of, and schedules to, this Deed, and references to this Deed include its schedules;

1.2.6 references to paragraphs, unless otherwise expressly provided, are references to paragraphs of the schedule in which the references appear;

1.2.7 references to statutory provisions are construed, subject to clause 17.7, as references to those provisions as respectively amended, consolidated, extended or re-enacted from time to time, and to any orders, regulations, instruments or other subordinate legislation made under the relevant statute;

1.2.8 references to a **company** include references to any company, corporation or other body corporate, wherever and however incorporated or established; and

1.2.9 a **regulation** include references to any regulation, rule, official directive, request or guideline, whether or not having the force of law, of any governmental body, agency, department or regulatory, self-regulatory or other authority or organisation;

1.2.10 the contents page and clause headings are included for convenience only and do not affect the construction of this Deed;

1.2.11 words denoting the singular include the plural and vice versa; and

1.2.12 words denoting one gender include all genders.

2. Covenant to pay

2.1 Each of the Charging Companies :

2.1.1 covenants that it will on demand in writing made to it by the Agent pay or discharge to the Agent all money and liabilities now or in the future due, owing or incurred to each

of the Beneficiaries by the Charging Companies under or pursuant to the Loan Documents; and

- 2.1.2 covenants and guarantees that it will on demand in writing made to it by the Agent pay or discharge to the Agent all money and liabilities now or in the future due, owing or incurred to each of the Beneficiaries by any other of the Companies, except as a guarantor for the Charging Company giving this covenant, under or pursuant to the Loan Documents

whether on or after such demand, whether actually or contingently, whether solely or jointly with any other person, whether as principal or surety and whether or not the Beneficiary concerned was an original party to the relevant transaction, including all interest, commission, fees, charges, costs and expenses that each of the Beneficiaries may, in the course of its business, charge or incur in respect of any of the Companies or its affairs and so that interest shall be computed and compounded in accordance with the Loan Documents (after as well as before any demand or judgment).

- 2.2 The guarantee contained in clause 2.1.2 is given subject to, and with the benefit of, the provisions set out in Schedule 2 by each of the Charging Companies separately and also jointly with all the Charging Companies except the Charging Company guaranteed.
- 2.3 Each of the Charging Companies agrees to be bound by the guarantee contained in clause 2.1.2, even if any other company that was intended to execute this Deed does not do so or is not effectually bound.
- 2.4 The making of one demand under this Deed will not preclude the Agent from making any further demands.
- 2.5 No demand may be made under this Deed in respect of sums due, owing or incurred under the Loan Documents except to the extent that the Agent or the Beneficiaries or the relevant Beneficiary have become entitled to make the demand under the Loan Documents relevant to it, but any third party dealing with the Agent or any receiver appointed under this Deed shall not be concerned to see or enquire as to the validity of any demand under this Deed.

3. Charging Clause

- 3.1 Each of the Charging Companies, with full title guarantee, charges to the Agent with the payment or discharge of all of the Secured Sums:
- 3.1.1 by way of first legal mortgage, all freehold and leasehold land in England and Wales now vested in the Charging Company and registered at HM Land Registry, including the land described opposite its name in Schedule 3;
- 3.1.2 by way of first legal mortgage, all other freehold and leasehold land in England and Wales now vested in the Charging Company and not registered at HM Land Registry;
- 3.1.3 by way of first fixed charge, all land in the future becoming the property of the Charging Company;
- 3.1.4 by way of first fixed charge, all interests in land or the proceeds of sale of land now or in the future belonging to the Charging Company that have not already been charged under the preceding provisions of this clause 3.1 and all licences now or in the future held by it to enter upon, use or exploit land and the benefit of all options, easements, agreements for lease and other agreements relating to the acquisition, use, exploitation or disposal of land to which it is or may in the future become entitled; and
- 3.1.5 by way of first fixed charge, all plant and machinery of the Charging Company now or in the future attached to any land which, or an interest in which, is charged under the preceding provisions of clause 3.1 or clause 3.2 and all rights and interests of the

Charging Company under all present and future agreements for the purchase, maintenance or use of plant and machinery so attached.

- 3.2 Each of the Charging Companies, with full title guarantee, charges by way of first fixed charge to the Agent with the payment or discharge of all of the Secured Sums:
- 3.2.1 all rental and other income and all debts and claims now or in the future due or owing to the Charging Company under or in connection with any lease, agreement or license relating to land;
 - 3.2.2 all its present and future securities;
 - 3.2.3 all contracts and policies of insurance and assurance now or in the future held by or otherwise benefiting it and all rights and interests of it in every such contract and policy, including the benefit of all claims arising and all money payable under such contracts and policies;
 - 3.2.4 all its goodwill and uncalled capital for the time being;
 - 3.2.5 all present and future intellectual property rights;
 - 3.2.6 all its present and future book and other debts and all its rights and claims against third parties, present and future, capable of being satisfied by the payment of money, except rights and claims effectively charged under the preceding provisions of clause 3.1 or this clause 3.2;
 - 3.2.7 the benefit of all negotiable instruments, guarantees, bonds, debentures, legal or equitable charges and all other security, reservation of proprietary rights, rights of tracing, unpaid vendor's liens and all other rights and remedies now or in the future available to it as security for any receivable or for the performance by any third party of any obligation now or in the future owed to it,
 - 3.2.8 all money at any time standing to the credit of its bank accounts including the proceeds of all its receivables paid into the Receivables Account nominated by the Agent for these purposes, which proceeds shall, for the avoidance of doubt, on payment into the Receivables Account cease to be subject to the charges contained in clause 3.1 or the preceding provisions of this clause 3.2 but shall be subject to the fixed charge contained in this clause 3.2.8, and
 - 3.2.9 all money at any time standing to the credit of any other bank account relating to that Charging Company.
- 3.3 Each of the Charging Companies, with full title guarantee, charges by way of floating charge with the payment to the Agent and discharge of all of the Secured Sums:
- 3.3.1 all its present and future assets except to the extent that those assets are for the time being effectively charged by any fixed charge contained in clauses 3.1 or 3.2, including any assets comprised within a charge reconverted under clause 4.4; and
 - 3.3.2 without exception, all assets in so far as they are for the time being situated in Scotland.
- 3.4 Each of the Charging Companies, with full title guarantee, assigns in favour of the Agent:
- 3.4.1 all its present or future claims against the lessees, sub-lessees or licensees of its land and all guarantors and sureties for the obligations of such lessees, sub-lessees or licensees;
 - 3.4.2 the benefit of all guarantees, warranties and representations given or made to it by, and any rights or remedies against the manufacturers, suppliers or installers of any

fixtures now or in the future attached to its land;

- 3.4.3 the benefit of all its present or future rights and claims under any agreements for lease, agreements for sale, contracts, options or undertakings relating to any estate, right or interest in or over its land;
- 3.4.4 all its present or future rights and claims against any building, contractor or professional adviser engaged in relation to its land or property development or works, including, without limitation, under any collateral warranty or similar agreement; and
- 3.4.5 the benefit of all its present or future rights and claims under or in respect of any joint venture, partnership or similar arrangement or agreement

but subject to the right of each of the Charging Companies to redeem the assignment upon the full payment or discharge of all of the Secured Sums.

- 3.5 Any mortgage, fixed charge or other fixed security whenever and however created by any of the Charging Companies and subsisting in favour of the Agent will have priority over the floating charge created by clause 3.3, save as the Agent may otherwise declare at or after the time of its creation.
- 3.6 Any debentures, mortgages or charges, fixed or floating, created in the future by any of the Charging Companies, except those in favour of the Agent, must be expressed to be subject to this Deed and will rank in order of priority behind the charges created by this Deed.
- 3.7 Each of the Charging Companies must :
 - 3.7.1 use reasonable endeavours to obtain the consent of the landlords of its leasehold land to the creation of the charges envisaged by clause 3.1 as soon as possible;
 - 3.7.2 keep the Agent informed of the progress of its negotiations with any landlord; and
 - 3.7.3 produce to the Agent a copy of each consent forthwith upon its receipt.

4. Crystallisation of Floating Charge

- 4.1 The floating charge created by any of the Charging Companies in clause 3.3 may be crystallised into a fixed charge by notice in writing given by the Agent to the Charging Company at any time after the security constituted by this Deed becomes enforceable. The crystallisation shall take effect over the floating charge assets or class or classes of floating charge assets specified in the notice. If no floating charge assets are so specified, it shall take effect over all floating charge assets of the relevant Charging Company.
- 4.2 If :
 - 4.2.1 any of the Charging Companies, without the Agent's prior written consent, resolves to take or takes any step to create an encumbrance (other than a permitted encumbrance) over any floating charge asset or to create a trust over any floating charge asset or to dispose of it except by way of sale or other disposition in the ordinary course of the Charging Company's business; or
 - 4.2.2 any person resolves to take or takes any step under any procedure for the taking of control of any floating charge asset;

then the floating charge created by clause 3.3 will be automatically crystallised, without the necessity of notice, into a fixed charge over the relevant floating charge asset instantly on the occurrence of such event.
- 4.3 Except as otherwise stated in any notice given under clause 4.1 or unless the notice relates to

all floating charge assets, floating charge assets acquired by any of the Charging Companies after crystallisation has occurred under clauses 4.1 or 4.2 are to become subject to the floating charge created by clause 3.3, so that the crystallisation will be effective only as to the Charging Company's floating charge assets in existence at the date of crystallisation.

- 4.4 Any charge by any of the Charging Companies that has crystallised under clauses 4.1 or 4.2 may, by notice in writing given at any time by the Agent to the Charging Company, be reconverted into a floating charge in relation to the assets or class of assets specified in the notice.

5. Title Documents and Voting Rights

- 5.1 Subject to the rights of any prior mortgagee and except as otherwise expressly agreed in writing by the Agent, each of the Charging Companies must:

5.1.1 deposit with the Agent all deeds and documents of title relating to all its assets charged under clauses 3.1 or 3.2, including policies of insurance and assurance, and the Agent may retain them;

5.1.2 execute and deliver to the Agent such documents and transfers and give such instructions and perform such other acts as the Agent may require at any time to constitute or perfect an equitable or legal charge, at the Agent's option, over registered securities or a pledge over bearer securities, including any securities eligible to participate in any paperless transfer and settlement system or held in a clearing system.

- 5.2 Unless and until the security constituted by this Deed becomes enforceable or the Agent otherwise directs in any case:

5.2.1 all voting and other rights attaching to securities are to continue to be exercised by each of the Charging Companies for so long as it remains their registered owner;

5.2.2 none of the Charging Companies may permit any person other than one of the Charging Companies, the Agent or the Agent's nominee to be registered as holder of any securities or any part of any securities, and

5.2.3 if securities are registered in the name of the Agent's nominee, all voting and other rights attaching to them may be exercised by the nominee in accordance with instructions in writing from time to time received from the Charging Company concerned and, in the absence of any such instructions, the nominee must refrain from exercising any such rights.

6. Collection of Receivables

- 6.1 Each of the Charging Companies must:

6.1.1 collect and release all receivables;

6.1.2 pay all money it may receive in respect of them into a receivables account with the Agent or such other account of the Charging Company as the Agent may direct (the **Receivables Account**) immediately on receipt;

6.1.3 pending such payment must hold the money upon trust for the Agent; and

6.1.4 not withdraw the money without authorisation from the Agent to do so.

- 6.2 None of the Charging Companies may, without the prior written consent of the Agent, charge, factor, discount, assign, postpone, subordinate, release or waive its rights in respect of any receivable in favour of any other person or purport to do so.

6.3 If the Agent releases, waives or postpones its rights in respect of any receivables for the purpose of enabling any of the Charging Companies to factor or discount them to a third party, the charges created by this Deed will in all other respects remain in full force and effect.

6.4 Each of the Charging Companies must deliver to the Agent such particulars as to the amount and nature of its receivables as the Agent may from time to time reasonably require.

7. Negative Pledge and other restrictions

7.1 None of the Charging Companies may, without the prior written consent of the Agent :

7.1.1 create, or agree or attempt to create, or permit to arise or subsist, any encumbrance of any kind other than a permitted encumbrance; or

7.1.2 sell, assign, lease, license or sub-license, or grant any interest in, its land or intellectual property rights, or purport to do any such act, or part with possession or ownership of them or allow any third party access to or the right to use a copy of any of its intellectual property rights save as is permitted by the Loan Agreement.

7.2 Each of the Charging Companies must apply to the Chief Land Registrar for a restriction to be entered on the register of title of all its present registered freehold and leasehold land in England and Wales and all its present unregistered land so situated that is subsequently registered, whether in consequence of this debenture or otherwise, and must apply for such a restriction when requested by the Agent in respect of all freehold and leasehold land in England and Wales acquired by the Charging Company after the date of this Deed, in the following terms:

'No disposition of the registered estate by the proprietor of the registered estate is to be registered without a certificate signed by the applicant for registration or their conveyancer'.

8. Further Assurance

Each of the Charging Companies must, on demand by the Agent in writing, execute and deliver to the Agent at the cost of the Charging Company and in such form as the Agent may require :

8.1 A legal mortgage of its present and future land;

8.2 a fixed charge over any interest, not capable of being charged by way of legal mortgage, in its present and future land;

8.3 a legal assignment or other fixed security over its intellectual property rights or receivables;

8.4 a legal charge over its present and future securities;

8.5 a chattel mortgage over its present and future chattels, plant, machinery, computers and/or other equipment as the Agent may specify;

8.6 a fixed charge or other fixed security over any floating charge asset;

8.7 where any of its assets is situated outside England and Wales, such fixed security under the law of the place where the asset is situated as the Agent may require;

8.8 a notice to any third party of any of the charges or assignments contained in this Deed; and

8.9 such other documents as the Agent may in its discretion think fit further to secure the payment of the Secured Sums, or to perfect this Deed, or to vest title to any asset in itself or its nominee or any purchaser.

9. Continuing Security

- 9.1 This Deed is to be a continuing security to the Agent and the Beneficiaries, notwithstanding any intermediate payment or settlement of account or any other matter whatever, and is to be in addition to and not prejudice or be prejudiced by any encumbrance, other than any permitted encumbrance, set-off, combination or other rights exercisable by the Agent or the Beneficiaries or both as bankers against the Charging Companies or any security, guarantee, indemnity or negotiable instrument now or in the future held by the Agent or any of the Beneficiaries.

10. General Covenants

- 10.1 Each of the Charging Companies must at all times immediately notify the Agent in writing of its acquisition of any interest or right in or to any land or intellectual property rights.
- 10.2 None of the Charging Companies may, without the prior written consent of the Agent, which may not be unreasonably withheld or delayed, seek to compromise, compound, discharge, postpone, release, set-off, settle or subordinate any of its receivables or waive its rights of action in connection with them, or do or omit to do anything that may delay or prejudice their full recovery.

11. Insurance

- 11.1 Each of the Charging Companies must comply with its insurance covenant contained in clause 11.5 of the Loan Agreement.
- 11.2 Each of the Charging Companies must cause the interest of the Agent to be noted on the policies of insurance required by clause 11.1 (the **Policies**) or, if the Agent so requires, effect the Policies in the joint names of the Agent and the Charging Company.
- 11.3 Each of the Charging Companies must punctually make all premium and other payments necessary to effect or maintain the Policies and on demand produce to the Agent the receipts for such payments. In default thereof, the Agent may take out or renew the Policies in such sums and on such terms as the Agent may think expedient. All money so expended by the Agent will be recoverable by the Agent under clause 21.
- 11.4 None of the Charging Companies may do or omit to be done anything that may render any policy of insurance charged by this Deed void or voidable.
- 11.5 Each of the Charging Companies must use all reasonable endeavours to ensure that its relevant insurer undertakes in writing to the Agent that it will:
- 11.5.1 if the Charging Company defaults in payment of any premium or fails to renew any policy, advise the Agent as soon as the default or non-renewal comes to the insurer's knowledge and, pending receipt of instructions from the Agent, keep the Agent's interest in the policy in force up to the full sum insured and for the same risks subject to the premium for any such period of extended cover being payable by the Agent for the account of the Charging Company;
- 11.5.2 advise the Agent of any proposed cancellation of any policy at least 30 days before the cancellation is due to take effect, and
- 11.5.3 if the insurance cover is to be reduced or any insured risks are to be restricted, advise the Agent at least 30 days before the reduction or restriction is due to take effect.
- 11.6 All money received by any of the Charging Companies on any policy of insurance must be paid to the Agent and applied towards making good the loss or damage in respect of which the money was received or, if the loss or damage has already been made good, in refinancing money expended in that connection or, at the option of the Agent after the security constituted by this Deed has become enforceable, towards the discharge of the Secured Sums. If any money payable under any policy of insurance is paid to any of the Charging Companies, the

Charging Company must hold the money on trust for the Agent.

12. Property Undertakings

12.1 Each of the Charging Companies must:

- 12.1.1 keep all buildings and all plant, machinery, fixtures, fittings and other effects charged under this Deed in good repair and in good working order, except only for fair wear and tear, and must not, without the prior written consent of the Agent, alter, pull down, remove or dispose of any of them except in the ordinary course of repair, maintenance or improvement;
- 12.1.2 punctually pay or cause to be paid and keep the Agent indemnified against, all present and future rents, rates, taxes, levies, charges, duties, assessments, impositions and outgoings whatever, whether parliamentary, parochial, local or otherwise, assessed, charged or imposed upon or now or in respect of its land or in which it has an interest and, when required, produce to the Agent proof of such payment;
- 12.1.3 ensure the due observance of all laws, statutes, statutory instruments, regulations and bye-laws for the time being in force and all notices, orders and requirements of any competent authority, statutory or otherwise, and all directives and codes of practice affecting its land, or land in which it has an interest, or its business or its assets or relating to the protection of the environment or health and safety and carry out all works and give effect to all arrangements which any such authority may direct or recommend;
- 12.1.4 complete with reasonable expedition any building operations (all of which must be previously approved by the Agent) commenced at any time by it on its land to the satisfaction of the Agent and any competent authority and in conformity with all requisite planning and bye-law consents, including the provisions of any agreement it enters into with any such authority;
- 12.1.5 observe and perform all agreements, assignments, contracts, conveyances, grants and other deeds and documents for the time being binding on it or affecting its land or its use or enjoyment, and not take or omit to take any action of any kind whereby its interest or estate in its land may be forfeited or otherwise adversely affected;
- 12.1.6 punctually pay the rents reserved by any lease, tenancy or licence and observe and perform its other obligations under any lease, agreement for lease, tenancy agreement or licence to occupy any land and enforce the observance and performance by the landlord or licensor of their respective obligations under any such document;
- 12.1.7 supply to the Agent within 7 days of receipt copies of any notice, order or proposal it receives from any competent authority, statutory or otherwise, or from any landlord or tenant affecting any such land in any material respect, and, at its own cost either punctually comply with the notice or order or, if so requested by the Agent, make or join with the Agent in making such objections or representations or taking such other steps as the Agent may think fit, and any compensation received as a result must be charged to the Agent and paid to it and applied in or towards the discharge of the Secured Sums;
- 12.1.8 promptly on receipt, cause a copy of each professional valuation report it obtains in relation to its land to be provided to the Agent; and
- 12.1.9 notify the Agent, promptly on receipt, of any claim, notice or other communication received by it alleging non-compliance by it in relation to any matter referred to in this clause 12.1.

12.2 None of the Charging Companies may, without the prior written consent of the Agent, at any time:

- 12.2.1 erect any building or make any structural alteration or apply for any planning consent for the development or change of use of any such land, or, save in the ordinary course of repair, replacement or improvement, at any time sever, remove or dispose of any fixture on it; or
- 12.2.2 enter into onerous or restrictive obligations affecting its land or create or permit to arise any overriding interest or any easement or right whatever in or over it, that might materially adversely affect its value or the value of the security over it.
- 12.3 If any of the Charging Companies defaults in the performance of any undertaking contained in this clause 12, the Agent or any receiver may (but need not) do whatever may be necessary to rectify the default, and all sums expended by the Agent or any receiver under this clause 12 are to be recoverable by the Agent or receiver from the Charging Company under clause 21. The Charging Company must also permit the Agent for this purpose to enter upon its land to effect such repairs as the Agent may consider necessary without becoming liable as a mortgagee in possession.
- 12.4 Each of the Charging Companies must indemnify the Agent and its employees and agents fully at all times against any claim, liability, loss or expense incurred by them directly or indirectly as a result of any failure by the Charging Company to comply with this clause 12 or to comply with any law, regulation, directive or code of practice applicable to the Charging Company or to its business or assets or relating to the protection of the environment or health and safety.

13. Intellectual Property Undertakings

- 13.1 Each of the Charging Companies must, during the continuance of this security, unless the Agent otherwise agrees in writing:
 - 13.1.1 take all necessary action to protect and maintain its intellectual property rights and franchises, wherever situated, that are material to its business and contracts, promptly notify the Agent of any infringement or alleged infringement or any challenge to the validity of any intellectual property rights of which the Charging Company has notice and supply the Agent with all information in its possession relating to them as the Agent may request;
 - 13.1.2 duly register in such register(s) or with such authorities as may be available for the purpose, in the United Kingdom or elsewhere, and in such name(s) as may be required by the law and practice of the place of registration, such of the following as may be capable of registration, whether in the United Kingdom or elsewhere:
 - (a) this Deed;
 - (b) all licences, registered user agreements or other interests granted to or acquired by the Charging Company relating to its intellectual property rights, and
 - (c) all future assignments and/or mortgages made under this Deed,and pay all fees and costs in connection with such registration,
 - 13.1.3 pay all application, registration, renewal and other payments necessary to effect, protect, maintain or renew registrations required to be made under clause 13.1.2, do all other acts and things necessary to maintain all intellectual property rights in full force and effect, and send or deliver to the Agent the receipt for every such payment immediately after it has been made;
 - 13.1.4 maintain an up-to-date record of all trade marks and intellectual property rights belonging to it, all applications for registration of trade marks and all copyright, patents and patent applications owned by the Charging Company and provide a copy to the Agent on written request;

- 13.1.5 not sell, assign, transfer, license or agree to license any intellectual property rights belonging to it or any interest in them, or permit any third party to use them,
- 13.1.6 not alter any specification for which any of the Trade Marks has been registered or give its consent to registration by a third party of any trade mark the same or confusingly similar to any of the Trade Marks; and
- 13.1.7 diligently commence and prosecute all proceedings that may be necessary to prevent infringement of any intellectual property rights belonging to it where the infringement has or could have a material effect on its business.
- 13.2 If any of the Charging Companies defaults in carrying out its obligations under clause 13.1, the Agent or a receiver may carry out any acts or things at the expense of the relevant Charging Company necessary to protect the Agent's interest under this Deed or to protect or maintain the relevant intellectual property rights.
- 13.3 All money expended by the Agent under this provision is to be recoverable by the Agent or any receiver from the Charging Company under clause 21.
- 14. Leases, possession of land and consolidation of mortgages**
- 14.1 None of the Charging Companies may, without the prior written consent of the Agent :
 - 14.1.1 exercise any power of leasing its land, or accepting surrenders of leases of its land, or
 - 14.1.2 save where obliged to do so by law, extend, renew or vary any lease or tenancy agreement or give any licence to assign or underlet.
- 14.2 None of the Charging Companies may part with possession of its land except on the determination of any lease, tenancy or licence granted to it, or share the occupation of it with any other person, or agree to do so, without the prior written consent of the Agent.
- 14.3 Section 93 of the Law of Property Act 1925 is not to apply to this Deed.
- 15. Powers of Sale, leasing, accepting surrenders and severance**
- 15.1 Section 103 of the Law of Property Act 1925 is not to apply to this Deed, but as between the Agent and a purchaser from the Agent the statutory power of sale is to arise on, and be exercisable at any time after, the execution of this Deed. The Agent must not exercise the power of sale until payment of the Secured Sums has been demanded, or a receiver has been appointed, but this provision is not to affect a purchaser or require him to ask whether a demand or appointment has been made.
- 15.2 The statutory powers of sale, leasing and accepting surrenders exercisable by the Agent by virtue of this Deed are extended so as to authorise the Agent to grant leases of any land vested in any of the Charging Companies or in which any of them has an interest:
 - 15.2.1 after the security constituted by this Deed has become enforceable;
 - 15.2.2 in its own name or that of the Charing Company concerned; and
 - 15.2.3 on any terms and conditions the Agent thinks fit.
- 15.3 The statutory power of sale exercisable by the Agent is extended so as to authorise the Agent to sever any fixtures from land and sell them separately.
- 15.4 No person dealing with the Agent or any receiver, its agents or delegates, need :
 - 15.4.1 enquire whether :

- (a) this Deed has become enforceable;
- (b) any power exercised or purported to be exercised has become exerciseable;
- or
- (c) any of the Secured Sums remain due upon this Deed.

15.4.2 enquire as to the necessity or expediency of any stipulations and conditions subject to which the sale of any asset is made, or otherwise as to the propriety or regulatory of the sale of any asset; or

15.4.2 see to the application of any money paid to the Agent or a receiver, or its agents or delegates;

and each such dealing deemed to be within the powers conferred by this Deed and to be valid and effectual accordingly.

16. Opening of New Accounts

16.1 On receiving notice that any of the Charging Companies has encumbered or disposed of any of its assets (a **disposal notice**), the Agent and/or any of the Beneficiaries may rule off the Charging Company's account and open a new account with the Charging Company.

16.2 If the Agent or any of the Beneficiaries does not open a new account immediately on receipt of a disposal notice, it will nevertheless be treated as if it had done so at the time when it received the notice, and as from that time all payments made by the Charging Company to the Agent or the Beneficiary will be treated as having been credited to a new account and will not operate to reduce the amount owing from the Charging Company to the Agent or that Beneficiary at the time when it received the notice.

17. Appointment and powers of a Receiver

17.1 At any time :

17.1.1. after the Agent has in writing demanded payment of any of the Secured Sums from any of the Charging Companies, or

17.1.2 notwithstanding the terms of any other agreement between any of the Charging Companies and the Agent or any of the Beneficiaries, after a proposal has been made for a voluntary arrangement or a petition has been presented for an administration order in relation to any of the Charging Companies pursuant to the Insolvency Act 1986 Part I or Part II and Schedule B1 as inserted by the ;or

17.1.3 if so requested by any of the Charging Companies in respect of its own assets, the Agent may appoint by writing any person to be a receiver and manager of all or any part of the assets of the Charging Company.

17.2 Where more than one receiver is appointed, they may act separately unless the Agent in the appointment specifies to the contrary.

17.3 The Agent may from time to time determine the remuneration of the receiver.

17.4 The Agent may, subject to the Insolvency Act 1986 section 45, remove the receiver from the assets of which he is receiver.

17.5 Appointment of a receiver and manager is not to preclude:

17.5.1 the Agent from making any subsequent appointment of a receiver over all or any assets over which a receiver has not previously been appointed or has ceased to act; or

17.5.2 a receiver, while continuing to act, consenting to the appointment of an additional receiver to act with him.

- 17.6 A receiver is to be the agent of the Charging Company concerned, which will be solely liable for his acts, defaults and remuneration, unless and until the Charging Company goes into liquidation, after which he must act as principal and will not become the agent of the Agent or the Beneficiaries.
- 17.7 A receiver will have and may exercise in relation to the Charging Company concerned all the powers set out in the Insolvency Act 1986 Schedule I as in force at the date of this Deed, and in particular, by way of addition and without limiting such powers, and without prejudice to the powers of the Agent and the Beneficiaries, a receiver may, either in his own name or in the name of the Charging Company:
- 17.7.1. in connection with any sale or other disposition of the assets of the Charging Company, receive the consideration for the sale in a lump sum or in instalments and receive shares by way of consideration,
 - 17.7.2 grant options, licences or any other interest whatsoever in the assets of the Charging Company;
 - 17.7.3 sever fixtures from, and repair, improve and make any alterations to, the assets of the Charging Company,
 - 17.7.4 exercise any voting rights appertaining to the Charging Company,
 - 17.7.5 do all other acts and things which he may consider desirable or necessary for realising any asset of the Charging Company or incidental or conducive to any of the rights, powers or discretions conferred on a receiver under or by virtue of this Deed, and
 - 17.7.6 exercise in relation to any asset of the Charging Company all the powers, authorities and things which he would be capable of exercising if he was the absolute beneficial owner of the asset.
- 17.8 Neither the Agent nor any of the Beneficiaries nor any receiver is to be liable to account as mortgagee in possession or otherwise for any money not actually received.
- 17.9 Section 109 of the Law of Property Act 1925 is not to apply to this Deed.

18. Power of Attorney

- 18.1 Each of the Charging Companies, by way of security, irrevocably appoints the Agent, whether or not a receiver has been appointed, and any receiver separately, to be the attorney of the Charging Company with full power to appoint substitutes and to delegate, for the Charging Company, in its name and on its behalf, and as its act and deed or otherwise, at any time after this security has become enforceable to execute and deliver and otherwise perfect any agreement, assurance, deed, instrument or document, or perform any act that may be required of the Charging Company under this Deed, or may be deemed by the attorney necessary or desirable for any purpose of this Deed or to enhance or perfect the security intended to be constituted by it or to convey or transfer legal ownership of any assets.
- 18.2 Without prejudice to the generality of the provisions contained in clause 18.1 each of the Charging Companies covenants with the Agent and separately with any receiver that if required so to do it will ratify and confirm:
- 18.2.1 all transactions entered into by it or them in the proper exercise of its or their powers in accordance with this Deed, and
 - 18.2.2 all transactions entered into by it or them in signing, sealing, delivering and otherwise perfecting any assignment, mortgage, charge, security, deed, assurance, document or act as aforesaid.

19. Other powers exercisable by the Agent

- 19.1 All powers of a receiver conferred by this Deed may be exercised by the Agent following demand by the Agent, whether as attorney of the Charging Companies or otherwise, and whether or not a receiver has been appointed.
- 19.2 The Agent or any manager or officer of the Agent is irrevocably empowered to:
- 19.2.1 receive all receivables and claims that may be assigned to the Agent pursuant to clause 8;
 - 19.2.2 to give an effectual discharge for them on payment;
 - 19.2.3 to take and institute, if the Agent in its sole discretion so decides, all steps and proceedings either in the name of the relevant assignor or in the name of the Agent for their recovery on non-payment, and
 - 19.2.4 to agree accounts, make allowances and give time to any surety.
- The relevant assignor undertakes to ratify and confirm whatever the Agent or any manager or officer of the Agent shall do or purport to do under this Clause 19.
- 19.3 The Agent is to have no liability or responsibility to any Charging Company arising out of the exercise or non-exercise of the rights conferred on it by this clause 19 except for gross negligence and wilful default.
- 19.4 The Agent need not make any enquiry as to the sufficiency of any sums received by it in respect of any receivables or claims assigned to it, or make any claim or take any other action to collect in or enforce them.

20. Application of money received by the Agent or a receiver

- 20.1 Any money received under this Deed must, subject to the discharge of any prior-ranking claims, be paid or applied in the following order of priority:
- 20.1.1 in satisfaction of all costs, charges and expenses incurred, and payments made, by the Agent and/or a receiver, and of the remuneration of the receiver;
 - 20.1.2 in or towards satisfaction of the Secured Sums in the manner applicable under the Loan Agreement; and
 - 20.1.3 as to the surplus, if any, to the person or persons entitled to it.
- 20.2 The Agent may, in its absolute discretion on or at any time or times after demand and pending the payment to the Agent of the whole of the Secured Sums, place and keep to the credit of a separate or suspense account any money received, recovered or realised by the Agent by virtue of this Deed for so long and in such manner as the Agent may determine without any intermediate obligation to apply it in or towards the discharge of any of the Secured Sums.

21. Costs and interest on overdue amounts

- 21.1 All costs, charges and liabilities, including all professional fees and disbursements and VAT and/or any similar tax, and all other sums paid or incurred by the Agent, the Beneficiaries and/or any receiver under or in connection with this Deed or the Companies' affairs, may be recovered on a full indemnity basis as a debt payable on demand from such of the Charging Companies as the Agent may select, may be debited without notice to any account of those Charging Companies, shall bear interest accordingly and shall be charged on the assets of those Charging Companies. Each of the Charging Companies must indemnify the Agent against all and any costs, charges and expenses arising:

- 21.1.1 out of any of the property charged or assigned pursuant to clauses 3 or 8 resulting from it infringing or allegedly infringing any third party rights; and
 - 21.1.2 in relation to any proceedings referable to the Charging Company brought against the Agent or to which the Agent may be joined whether as plaintiff or defendant that relate to any of such charged property.
- 21.2 Without prejudice to the generality of clause 21.1 the costs recoverable by the Agent, the Beneficiaries and/or any receiver under this Deed include:
 - 21.2.1 all reasonable costs incurred by the Agent and the Beneficiaries in preparing and administering this Deed or perfecting the security created by it;
 - 21.2.2 all reasonable costs, whether or not allowable on a taxation by the court, of all proceedings for the enforcement of this Deed or for the recovery or attempted recovery of the Secured Sums;
 - 21.2.3 all money expended and all costs arising out of the exercise of any power, right or discretion conferred by this Deed;
 - 21.2.4 all costs and losses arising from any default by any of the Charging Companies in payment of any of the Secured Sums when due or performance of its obligations under this Deed; and
 - 21.2.5 all administrative charges of the Agent and the Beneficiaries based on time spent by their employees and agents in connection with the affairs of the Companies.
- 21.3 Any overdue amounts secured by this Deed are to carry interest at the Default Rate. The interest is to accrue on a day to day basis to the date of repayment in full, and if unpaid is to be compounded with quarterly rests on the Agent's usual quarterly interest days. Interest may be charged and compounded on this basis after as well as before any demand or judgment.
- 21.4 Money received or held by the Agent or any of the Beneficiaries pursuant to this Deed may, from time to time after demand of all or any part of the Secured Sums has been made, be converted into such currency as the Agent or any Beneficiary considers necessary or desirable to discharge the Secured Sums in that currency at the Agent's then prevailing spot rate of exchange, as conclusively determined by the Agent, for purchasing the currency to be acquired with the existing currency.

22. Retention and set-off

- 22.1 Each of the Beneficiaries may retain any money standing to the credit of any of the Charging Companies with the Beneficiary in any currency upon any account or otherwise as cover for any of the Secured Sums and/or at any time or times without notice to the Charging Company combine or consolidate all or any of such money with all or such part of the Secured Sums as the Beneficiary may select, whether presently payable or not, and the Beneficiary may purchase with any such money any other currency required to effect such combination.
- 22.2 Each of the Charging Companies irrevocably authorises the Agent and each of the Beneficiaries in its name and at its expense to perform such acts and sign such documents as may be required to give effect to any set-off or transfer pursuant to clause 22.1, including the purchase with the money standing to the credit of any such account of such other currencies as may be necessary to effect such set-off or transfer.
- 22.3 This clause 22 gives to the Agent and the Beneficiaries a contractual right of set-off only, and does not create any equitable charge or other encumbrance over any credit balance of any of the Charging Companies.

23. Information

- 23.1 The Agent may from time to time seek from any other banker or provider of finance to any of the Charging Companies such information about the Charging Company and its affairs as the Agent thinks fit, and each of the Charging Companies directs any such third party to provide the required information to the Agent and agrees to provide any further authority for this purpose the Agent may from time to time require.

24. Transfer and disclosure

- 24.1 Any of the Beneficiaries may at any time, with the prior written consent of the Agent, transfer all or any part of its rights in relation to this Deed and the Secured Sums to any person or otherwise grant an interest in them to any person to which it is permitted to transfer any of the Secured Sums under the Loan Agreement.

- 24.2 Each of the Charging Companies irrevocably authorises the Beneficiary, at its discretion, at any time or from time to time, to disclose any information concerning the Charging Company, this Deed and the Secured Sums:

24.2.1 to any associated company of the Beneficiary;

24.2.2 to any prospective transferee or grantee referred to in clause 24.1 and any other person considered by the Beneficiary to be concerned in the prospective transaction; and

24.2.3 to any person who, as part of the arrangements made in connection with any transaction referred to in clause 24.1, requires such information after the transaction has been effected.

- 24.3 The above authority is without prejudice to the Beneficiary's right of disclosure implied by law.

25. The Agent as Trustee, perpetuity periods and no partnership

- 25.1 The Agent declares itself to be a trustee of this Deed, and any other security in its favour created pursuant to this Deed, for the Beneficiaries. The retirement of the Agent from being trustee and the appointment of any new trustee must be effected in the manner provided in the Loan Agreement.

- 25.2 The perpetuity period applicable to the trust constituted by this is 125 years.

- 25.3 Nothing in this security constitutes or is to be deemed to constitute a partnership between the Beneficiaries.

26. Forbearance and Severability

- 26.1 All rights, powers and privileges under this Deed are to continue in full force and effect, regardless of the Agent or any of the Beneficiaries exercising, delaying in exercising or omitting to exercise any of them.

- 26.2 None of the covenants and guarantees given and none of the charges created by the Charging Companies under this Deed is to be avoided or invalidated by reason only of one or more of them being invalid or unenforceable.

- 26.3 Any provision of this Deed which for any reason is or becomes illegal, invalid or unenforceable is to be ineffective only to the extent of such illegality, invalidity and unenforceability, without invalidating the remaining provisions of this Deed.

27. Variations and Consents

- 27.1 No variation of this Deed is to be considered valid and as constituting part of this Deed, unless it is made in writing and signed by the Agent (on behalf of the Beneficiaries) and the Charging Companies.
- 27.2 The expression **variation** includes any variation, supplement, extension, deletion or replacement however effected.
- 27.3 Save as otherwise expressly specified in this Deed, any consent of the Agent may be given absolutely or on any terms and subject to any conditions as Agent may determine in its entire discretion.

28. Service of demands and notices

- 28.1 A demand for payment or any other demand or notice under this Deed may be made or given by any manager or officer of the Agent in writing addressed to the Charging Company concerned and served on it at the address for service of the Charging Company stated in Schedule 1 or its existing or last known place of business (or, if more than one, any one of such places), or by fax to the fax number last known to the Agent, or by email to the last known email address known to the Agent. Service of a demand or notice by some other method or at some other address is valid provided it comes to the attention of the addressee.
- 28.2 A notice or demand will be deemed to be duly served on any of the Charging Companies:
- 28.2.1 if delivered by hand, when left at such an address;
- 28.2.2 if sent by post, at noon on the next day following the day of posting even if it is misdelivered or returned undelivered; and
- 28.2.3 if given or made by fax or email, at the time of transmission, provided that, where delivery or transmission occurs after 1800 hours on a business day or on a day that is not a business day, service will be deemed to occur at 0900 hours on the next business day.

29. Counterparts

- 29.1 This Deed may be executed by any of the Charging Companies in any number of copies, all of which taken together shall constitute a single deed.

30. Joint and separate liability

- 30.1 Unless the context otherwise requires, all covenants, agreements, representations and warranties on the part of the Charging Companies contained in this Deed are given by them jointly and separately and are to be construed accordingly.

31. Agent

- 31.1 The provisions of the Security Trust Deed dealing with the Agent's rights, obligations and duties are to apply to the Agent's rights, obligations and duties under this Deed as if set out in this Deed in full.

32. Proviso for redemption and releases

- 32.1 On payment and discharge in full of the Secured Sums or if any of the Charging Companies wishes to dispose of an asset charged by way of fixed charge under this Deed where disposal is permitted under this Deed, the Agent must, at the request and cost of the Charging Company, execute a release and reassignment of all or any part of the security comprised in this Deed in the form the Charging Company reasonably requires.

33. Governing Law and Jurisdiction

- 33.1 This Deed is to be governed by and construed in all respects in accordance with the laws of England.
- 33.2 For the benefit of the Agent and the Beneficiaries, the parties irrevocably agree that the courts of England are to have jurisdiction to settle any dispute that may arise out of, or in connection with, this Deed and that, accordingly, any suit, action or proceedings (together in this clause referred to as **proceedings**) arising out of, or in connection with, this Deed may be brought in such courts. The parties other than the Agent further agree not to initiate any proceedings against the Agent or the Beneficiaries in any jurisdiction other than the courts of England.
- 33.3 The parties other than the Agent irrevocably waive any objection they may have now or in future to the courts referred to in the preceding clause being nominated as the forum to hear any proceedings and further waive any claim they may have now or in future that any such proceedings have been brought in any inconvenient forum, and in addition irrevocably agree that a judgment in any proceedings brought in the English courts is to be conclusive and binding upon them and may be enforced in the courts of any other jurisdiction.
- 33.4 Nothing contained in this clause is to limit the right of the Agent to take proceedings against the parties other than the Agent in any other court of competent jurisdiction, and taking proceedings in one or more jurisdictions is not to preclude taking proceedings in any other jurisdiction, whether concurrently or not.

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

SCHEDULE 1 – THE CHARGING COMPANIES

| Name of Company | Company Number | Registered Office |
|--|----------------|---|
| 1869 Limited | 9364401 | 1 Hampton Park West, Melksham, Wiltshire SN12 6GU |
| Sofa Brands International Limited | 05456332 | 1 Hampton Park West, Melksham, Wiltshire SN12 6GU |
| G Plan Upholstery Limited | 00149073 | 1 Hampton Park West, Melksham, Wiltshire SN12 6GU |
| The Lounge Co (Furniture) Limited | 09988872 | 1 Hampton Park West, Melksham, Wiltshire SN12 6GU |
| Parker Knoll Upholstery Limited | 01121102 | 1 Hampton Park West, Melksham, Wiltshire SN12 6GU |
| Duresta Upholstery Limited | 00341415 | 1 Hampton Park West, Melksham, Wiltshire SN12 6GU |
| Collins and Hayes Furniture Limited | 10879511 | 1 Hampton Park West, Melksham, Wiltshire SN12 6GU |

SCHEDULE 2 – TERMS OF GUARANTEE

1. This guarantee is a continuing guarantee and shall extend to the ultimate balance of all sums payable by the Charging Companies under this Deed.
2. Where any discharge, whether in respect of the obligations of any of the Charging Companies or any security for them or otherwise, is made in whole or in part or any arrangement is made on the faith of any payment, security or other disposition that is avoided or must be repaid on bankruptcy, liquidation or otherwise without limitation, the liability of the Charging Companies under this guarantee is to continue as if there had been no such discharge or arrangement. The Agent may concede or compromise any claim that any such payment, security or other disposition is liable to avoidance or repayment.
3. The obligations of the Charging Companies under this Deed are not to be affected by any act, omission, matter or thing that, but for this provision, might operate to release or otherwise exonerate the Charging Companies from their obligations under this Deed in whole or in part, including without limitation and whether or not known to the Charging Companies, the Agent or any of the Beneficiaries:
 - 3.1 any time or waiver granted to or composition with the Companies or any other person;
 - 3.2 the taking, variation, compromise, renewal or release of, or refusal or neglect to perfect or enforce, any rights, remedies or securities against the Companies or any other person;
 - 3.3 any legal limitation, disability, incapacity or other circumstances relating to the Companies or any other person;
 - 3.4 any variation of this Deed or any other document or security; or
 - 3.5 any unenforceability, invalidity or frustration of any obligations of the Companies or any other person under the Loan Agreement, this Deed or any other document or security, to the intent that the obligations of the Charging Companies under this Deed shall remain in full force and this guarantee be construed accordingly as if there were no such unenforceability, invalidity or frustration.
4. The Charging Companies waive any right they may have of first requiring the Agent or the Beneficiaries to proceed against, or enforce any other rights of security of, or claim payment from, the Companies or any other person before claiming from the Charging Companies under this Deed.
5. Until all amounts that may be or become payable by the Companies under the Loan Agreement or in connection with it have been irrevocably paid and discharged in full, the Agent and each of the Beneficiaries may:

- 5.1 refrain from applying or enforcing any other security, money or rights held or received by the Agent or any of the Beneficiaries in respect of such amounts or apply and enforce them in such manner and order as the Agent or the Beneficiary sees fit, whether against such amounts or otherwise, and the Charging Companies are not to be entitled to the benefit of them;
 - 5.2 hold in suspense account, without liability to pay interest on it, any money received from the Charging Companies or on account of the Charging Companies' liability under this Deed; and
 - 5.3 appropriate as they or each of them see fit, any money received from the Charging Companies to any part of the liability of the Companies under the Loan Agreement whether it be principal or interest and whenever arising.
- 6 The Agent and each of the Beneficiaries need not make the appropriation referred to in paragraph 5.3 above at the time of the receipt but may make the appropriation at any time at their sole discretion, and need not give any form of notice to the Charging Companies or the Companies of such appropriation after it has occurred.
- 7 The Charging Companies waive any right to appropriate any money received by the Charging Companies, irrevocably covenant not to make any such appropriation and further agree that any such purported appropriation shall be null and void.
- 8 Until all amounts that may be or become payable by the Companies under the Loan Agreement or in connection with it have been irrevocably paid in full, the Charging Companies will not, after default and a claim has been made pursuant to this guarantee:
 - 8.1 be subrogated to any rights, security or money held, received or receivable by the Agent or any of the Beneficiaries or be entitled to any right of contribution in respect of any payment made or money received on account of the Charging Companies' liability under this Deed;
 - 8.2 be entitled to rank as creditor against the estate, or in the bankruptcy or liquidation, of the Companies in competition with the Agent or any of the Beneficiaries, and must not claim to do so; or
 - 8.3 receive, claim or have the benefit of any payment, distribution or security from or on account the Companies or exercise any right of set-off as against the Companies.
- 9 This guarantee shall be in addition to, and shall not in any way be prejudiced by, any other security now or hereafter held by the Agent or any of the Beneficiaries as security for the obligations of the Companies under the Loan Agreement.

- 10 A certificate of the Agent as to any amount owing from the Companies under the Loan Agreement or from the Charging Companies under this Deed shall be conclusive evidence of such amount as against the Charging Companies.

**SCHEDULE 3 – REGISTERED FREEHOLD AND LEASEHOLD LAND TO BE
MORTGAGED UNDER CLAUSE 3.1.1**

SCHEDULE 4 – SIDE LETTER FROM AGENT TO THE CHARGING COMPANIES UNDER CLAUSE 6.1

[headed notepaper of the Agent]

[name and address of the relevant Charging Company]

[date]

Dear Sir,

Bank Account Letter

We refer to the Guarantee and Debenture entered into today by you and the other companies listed in it and ourselves as Agent (the **Deed**).

- 1 The terms defined in the Deed, where the context so admits, have the same meaning in this letter.
- 2 We refer in particular to the following provisions of the Deed:
 - 2.1 by clause 3.2.6, each of the Charging Companies created first fixed charges over book and other debts and monetary claims, present and future;
 - 2.2 by clause 3.2.8, each of the Charging Companies created first fixed charges over any cash balances standing to the credit of any bank account relating to such company, including the proceeds of book debts and other debts and claims charged pursuant to clause 3.2.6 of the Deed; and
 - 2.3 by clause 6.1, each of the Charging Companies is required to pay into such account as the Agent nominates, pursuant to this letter, all debts and claims charged by it pursuant to the Deed.
- 3 In accordance with clause 6.1 of the Deed, we set out below details of the accounts for the Charging Companies to be opened in the books of *[name]* Bank plc and require that each of the Charging Companies pay into the stated bank account all money it may henceforth receive in respect of receivables and other debts and claims charged by the Deed until further instructed by us to the contrary.

[list charging companies and the account description, number and sort code for each company]

We confirm that you and each of the Charging Companies may continue to operate all these bank accounts (save for the Receivables Account), and that *[name]* Bank plc may clear proceeds from each bank account into the relevant Charging Company's operating account, without reference to us provided that we may terminate this authority by notice in writing to you and to *[name]* Bank plc at any time after the Security constituted by the Deed becomes enforceable.

Yours faithfully,

[signature]

For and on behalf of *[name of agent]*

The Agent

We hereby acknowledge receipt of the above letter and confirm our agreement to its terms for ourselves and on behalf of each of our subsidiaries.

[signature]

For and on behalf of *[charging company]*

SCHEDULE 5 – BANK ACCOUNT SIDE LETTER FROM THE AGENT TO THE BANK HOLDING THE BANK ACCOUNT

[headed notepaper of the Agent]

[name and address of bank]

For the attention of *[name]*

[date]

Dear Sirs,

Guarantee and Debenture (the Deed) dated with the same date as this letter entered into by (1) the companies listed in it and (2) *[name]* (the **Agent**) as trustee for the Beneficiaries, as defined in the Deed.

You have been given notice by *[name]* that, under the Deed, the Charging Companies, as defined in the Deed, have granted us a fixed charge over all of their rights, title and interest in and to all sums that may at any time be standing to the credit of the accounts listed in the table below (the **Bank Accounts**). We have required the Charging Companies to pay any receivables that are subject to our fixed charge into a nominated bank account (the **Receivables Account**) and the Charging Companies have agreed that sums standing to the credit of this account: (a) may not be dealt with without our authorisation and (b) are held in trust for us.

[list for each charging company the account description, bank account number, bank sort code, and operating account number]

We authorise you to release at the end of each day all sums standing to the credit of the bank accounts (save for sums standing to the credit of the Receivables Account) into the relevant Charging Companies' operating accounts as detailed above held with you unless and until you receive written notice from us to the contrary.

This letter shall be governed by English law.

Please acknowledge receipt of this letter and your acceptance of the instructions and authorisations contained in it by signing and returning the enclosed copy to us at the above address.

Yours faithfully,

[signature]

for and on behalf of the Agent

[on copy]

Agreed

[signature]

for and on behalf of *[name]* Bank plc

Charging Companies

Executed as a Deed by

Director

1869 Limited

Acting as a Director in the presence of

Witness Name : James Allen Stephenson

Witness Signature :

Witness Address :

Witness Occupation :

Executed as a Deed by

Director

Sofa Brands International Limited

Acting as a Director in the presence of

Witness Name : James Allen Stephenson

Witness Signature :

Witness Address :

Witness Occupation :

Executed as a Deed by

Director

G Plan Upholstery Limited

Acting as a Director in the presence of

Witness Name : James Allen Stephenson

Witness Signature :

Witness Address :

Witness Occupation :

Executed as a Deed by

Director

The Lounge Co (Furniture) Limited

Acting as a Director in the presence of

Witness Name : James Allen Stephenson

Witness Signature :

Witness Address :

Witness Occupation

Executed as a Deed by

Director

Parker Knoll Upholstery Limited

Acting as a Director in the presence of

Witness Name : James Allen Stephenson

Witness Signature :

Witness Address :

Witness Occupation

Executed as a Deed by

Director

Duresta Upholstery Limited

Acting as a Director in the presence of

Witness Name : James Allen Stephenson

Witness Signature :

Witness Address :

Witness Occupation

Executed as a Deed by

Director

Collins & Hayes Furniture Limited

Acting as a Director in the presence of

Witness Name : James Allen Stephenson

Witness Signature :

Witness Address :

Witness Occupation