



Registration of a Charge

Company Name: **ELMS BARN LIMITED**

Company Number: **00579076**



Received for filing in Electronic Format on the: **29/02/2024**

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Details of Charge

Date of creation: **23/02/2024**

Charge code: **0057 9076 0010**

Persons entitled: **AFP ASSETS LIMITED**

Brief description: **BY WAY OF FIRST LEGAL MORTGAGE EACH PROPERTY KNOWN AS ELMS BARN, ELMS ROAD, TOFT MONKS, NR34 0EJ, NORFOLK (WITH REGISTERED TITLE NUMBER: NK404056), LAND LYING TO THE WEST OF ELMS ROAD, TOFT MONKS, BECCLES, NORFOLK (WITH REGISTERED TITLE NUMBER: NK432775), BARN COTTAGE AND MEADOW COTTAGE, ELMS ROAD, TOFT MONKS, BECCLES, NR34 0EJ, NORFOLK (WITH REGISTERED TITLE NUMBER: NK463967).**

Contains fixed charge(s).

Contains floating charge(s) .

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: **WE 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:

BIRKETTS LLP



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 579076

Charge code: 0057 9076 0010

The Registrar of Companies for England and Wales hereby certifies that a charge dated 23rd February 2024 and created by ELMS BARN LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 29th February 2024 .

Given at Companies House, Cardiff on 2nd March 2024

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

23rd February

2024

(1) ELMS BARN LIMITED
as Chargor

and

(2) AFP ASSETS LIMITED
as Chargee

LEGAL CHARGE

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THIS LEGAL CHARGE is made AS A DEED on

23rd February

2024

BETWEEN:

- (1) **ELMS BARN LIMITED** (company number 00579076) a company incorporated and registered under the laws of England and Wales whose registered office is at Contador House, 7 Eckersley Drive, Fakenham, England, NR21 9RY (the "**Chargor**"); and
- (2) **AFP ASSETS LIMITED**, a company incorporated and registered under the laws of England and Wales with company number 08756761 and with its registered office at Eighth Floor, 6 New Street Square, New Fetter Lane, London, EC4A 3AQ (the "**Chargee**")

(each of the Chargor and the Chargee a "**Party**" and together the "**Parties**").

IT IS AGREED:

1. DEFINITIONS AND INTERPRETATION

1.1. Definitions

In this Deed:

"**Act**" means the Law of Property Act 1925;

"**Authority**" means all national and local governments, governmental departments, supranational bodies, local or public authorities, statutory undertakings, states or agencies;

"**Business Day**" means a day other than a Saturday or Sunday when financial institutions in London are generally open for banking business;

"**Default Rate**" means, the rate of interest determined in accordance with the terms of the relevant Facility Agreement in relation to any amount which is not paid on the due date for payment, but if no rate is specified in such Facility Agreement, 1% per month;

"**Delegate**" means any delegate, sub-delegate, agent, attorney or co-trustee appointed by the Chargee or by a Receiver;

"**Environmental Claim**" means any claim, proceeding, formal notice or investigation by any person in respect of any Environmental Law;

"**Environmental Law**" means any law, regulation, code of practice, circular, guidance note or the like (whether in the United Kingdom or elsewhere) concerning the protection of human health or the environment or the conditions of the workplace or the generation, transportation, storage or disposal of Hazardous Substances;

"**Environmental Permit**" means any permit, licence, authorisation, consent or other approval required by any Environmental Law;

"**Event of Default**" means:

- (a) any breach of and/or failure by the Chargor to comply with any of its duties, obligations and/or liabilities under any Finance Document including the occurrence of any "Event of Default" (howsoever described) or such similar term as defined in any Facility Agreement; or
- (b) the Chargor fails to pay or perform any of the Secured Obligations on demand; or

- (c) the Chargor commits any breach of any of the covenants or other provisions of this Deed; or
- (d) any representation or warranty made or deemed to be made or repeated by Chargor in or pursuant to this Deed or any Finance Document is or proves to have been untrue or incorrect in any material respect when made or when deemed to be repeated with reference to the facts and circumstances existing at such time; or
- (e) if the Chargee reasonably considers the security created by this Deed is in jeopardy; or
- (f) distress, execution or other legal process is levied against any of the assets of the Chargor which is not paid off, withdrawn or discharged within five clear Business Days; or
- (g) a meeting is convened, or a petition is presented, or an order is made, or notice is given of intention to pass a resolution, or an effective resolution is passed, or notice is given for the winding up or dissolution of the Chargor other than for the sole purpose of amalgamation and reconstruction of a solvent corporate body with the prior approval of the Chargee; or
- (h) a meeting of the directors or members of the Chargor decide or resolve to appoint an administrator of the Chargor or notice of intention to appoint or notice of appointment of an administrator of the Chargor is given or filed with the court or an application is made, or a petition is presented for the appointment of an administrator of the Chargor, or an administrator of the Chargor is appointed; or
- (i) a petition is presented for a bankruptcy order to be made against the Chargor and is not withdrawn within five clear Business Days or a bankruptcy order is made against the Chargor; or
- (j) an application is made in respect of the Chargor under section 252 of the Insolvency Act 1986; or
- (k) an incumbrancer takes possession, or a receiver manager or administrative receiver is appointed, of the whole or any part of the assets of the Chargor (as applicable); or
- (l) the Borrower or the Chargor is deemed unable to pay its debts as they fall due within the meaning of section 123 of the Insolvency Act 1986 (if a body corporate) or section 268 of the Insolvency Act 1986 (if an individual); or
- (m) a proposal is made for a composition in satisfaction of the Chargor's debts or a scheme of arrangement of the Chargor's affairs, including a voluntary arrangement within either of the meanings given in Part I or Part VIII of the Insolvency Act 1986 (as applicable); or
- (n) any analogous steps or proceedings are taken in respect of, by or against the Chargor in any other jurisdiction;

"Facility Agreement" means all and any loan agreements, financing agreements, facility letters, lease or hire purchase agreements or any other documents entered into between (1) the Chargor and (2) the Chargee which give rise to the Secured Obligations;

"Finance Document" means any Facility Agreement, any Security Interest (including, this Deed) executed by the Chargor or any of its Subsidiaries pursuant to any Facility Agreement and any other documents designated as such by the Chargee or pursuant to any Facility Agreement;

"Hazardous Substance" means any radioactive emissions and any natural or artificial substance (whether in solid or liquid form or in the form of a gas or vapour and whether alone or in combination with any other substance) capable of causing harm to man or any other living organism or damaging:

- (a) the environment (including all gases, air, water vapour, waters (including ground and surface water), soil (surface and sub-surface), flora, fauna and all other natural resources); or
- (b) public health or welfare,

including any controlled, special, hazardous, toxic, radioactive or dangerous waste;

"Party" means a party to this Deed; _____

"Planning Acts" means (a) the Town and Country Planning Act 1990, (b) the Planning (Listed Buildings and Conservation Areas) Act 1990, (c) the Planning (Hazardous Substances) Act 1990, (d) the Planning (Consequential Provisions) Act 1990, (e) the Planning and Compensation Act 1991, (f) any regulations made pursuant to any of the foregoing and (g) any other legislation of a similar nature;

"Premises" means all buildings and erections included in the definition of **"Property"**;

"Property" means the property specified in the schedule (*The Property*) and, where the context so admits, includes:

- (a) all buildings, erections, fixtures (including trade fixtures) and fixed plant and machinery at any time thereon;
- (b) all easements, rights and agreements in respect thereof; and
- (c) the benefit of all covenants given in respect thereof;

"Receiver" means any receiver, receiver and manager or administrative receiver of the whole or any part of the Property appointed by the Chargee under this Deed;

"Register of Title" means the register of title for the Property as held by the Land Registry;

"Secured Obligations" means all or any money and liabilities which shall from time to time (and whether on or at any time after demand) be due, owing or incurred in whatsoever manner to the Chargee by the Chargor (including under any Finance Document), whether actually or contingently, solely or jointly and whether as principal or surety (or guarantor or cautioner), including any money and liabilities of the Chargor to a third party which have been assigned or novated to or otherwise vested in the Chargee and including interest, discount, commission and other lawful charges or expenses which the Chargee may in the course of its business charge or incur in respect of any of those matters or for keeping the Chargor's account, and so that interest shall be computed and compounded according to the usual rates and practice of the Chargee (or as otherwise agreed in writing) after as well as before any demand made or judgment or decree obtained under or in relation to this Deed;

"Security" means the Security Interests created or evidenced by or pursuant to this Deed;

"Security Assets" means all the assets (including the Property) charged by the Chargor to the Chargee pursuant to clause 3 (*Grant of Security*) (each a **"Security Asset"**);

"Security Interest" means any mortgage, pledge, lien, charge, assignment by way of security, hypothecation, security interest, title retention, preferential right or trust arrangement or any other security agreement or arrangement having the effect of security;

"Security Period" means the period beginning on the date of this Deed and ending on the date on which all the Secured Obligations have been unconditionally and irrevocably paid and discharged in full and the Chargee has no further commitment, obligation or liability in respect of the Chargor;

"Subsidiary" means a subsidiary within the meaning of section 1159 of the Companies Act 2006; and

"VAT" means value added tax as provided for in the Value Added Tax Act 1994 and any other tax of a similar nature.

1.2. Interpretation

- (a) Unless a contrary indication appears, any reference in this Deed to:
 - (i) the **"Chargor"**, the **"Chargee"** or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees;
 - (ii) **"this Deed"**, the **"Facility Agreement"**, any other **"Finance Document"** or any other agreement or instrument shall be construed as a reference to this Deed, the Facility Agreement, such other Finance Document or such other agreement or instrument as amended, supplemented, extended, restated, novated and/or replaced in any manner from time to time (however fundamentally and even if any of the same increases the obligations of the Chargor or provides for further advances);
 - (iii) **"including"** or **"includes"** means including or includes without limitation;
 - (iv) **"Secured Obligations"** includes obligations and liabilities which would be treated as such but for on the liquidation, administration, dissolution of or similar event affecting the Chargor or otherwise (without limitation);
 - (v) a provision of law is a reference to that provision as amended or re-enacted; and
 - (vi) the singular includes the plural and vice versa.
- (b) References to clauses and the schedule are to be construed, unless otherwise stated, as references to clauses and the schedule of this Deed and references to this Deed include its schedule.
- (c) Clause and schedule headings are for convenience only and shall not affect the construction of this Deed.
- (d) Each undertaking of the Chargor (other than a payment obligation) contained in this Deed must be complied with at all times during the Security Period and is given by the Chargor in favour of the Chargee.
- (e) The terms of any other document in relation to the Secured Obligations and of any side letters between any of the parties thereto in relation to any Finance Document are incorporated in this Deed to the extent required to ensure that any disposition of the Property contained in this Deed is a valid disposition in accordance with section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.
- (f) The Parties hereto intend that this document shall take effect as a deed notwithstanding the fact that a Party may only execute this document under hand.

- (g) If the Chargee reasonably considers that an amount paid by the Chargor to it is capable of being avoided or otherwise set aside on the liquidation, administration, dissolution of or similar event affecting the Chargor or otherwise (without limitation), then that amount shall not be considered to have been irrevocably paid for the purposes of this Deed.
- (h) Where the Chargor consists of two or more parties:
 - (i) such expression shall in this Deed mean and include each such party individually and all such parties jointly (as the case may require);
 - (ii) all covenants, charges, agreements and undertakings expressed or implied on the part of the Chargor in this Deed shall be deemed to be joint and several covenants, charges, agreements, and undertakings by such parties;
 - (iii) each shall be bound even if any other of them intended or expressed to be bound by this Deed shall not be so bound; and
 - (iv) the Chargee may release or discharge any one or more of them from all or any liability or obligation under this Deed or any Finance Document or may make any arrangement or composition with any such person without thereby releasing any other or others of them or otherwise prejudicing any of its rights under this Deed or any Finance Document or otherwise.

1.3. Third party rights

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

2. COVENANT TO PAY

2.1. Covenant to pay

The Chargor covenants in favour of the Chargee that it will pay, perform and discharge the Secured Obligations from time to time when they become due.

2.2. Default interest

- (a) Any amount which is not paid under this Deed when due shall bear interest (both before and after judgment and payable on demand) from the due date until the date on which such amount is unconditionally and irrevocably paid and discharged in full on a daily basis at the Default Rate from time to time.
- (b) Default interest will accrue from day to day on a year of 365 days and will be compounded at such intervals as the Chargee considers are appropriate.

3. GRANT OF SECURITY

The Chargor, with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994 and as a continuing security for payment of the Secured Obligations, charges and agrees to charge in favour of the Chargee all of its present and future right, title and interest in or to the following assets:

- (a) by way of first legal mortgage, the Property; and
- (b) by way of fixed charge:
 - (i) all proceeds of sale of the whole or any part of the Property; and
 - (ii) all fittings at any time on the Property.
- (c) by way of floating charge all moveable plant, machinery, implements, utensils, furniture and equipment now or from time to time placed on or used in or upon the Property and the benefit of all licences, contracts and warranties in connection with the same.

4. CONVERSION OF FLOATING CHARGE

4.1. Conversion by notice

The Chargee may, by written notice to the Chargor, convert the floating charge created under this Deed into a fixed charge as regards all or any of the assets of the Chargor specified in the notice if:

- (a) an Event of Default has occurred; or
- (b) the Chargee considers any such assets to be in danger of being seized or sold under any form of distress, attachment, execution or other legal process or to be otherwise in jeopardy.

4.2. Small companies

The floating charge created under this Deed by the Chargor shall not convert into a fixed charge solely by reason of a moratorium being obtained under the Insolvency Act 2000 (or anything done with a view to obtaining such a moratorium) in respect of the Chargor.

4.3. Automatic conversion

The floating charge created under this Deed shall (in addition to the circumstances in which the same will occur under general law) automatically convert into a fixed charge:

- (a) in relation to any asset of the Chargor which is subject to a floating charge if:
 - (i) the Chargor creates (or attempts or purports to create) any Security Interest on or over the relevant asset without the prior written consent of the Chargee; or
 - (ii) the Chargor creates (or attempts or purports to create) any Security Interest on or over the relevant asset without the prior written consent of the Chargee; or
- (b) over all assets of the Chargor which are subject to a floating charge if an administrator is appointed in respect of the Chargor or the Chargee receives notice of intention to appoint such an administrator (as contemplated by the Insolvency Act 1986).

4.4. Partial conversion

The giving of a notice by the Chargee pursuant to clause 4.1 (*Conversion by notice*) in relation to any class of assets of the Chargor shall not be construed as a waiver or abandonment of the rights of the Chargee to serve similar notices in respect of any other class of assets or any other right of the Chargee.

5. CONTINUING SECURITY

5.1. Continuing security

The Security is continuing and will extend to the ultimate balance of the Secured Obligations regardless of any intermediate payment, performance or discharge in whole or in part. This Deed shall remain in full force and effect as a continuing security for the duration of the Security Period.

5.2. Additional and separate security

This Deed is in addition to, without prejudice to, and shall not merge with, any other right, remedy, guarantee or Security Interest which the Chargee may at any time hold for any of the Secured Obligations.

5.3. Right to enforce

This Deed may be enforced against the Chargor without the Chargee first having recourse to any other right, remedy, guarantee or Security Interest held by or available to it.

6. LIABILITY OF CHARGOR RELATING TO SECURITY

Notwithstanding anything contained in this Deed or implied to the contrary, the Chargor remains liable to observe and perform all conditions and obligations assumed by it in relation to the Security. The Chargee is under no obligation to perform or fulfil any such condition or obligation or to make any payment in respect of any such condition or obligation.

7. REPRESENTATIONS

7.1. General

The Chargor makes the representations and warranties set out in this clause 6 to the Chargee on the date of this Deed.

7.2. Status

The Chargor is a company duly incorporated and validly existing and has full power, authority and legal right to own its property and assets and to carry on its business as such business is now being conducted.

7.3. Power and authority

The Chargor has all legal power and authority to enter into this Deed and perform its obligations under this Deed and all action (including any corporate and regulatory action) required to authorise the execution and delivery of this Deed and the performance of its obligations under this Deed has been duly taken.

7.4. Non-conflict with laws

The entry into and performance of this Deed and the transactions contemplated by this Deed do not and will not conflict with or result in a breach of:

- (a) any law, judgment or regulation or any official or judicial order;
- (b) the constitutional documents of the Chargor; or
- (c) any agreement or document to which the Chargor is a party or which is binding upon it or any of its assets or revenues, nor cause any limitation placed on it or the powers of its directors to be exceeded or result in the creation or imposition of any Security Interest on any of its assets pursuant to the provisions of any such agreement or document.

7.5. Legal validity

This Deed constitutes the legal, valid and binding obligations of the Chargor enforceable in accordance with its terms.

7.6. No consents

Save for the registration of this Deed (or as may have been notified and agreed by the Chargee in writing) prior to the date of this Deed, no consent of, giving of notice to, or registration with, or taking of any other action in respect of, any Authority or agency in any relevant jurisdiction or any shareholders or creditors of the Chargor is required for or in connection with the execution, validity, delivery and admissibility in evidence in any proceedings of this Deed, or the carrying out by the Chargor of any of the transactions contemplated hereby.

7.7. No Security Interests

The Property and each other Security Asset is free from any Security Interest other than as created by this Deed.

7.8. No avoidance

This Deed creates the Security Interests which it purports to create and is not liable to be avoided or otherwise set aside on the liquidation, administration, dissolution of or similar event affecting the Chargor or otherwise (without limitation).

7.9. Ownership of Security Assets

The Chargor is the sole legal and beneficial owner of the Property, the Premises and all other Security Assets.

7.10. No disposal

The Chargor has not sold or agreed to sell or otherwise dispose of the whole or any part of the Security Assets.

7.11. No proceedings pending or threatened

No litigation, arbitration or administrative proceeding has currently been started or threatened in relation to the Property or any other Security Assets.

7.12. Information

All information supplied to the Chargee by or on behalf of the Chargor in connection with the Security Assets or the Chargor are true, complete and accurate in all material respects.

7.13. Environment

- (a) The Chargor has obtained all requisite Environmental Permits, and any such Environmental Permits are, and will remain, in full force and effect.
- (b) The Chargor is, and will at all times be, in compliance in all material respects with all Environmental Permits and all other applicable Environmental Laws applicable to the Security Assets.
- (c) The Chargor is not aware of any Environmental Claim affecting the Property or any other Security Asset or any event or action by itself or any other person which could give rise to a breach of any Environmental Law with respect to any Security Asset.

7.14. Overriding interests

There is no person in occupation of the Property who has any interest in such property whether pursuant to Section 2 of the Matrimonial Homes Act 1983, the Land Registration Act 2002 or otherwise (save for the Chargor).

7.15. Occupational leases

To the extent that the Property or any part of it is subject to any lease or tenancy, such lease or tenancy has been disclosed in writing to the Chargee and is binding and enforceable and the details set out therein are true and accurate.

7.16. Repetition

The representations and warranties in this clause 7 (*Representations*) shall be deemed to be repeated by the Chargor through the continuance of this Deed as if made, with reference to the facts and circumstances existing from time to time.

8. UNDERTAKINGS BY THE CHARGOR

8.1. Restriction on dealings

The Chargor shall not do nor agree to do any of the following without the prior written consent of the Chargee:

- (a) create or permit to subsist any Security Interest over the Security Assets other than as created by this Deed; or
- (b) sell, transfer, lease, lend or otherwise dispose of or part with possession of (whether by a single transaction or a number of transactions and whether related or not), the whole or any part of its interest in the Property or any other Security Asset.

8.2. Notices

The Chargor shall notify the Chargee within 14 days of receipt of every material notice, order, application, requirement or proposal given or made in relation to the Property by any competent Authority, and (if required by the Chargee and at the Chargor's sole cost and expense) immediately provide it with a copy of the same and either:

- (a) comply with such notice, order, application, requirement or proposal; or

- (b) make such objections to the same as the Chargee may require or approve.

8.3. Compliance with obligations and laws

The Chargor shall:

- (a) duly and punctually pay all rates, rents, taxes, and other outgoings owed by it in respect of the Property or by any owner or occupier or the whole of any part of the Property;
- (b) comply with all obligations in relation to the Property under any present or future law, regulation, order or instrument or under any bye-laws, regulations or requirements of any competent Authority or other approvals, licences or consents;
- (c) comply with the provisions of the Planning Acts and any conditions attached to any consent under the Planning Acts in relation to the Property;
- (d) comply with all covenants and obligations affecting the Property (or its manner of use) and not waive, release or vary any restrictive covenants or obligations affecting the Property;
- (e) obtain and keep in full force and effect all requisite Environmental Permits and at all times comply, and procure that any other occupier or user of the Property complies, in all material respects with those Environmental Permits and all other applicable Environmental Laws;
- (f) promptly on becoming aware of any Environmental Claim in relation to the Property or any other Security Asset (whether made or threatened to be made against the Chargor, any occupier or any other person) or any Environmental Permit being issued by any Authority which is reasonably likely to in the opinion of the Chargee have a material adverse effect on (A) the financial condition of the Chargor, (B) the ability of the Chargor to perform its duties, obligations and liabilities under any Finance Document or (C) the value or marketability of the Security Assets;
- (g) provide the Chargee with all information it may reasonably request in relation to the Security Assets; and
- (h) not do, cause or permit to be done anything which may in any way depreciate, jeopardise or otherwise prejudice the value or marketability of any Security Asset (or make any omission which has such an effect).

8.4. No restrictive contracts

The Chargor shall not, except with the prior written consent of the Chargee:

- (a) enter into any onerous or restrictive obligation;
- (b) grant, create or permit to be acquired any easement;
- (c) permit or agree to any variation of any rights,

in each case, affecting any part of the Property or the other Security Assets.

8.5. Deposit of title documents

The Chargor shall deposit with the Chargee:

- (a) all deeds, documents of title and any lease documents relating to the Property; and
- (b) all local land charges and Land Registry search certificates and similar documents received by or on behalf of the Chargor,

each of which the Chargee may hold throughout the Security Period.

8.6. Repair

The Chargor shall:

- (a) maintain the Property in a good state of repair;
- (b) maintain all plant, machinery, fixtures, fittings and other equipment for the time being owned by it and which are in or upon the Premises or elsewhere on the Property in a good state of repair and good working order and condition and shall, immediately on request by the Chargee, affix to any such item (in a prominent position) a durable nameplate containing notice of this Deed (in any form required by the Chargee); and
- (c) not sever, unfix or remove any of such plant, machinery, fixtures, fittings or other equipment on the Property except for the purposes of effecting any necessary repairs or of replacing the same with new and improved models.

8.7. No leasing

The Chargor shall not, except with the prior written consent of the Chargee, confer on any person:

- (a) any lease or tenancy of any of the Property or accept a surrender of any lease or tenancy (whether independently or under any statutory power);
- (b) any right or licence to occupy any land or Premises forming part of the Property; or
- (c) any licence to assign or sub-let any part of the Property.

8.8. No development

The Chargor shall not without the prior written consent of the Chargee:

- (a) make any alteration to, or change the use of, the Property or any Premises;
- (b) make any application for consent under the Planning Acts or implement any planning commission;
- (c) carry out any development within the meaning of the Planning Acts in or upon any part of the Property and (where the Chargee's consent is granted to such development) without first obtaining such permissions as may be required under or by virtue of the Planning Acts and, in the case of development involving a substantial change in the structure of, or a change of use of, any part of the Property; or
- (d) enter into, or agree to enter into, any agreement in respect of the Property or Premises under Section 106 of the Town and Country Planning Act 1990 (*Agreement regulating development or use of land*), Section 33 of the Local Government (Miscellaneous Provisions) Act 1982 (*Enforceability by local authorities of certain covenants relating to land*), Section 38 of the Highways Act 1980 (*Power of highway authorities to adopt by agreement*), Section 278 of the Highways Act 1980 (*Contributions towards highway works*) or Section 111 of the Local Government Act 1971 (*Subsidiary powers of local authorities*) or any other similar act.

8.9. Occupational leases

Where the Property or any part of it is subject to any lease or tenancy:

- (a) the Chargor shall perform, observe and enforce all the covenants, obligations and other matters on its part as landlord contained in such lease or tenancy;
- (b) the Chargor shall manage the Property and any person occupying the whole or any part of the Property in accordance with the principles of good estate management and in any manner which the Chargee may require; and
- (c) the Chargor shall not, without the prior written consent of the Chargee:
 - (i) waive, release or amend or vary the terms of any such lease or tenancy;
 - (ii) exercise any option or power to break, terminate, renew, extend any such lease or tenancy;
 - (iii) agree any rent review of such lease or tenancy;
 - (iv) grant any licence or give any consent where the consent of the landlord is required in any such lease or tenancy nor agree to the assignment of any such lease or tenancy; or
 - (v) accept a surrender of any such lease or tenancy; and
- (d) the Chargor shall serve on any former tenant a notice under section 17(2) of the Landlord and Tenant (Covenants) Act 1995 or on any guarantor of any such former tenant a notice under that section 17(3) of that Act promptly (and in any event within the timescales contained in that Act).

8.10. Leasehold Property (Chargor as tenant)

If the Chargor holds the Property or any part of it as tenant or lessee, the Chargor shall:

- (a) not do nor permit to be done anything as a result of which any lease may be liable to forfeiture or otherwise be determined;
- (b) not surrender or agree to surrender any such lease;
- (c) pay the rents reserved by, and perform and observe all the covenants and conditions of the lessee contained in, the lease;
- (d) enforce against the landlord the covenants given by the landlord in the lease;
- (e) not amend or waive or vary the terms of such lease and not agree to any increase in rent payable under the lease without the prior written consent of the Chargee; and
- (f) immediately notify the Chargee of any event or circumstance which may lead to the lease being forfeit or subject to determination.

8.11. Overriding Interest

The Chargor shall not without the prior written consent of the Chargee permit any person to be registered as proprietor of the Property or any part thereof or any interest therein under the Law of Property Act 1925 or create or permit to subsist any overriding interest affecting the Property under the Law of Property Act 1925.

8.12. Compulsory Purchase

The Chargor shall:

- (a) not consent to, or enter into, any negotiations with any Authority in relation to the acquisition of the whole or any part of the Security Assets (without the prior written consent of the Chargee) and where required by the Chargee, permit the Chargee to enter into such negotiations or give such consent on the Chargor's behalf; and
- (b) upon receipt of any notice from any Authority in relation to the acquisition (or proposed acquisition) of the whole or any part of the Security Assets, notify the Chargee and not (without the prior consent of the Chargee) omit or suffer to be done anything which may be in breach of any condition contained in any such notice.

8.13. Insurance

- (a) The Chargor shall keep the Property, the Premises and all fixtures and fittings from time to time upon the Property insured at its own expense with insurers previously approved by the Chargee in writing.
- (b) Such insurance shall:
 - (i) provide cover against (A) loss or damage by risks normally covered by a comprehensive insurance policy (including terrorism, fire, civil commotion, explosion, aircraft, flood, storm, tempest, burst pipes, public liability) and (B) all other risks which the Chargee may from time to time specify;
 - (ii) include an entitlement to receive the full replacement value or reinstatement cost from time to time of the relevant Security Assets (including, where applicable, any VAT chargeable on the cost of such reinstatement, any architects', surveyors' and other professional fees, the cost of demolition and site clearance, the costs of shoring up and three years' loss of rent or such greater period as the Chargee may require, in each such case subject to automatic index adjustment);
 - (iii) be either in the joint names of the Chargor and the Chargee (on a composite basis) or (as the Chargee may in any case require) have the interest of the Chargee as mortgagee noted on the policies with effect from the date of this Deed; and
 - (iv) contain a first loss payee clause and a standard mortgagee clause whereby such insurance shall not be invalidated, vitiated or avoided as against a mortgagee in the event of any misrepresentation, act, neglect, omission or failure to disclose on the part of the Chargor or any tenant, lessee or licensee of any of the Security Assets.
- (c) The Chargor shall:
 - (i) promptly pay all premiums relating to such insurances; and
 - (ii) supply to the Chargee on request copies of each such policy of insurance together with the current premium receipts relating to it.
- (d) The Chargor shall ensure that such insurance is on such terms and contains such clauses as the Chargee may reasonably require and in particular (but without limitation) shall provide that the relevant insurer will inform the Chargee of any:
 - (i) cancellation, alteration, termination or expiry of any such insurance at least 30 days before it is due to take effect;

- (ii) default in the payment of any premium or failure to renew any such insurance at least 30 days before the renewal date; and
 - (iii) act, omission or event of which the insurer has knowledge which may make any such insurance void, voidable or unenforceable (in whole or in part).
- (e) The Chargor shall not do or permit to be done or omit to do anything which may render any insurance required to be maintained pursuant to this clause 8.13 void, voidable or unenforceable (in whole or in part) and will not amend or terminate any such insurance.
- (f) If at any time the Chargor defaults in effecting or keeping up the insurance required to be maintained pursuant to this clause 8.13 or in producing any insurance policy or receipt to the Chargee on demand, the Chargee may (without prejudice to its rights under clause 9 (*Power to remedy*)) take out or renew such policies of insurance in any sum which the Chargee may reasonably think expedient. All monies which are expended by the Chargee in doing so shall be deemed to be properly paid by the Chargee and shall be reimbursed by the Chargor on demand, together with interest at the Default Rate from the date on which those monies were expended by the Chargee (both before and after judgment) and otherwise in accordance with clause 2.2 (*Default interest*).
- (g) In relation to the proceeds of the insurance required to be maintained pursuant to this clause 8.13 and at all times regardless of whether the Security has become enforceable:
- (i) the Chargor shall notify the Chargee if any claim arises or may be made under any such insurance;
 - (ii) the Chargee shall have the sole right to settle or sue for any such claim and give any discharge for insurance monies and the Chargor shall not agree to any settlement of any such claim without the prior written consent of the Chargee;
 - (iii) all claims and monies received or receivable under any such insurance shall (subject to the rights or claims of any lessor or landlord of any part of the Security Assets and subject to the Chargor's obligations to its tenants under any lease or tenancy of any part of the Security Assets) be applied in repairing, replacing, restoring or rebuilding the Security Assets damaged or destroyed or if the Chargee requires (in its sole and absolute discretion) in permanent reduction of the Secured Obligations in such order as the Chargee sees fit; and
 - (iv) to the extent that any such insurance proceeds are paid to the Chargor directly, the Chargor shall hold such proceeds on trust for the Chargee and the Chargor shall apply such proceeds in accordance with the instructions of the Chargee, and the perpetuity period applicable to such trust shall be the period of 125 years from the date of this Deed.

8.14. Information

The Chargor shall provide the Chargee with all information and documents which it may reasonably request in relation to the Security Assets.

8.15. Inspection

The Chargor shall permit and shall procure that any occupier or tenant shall permit, the Chargee and any person nominated by it at reasonable times and with reasonable notice to enter any part of the Property and Premises and view the state of it or to otherwise exercise any of its rights under this Deed.

8.16. Investigation of title

The Chargor shall grant the Chargee on request all reasonable facilities within the power of the Chargor to enable the Chargee (or its lawyers) to carry out investigations of title to the Property and to make all enquiries in relation to any part of the Property or any other of the Security Assets which a prudent mortgagee might carry out. Those investigations shall be carried out at the expense of the Chargor and the Chargor shall co-operate and comply with all reasonable requests of the Chargee relating to the Property.

8.17. Report on Title

Promptly upon demand by the Chargee, the Chargor shall at its own expense provide the Chargee with a report as to title of the Property (concerning those items which may properly be sought to be covered by a prudent mortgagee in a lawyer's report of this nature).

8.18. Not prejudice

The Chargor shall not do, cause or permit to be done anything which may in any way depreciate, jeopardise or otherwise prejudice the value or marketability of the Property (or make any omission which has such an effect).

9. POWER TO REMEDY

9.1. Power to remedy

If at any time the Chargor does not comply with:

- (a) any of its obligations under this Deed; or
- (b) any contractual, statutory, common law or other legal obligation affecting the Property,

the Chargee (without prejudice to any other rights arising as a consequence of such non-compliance) shall be entitled (but not bound) to rectify that default. The Chargor irrevocably authorises the Chargee and its employees and agents by way of security to do all such things which are necessary or desirable to rectify that default (including entering the Property, complying with or objecting to any notice served on the Chargor in respect of the Property or taking any action which the Chargee may consider necessary or desirable to prevent or remedy any breach of any such term or to comply with or object to any such notice).

9.2. Mortgagee in possession

The exercise of the powers of the Chargee under this clause 8 shall not render it liable as a mortgagee in possession.

9.3. Monies expended

The Chargor shall pay to the Chargee on demand any monies which are expended by the Chargee in exercising its powers under this clause 8, together with interest at the Default Rate from the date on which those monies were expended by the Chargee (both before and after judgment) and otherwise in accordance with clause 2.2 (*Default interest*).

10. POWERS OF LEASING

The statutory powers of leasing conferred on the Chargee are extended so as to authorise the Chargee to lease, make agreements for leases, accept surrenders of leases and grant options as the Chargee shall think fit and without the need to comply with section 99 or 100 of the Act.

11. WHEN SECURITY BECOMES ENFORCEABLE

11.1. When enforceable

The Security shall become immediately enforceable upon the occurrence of an Event of Default and shall remain enforceable at any time thereafter.

11.2. Statutory powers

The power of sale and other powers conferred by section 101 of the Act (as amended or extended by this Deed) shall be immediately exercisable upon and at any time after the occurrence of any Event of Default.

11.3. Enforcement

After the Security has become enforceable, the Chargee may in its absolute discretion enforce all or any part of the Security in such manner as it sees fit.

12. ENFORCEMENT OF SECURITY

12.1. General

For the purposes of all rights and powers implied by statute, the Secured Obligations are deemed to have become due and payable on the date of this Deed. Sections 93 and 103 of the Act shall not apply to the Security.

12.2. Powers of Chargee

At any time after the Security becomes enforceable (or if requested by the Chargor by written notice at any time), the Chargee may without further notice (unless required by law):

- (a) appoint any person or persons to be a receiver, receiver and manager or administrative receiver of all or any part of the Property and/or of the income of the Property; and/or
- (b) appoint or apply for the appointment of any person who is appropriately qualified as administrator of the Chargor; and/or
- (c) exercise all or any of the powers conferred on mortgagees by the Act (as amended or extended by this Deed) and/or all or any of the powers which are conferred by this Deed on a Receiver, in each case without first appointing a Receiver or notwithstanding the appointment of any Receiver.

12.3. Redemption of prior mortgages

At any time after the Security has become enforceable, the Chargee may:

- (a) redeem any prior Security Interest against the Property; and/or
- (b) procure the transfer of that Security Interest to itself; and/or
- (c) settle and pass the accounts of the holder of any prior Security Interest and any accounts so settled and passed shall be conclusive and binding on the Chargor.

All principal, interest, costs, charges and expenses of and incidental to any such redemption and/or transfer shall be paid by the Chargor to the Chargee on demand.

12.4. Privileges

Each Receiver and the Chargee is entitled to all the rights, powers, privileges and immunities conferred by the Act on mortgagees and receivers when such receivers have been duly appointed under the Act, except that section 103 of the Act does not apply.

12.5. No liability

- (a) Neither the Chargee nor any Receiver shall be liable (i) in respect of all or any part of the Security Assets or (ii) for any loss or damage which arises out of the exercise or the attempted or purported exercise of, or the failure to exercise any of, its or his respective powers (unless such loss or damage is caused by its or his gross negligence or wilful misconduct).
- (b) Without prejudice to the generality of clause 11.5(a), neither the Chargee nor any Receiver shall be liable, by reason of entering into possession of the Property, to account as mortgagee in possession or for any loss on realisation or for any default or omission for which a mortgagee in possession might be liable.

12.6. Protection of third parties

No person (including a purchaser) dealing with the Chargee, any Receiver or any Delegate will be concerned to enquire:

- (a) whether the Secured Obligations have become payable; or
- (b) whether any power which the Chargee or the Receiver is purporting to exercise has become exercisable; or
- (c) whether any monies remain owing to the Chargee (including, under any Finance Document); or
- (d) how any money paid to the Chargee or to the Receiver is to be applied.

13. RECEIVER

13.1. Removal and replacement

The Chargee may from time to time remove any Receiver appointed by it (subject, in the case of an administrative receivership, to section 45 of the Insolvency Act 1986) and, whenever it may deem appropriate, may appoint a new Receiver in the place of any Receiver whose appointment has terminated.

13.2. Multiple Receivers

If at any time there is more than one Receiver of all or any part of the Security Assets and/or the income of the Security Assets, each Receiver shall have power to act individually (unless otherwise stated in the appointment document).

13.3. Remuneration

Any Receiver shall be entitled to remuneration for his services at a rate to be fixed by agreement between him and the Chargee (or, failing such agreement, to be fixed by the Chargee).

13.4. Payment by Receiver

Only monies actually paid by a Receiver to the Chargee in relation to the Secured Obligations shall be capable of being applied by the Chargee in discharge of the Secured Obligations.

13.5. Agent of Chargor

Any Receiver shall be the agent of the Chargor. The Chargor shall (subject to the Companies Act 2006) be solely responsible for his acts and defaults and for the payment of his remuneration. The Chargee shall incur no liability (either to the Chargor or to any other person) by reason of the appointment of a Receiver or for any other reason.

14. POWERS OF RECEIVER

14.1. General powers

Any Receiver shall have:

- (a) all the powers which are conferred on the Chargee by clause 12.2 (*Powers of Chargee*);
- (b) all the powers which are conferred by the Act on mortgagees in possession and receivers appointed under the Act;
- (c) (whether or not he is an administrative receiver), all the powers which are listed in schedule 1 of the Insolvency Act 1986; and
- (d) all powers which are conferred by any other law conferring power on receivers.

14.2. Additional powers

In addition to the powers referred to in clause 14.1 (*General powers*), a Receiver shall have the following powers:

- (a) to take possession of, collect and get in all or any part of the Security Assets and/or income in respect of which he was appointed;
- (b) to manage the Property as he thinks fit and if applicable to provide facilities and services to tenants;
- (c) to redeem any Security Interest and to borrow or raise any money and secure the payment of any money in priority to the Secured Obligations for the purpose of the exercise of his powers and/or defraying any costs or liabilities incurred by him in such exercise;
- (d) to sell or concur in selling, leasing or otherwise disposing of all or any part of the Security Assets in respect of which he was appointed without the need to observe the restrictions imposed by section 103 of the Act. Fixtures may be severed and sold separately from the Property containing them, without the consent of the Chargor. The consideration for any such transaction may consist of cash, debentures or other obligations, shares, stock or other valuable consideration (and the amount of such consideration may be dependent upon profit or turnover or be determined by a third party). Any such consideration may be payable in a lump sum or by instalments spread over such period as he thinks fit;
- (e) to alter, improve, develop, complete, construct, modify, refurbish or repair any part of the Property or Premises and to complete or undertake or concur in the completion or undertaking (with or without modification) of any project in which the Chargor was concerned or interested before his appointment (being a project for the alteration, improvement, development, completion, construction, modification, refurbishment or repair of any part of the Property or Premises);
- (f) to carry out any sale, lease or other disposal of all or any part of the Security Assets by conveying, transferring, assigning or leasing the same in the name of the Chargor and, for that purpose, to enter into covenants and other contractual obligations in the name of, and so as to bind, the Chargor;

- (g) to take any such proceedings (in the name of the Chargor or otherwise) as he shall think fit in respect of the Security Assets and/or income in respect of which he was appointed (including proceedings for recovery of rent or other monies in arrears at the date of his appointment);
- (h) to enter into or make any such agreement, arrangement or compromise as he shall think fit;
- (i) to insure, and to renew any insurances in respect of, the Security Assets as he shall think fit (or as the Chargee shall direct);
- (j) to conduct and complete all investigations, studies, sampling and testing and all remedial, removal and other actions whether required under Environmental Law or by the Chargee;
- (k) to appoint and employ such managers, officers and workmen and engage such professional advisers as he shall think fit (including, without prejudice to the generality of the foregoing power, to employ his partners and firm);
- (l) to form one or more Subsidiaries of the Chargor, and to transfer to any such Subsidiary all or any part of any Security Asset or arrange for any Subsidiary to trade or cease to trade as he shall think fit;
- (m) to operate any rent review clause in respect of the Property (or any part thereof) and to apply for any new or extended lease;
- (n) to give valid receipts for all monies and to do all such other things as may seem to him to be incidental or conducive to any other power vested in him or necessary or desirable for the realisation of any Security Asset;
- (o) to exercise in relation to the Security Assets (or any part of them) all such powers and rights as he would be capable of exercising if he were the absolute beneficial owner of the Security Assets; and
- (p) to use the name of the Chargor for any of the above purposes.

15. APPLICATION OF PROCEEDS

15.1. Application

All monies received by the Chargee or any Receiver under or in connection with this Deed or the Security Assets after the Security has become enforceable shall (subject to the rights and claims of any person having a security ranking in priority to the Security) be applied in the following order:

- (a) **first**, in satisfaction of, or provision for, all costs, charges and expenses incurred, and payments made by the Chargee or any Receiver or Delegate under or in connection with this Deed or the Property and of all remuneration due to the Receiver in connection with this Deed or the Property;
- (b) **secondly**, in or towards the satisfaction of the remaining Secured Obligations; and
- (c) **thirdly**, in payment of any surplus to the Chargor or other person entitled to it.

15.2. Contingencies

If the Security is enforced by the Chargee at a time when no amounts are due under any Finance Document (but at a time when amounts may become so due), the Chargee or a Receiver may pay the proceeds of any recoveries effected by it into a blocked suspense account.

16. SET-OFF

- (a) The Chargee may (but shall not be obliged to) set off any obligation which is due and payable by the Chargor and unpaid (whether under the Finance Documents or which has been assigned to the Chargee by the Chargor) against any obligation (whether or not matured) owed by the Chargee to the Chargor, regardless of the place of payment or currency of either obligation.
- (b) At any time after the Security has become enforceable (and in addition to its rights under clause 16(a)), the Chargee may (but shall not be obliged to) set-off any contingent liability owed by the Chargor under any Finance Document against any obligation (whether or not matured) owed by the Chargee to the Chargor, regardless of the place of payment or currency of either obligation.
- (c) If the obligations are in different currencies, the Chargee may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.
- (d) If either obligation is unliquidated or unascertained, the Chargee may set off in an amount estimated by it in good faith to be the amount of that obligation.

17. DELEGATION

Each of the Chargee and any Receiver may delegate, by power of attorney (or in any other manner) to any person, any right, power or discretion exercisable by them under this Deed upon any terms (including power to sub-delegate) which it may think fit. Neither the Chargee nor any Receiver shall be in any way liable or responsible to the Chargor for any loss or liability arising from any act, default, omission or misconduct on the part of any such Delegate.

18. FURTHER ASSURANCES

The Chargor shall, at its own expense, promptly take whatever action and execute all documents as the Chargee or a Receiver may require for:

- (a) creating, perfecting or protecting the Security Interests intended to be created by this Deed; and
- (b) facilitating the realisation of any Security Asset or the exercise of any right, power or discretion exercisable by the Chargee or any Receiver or any Delegate in respect of any Security Asset.

This includes:

- (i) the re-execution of this Deed or any Finance Document;
- (ii) the execution of any legal mortgage, charge, transfer, conveyance, assignment, licence, assignation or assurance of any property or any contracts, warranties or agreements, whether to the Chargee or to its nominee; and
- (iii) the giving of any notice, order or direction and the making of any filing or registration,

which, in any such case, the Chargee may think expedient.

19. POWER OF ATTORNEY

The Chargor, by way of security, irrevocably and severally appoints the Chargee, each Receiver and any Delegate to be its attorney to take any action which the Chargor is obliged to take under this Deed, including under clause 18 (*Further assurances*). The Chargor ratifies and confirms whatever any attorney does or purports to do pursuant to its appointment under this clause.

20. PAYMENTS

20.1. Payments

Subject to clause 20.2 (*Gross-up*), all payments to be made by the Chargor in respect of this Deed shall be made:

- (a) in immediately available funds to the credit of such account as the Chargee may designate; and
- (b) without (and free and clear of, and without any deduction for or on account of):
 - (i) any set-off or counterclaim; or
 - (ii) except to the extent compelled by law, any deduction or withholding for or on account of tax.

20.2. Gross-up

If the Chargor is compelled by law to make any deduction or withholding from any sum payable under this Deed to the Chargee, the sum so payable by the Chargor shall be increased so as to result in the receipt by the Chargee of a net amount equal to the full amount expressed to be payable under this Deed.

21. STAMP DUTY LAND TAX AND OTHER TAXES

The Chargor shall:

- (a) pay all present and future stamp, registration and similar taxes or charges which may be payable, or determined to be payable, in connection with the execution, delivery, performance or enforcement of this Deed or any judgment given in connection therewith; and
- (b) indemnify the Chargee and any Receiver on demand against any and all costs, losses or liabilities (including, without limitation, penalties) with respect to, or resulting from, its delay or omission to pay any such stamp, registration and similar taxes or charges.

22. COSTS AND EXPENSES

22.1. Transaction and amendment expenses

The Chargor shall promptly on demand pay to the Chargee the amount of all reasonable costs, charges and expenses (including legal fees, valuation, accountancy and consultancy fees (and any VAT or similar tax thereon)) incurred by the Chargee in connection with:

- (a) the negotiation, preparation, printing, execution, registration, perfection and completion of this Deed, the Security or any document referred to in this Deed; or
- (b) any actual or proposed amendment or extension of, or any waiver or consent under, this Deed.

22.2. Enforcement and preservation costs

The Chargor shall promptly on demand pay to the Chargee and any Receiver the amount of all costs, charges and expenses (including legal fees (and any VAT or similar tax thereon)) incurred by any of them in connection with the enforcement, exercise or preservation (or the attempted enforcement, exercise or preservation) of any of their respective rights under this Deed, any

Security Interest or any document referred to in this Deed (including all remuneration of the Receiver).

22.3. Default interest

Any amount demanded under clause 22.1 (*Transaction and amendment expenses*) or 22.1 (*Enforcement and preservation costs*) shall bear interest at the Default Rate (both before and after judgment) from the day on which those costs, charges or expenses were paid, incurred or charged by the relevant person and otherwise in accordance with clause 2.2 (*Default interest*).

23. CURRENCIES

23.1. Conversion

All monies received or held by the Chargee or any Receiver under this Deed may be converted from their existing currency into such other currency as the Chargee or the Receiver considers necessary or desirable to cover the obligations and liabilities comprised in the Secured Obligations in that other currency at the prevailing spot rate of exchange of the Chargee (as determined by the Chargee) at or around 11.00am on the date of such conversion. The Chargor shall indemnify the Chargee against all costs, charges and expenses incurred in relation to such conversion. Neither the Chargee nor any Receiver shall have any liability to the Chargor in respect of any loss resulting from any fluctuation in exchange rates after any such conversion.

23.2. Currency indemnity

No payment to the Chargee (whether under any judgment or court order or on the liquidation, administration, dissolution of or similar event affecting the Chargor or otherwise (without limitation)) shall discharge the obligation or liability of the Chargor in respect of which it was made, unless and until the Chargee shall have received payment in full in the currency in which the obligation or liability was incurred and, to the extent that the amount of any such payment shall on actual conversion into such currency fall short of such obligation or liability expressed in that currency, the Chargee shall have a further separate cause of action against the Chargor and shall be entitled to enforce the Security to recover the amount of the shortfall and such amount shall bear interest at the Default Rate in accordance with clause 2.2 (*Default interest*).

24. INDEMNITY

The Chargor shall indemnify the Chargee, any Receiver and any attorney, agent or other person appointed by the Chargee under this Deed and the Chargee's officers and employees (each an "**Indemnified Party**") on demand against any cost, loss, liability or expense (however arising) incurred by any Indemnified Party as a result of or in connection with:

- (a) anything done or omitted in the exercise or purported exercise of the powers contained in this Deed; or
- (b) the Security Assets or the use or occupation of any of them by any person (including any Environmental Claim); or
- (c) any breach by the Chargor of any of its obligations under this Deed.

25. MISCELLANEOUS

25.1. Appropriation and suspense account

- (a) The Chargee may apply all payments received in respect of the Secured Obligations in reduction of any part of the Secured Obligations as it thinks fit. Any such appropriation shall override any appropriation by the Chargor.

- (b) All monies received, recovered or realised by the Chargee under, or in connection with, this Deed may at the discretion of the Chargee be credited to a separate interest bearing suspense account for so long as the Chargee determines (with interest accruing thereon at such rate, if any, as the Chargee may determine for the account of the Chargor) without the Chargee having any obligation to apply such monies and interest or any part thereof in or towards the discharge of any of the Secured Obligations.

25.2. New accounts

If the Chargee receives, or is deemed to be affected by, notice, whether actual or constructive, of any subsequent Security Interest affecting any Security Asset and/or the proceeds of sale of any Security Asset, it may open a new account or accounts for the Chargor. If it does not open a new account, it shall nevertheless be treated as if it had done so at the time when it received or was deemed to have received such notice. As from that time all payments made to the Chargee will be credited or be treated as having been credited to the new account and will not operate to reduce any amount of the Secured Obligations.

25.3. Changes to the Parties

- (a) The Chargor may not assign or transfer any of its rights or obligations under this Deed.
- (b) The Chargee may assign or transfer all or any part of its rights under this Deed and may disclose to any potential assignee or transferee such information in relation to the Chargor and its Subsidiaries as the Chargee may see fit. The Chargor shall, immediately upon being requested to do so by the Chargee, enter into such documents as may be necessary or desirable to effect such assignment or transfer.

25.4. Tacking

This Deed secures advances already made and any further advances which may be made by the Chargee to the Borrower.

26. LAND REGISTRY

26.1. Articles of association

The Chargor certifies that the Security does not contravene any of the provisions of the articles of association of the Chargor.

26.2. Restriction on register

The Chargor shall apply to the Chief Land Registrar (and consents to such an application being made by or on behalf of the Chargee) for a restriction in the following terms to be entered on the Register of Title relating to any property registered at the Land Registry (or any unregistered land subject to first registration) and against which this Deed may be noted:

"No disposition of the registered estate by the proprietor of the registered estate is to be registered without a written consent signed by the proprietor for the time being of the charge dated [◆ 20 ◆] in favour of AFP Assets Limited referred to in the charges register or their conveyancer."

26.3. Exempt information

- (a) The Chargor:
- (i) authorises the Chargee to make any application which the Chargee deems appropriate for the designation of this Deed or any other Finance Document as an exempt information document under rule 136 of the Land Registration Rules 2003;

- (ii) shall use its best endeavours to assist with any such application made by or on behalf of the Chargee; and
 - (iii) shall notify the Chargee in writing as soon as it receives notice of any person's application under rule 137 of the Land Registration Rules 2003 for the disclosure of this Deed or any other Finance Document following its designation as an exempt information document.
- (b) The Chargor shall not make any applications under rule 138 of the Land Registration Rules 2003 for the removal of the designation of any such document as an exempt information document.

26.4. General provisions regarding LRA filings

- (a) The Chargor shall promptly make all applications to and filings with the Land Registry which are necessary or desirable under the Land Registration Rules 2003 to protect the Security.
- (b) The Chargor shall not, without the prior written consent of the Chargee, permit any person to be or become registered under the Land Registration Act 2002 as the proprietor of the Property or any other Security Asset who is not so registered under the Land Registration Act 2002 at the date of this Deed.

26.5. Waiver of defences

The obligations of the Chargor under this Deed and the Security Interest intended to be created by this Deed shall not be impaired by any forbearance, neglect, indulgence, extension or time, release, surrender or loss of securities, dealing, amendment or arrangement by the Chargee which would otherwise have reduced, released or prejudiced this Security or any surety liability of the Chargor (whether or not known to it).

27. NOTICES

27.1. Communications in writing

Any communication to be made under, or in connection with, this Deed shall be made in writing and, unless otherwise stated, may be made by email or letter.

27.2. Addresses

The address and email address (and the department or officer, if any, for whose attention the communication is to be made) (as applicable) of each Party for any communication or document to be made or delivered under or in connection with this Deed is:

- (a) in the case of the Chargor:

Address: [REDACTED]

Email: [REDACTED]

Attention: Andrew Freeland

and

- (b) in the case of the Chargee:

Address: Eighth Floor, 6 New Street Square, New Fetter Lane, London, EC4A 3AQ

Email: [REDACTED]

Attention: Finance

or any substitute address, email address or department or officer (as applicable) as the Chargor or the Chargee may notify to the other Party by not less than five Business Days' notice.

27.3. Delivery

- (a) Subject to clause 27.3(b), any communication or document made or delivered by one Party to another under, or in connection with, this Deed will only be effective:
 - (i) if by way of letter, when it has been left at the relevant address or five Business Days after being deposited in the post, postage prepaid, in an envelope addressed to it at that address; or
 - (ii) if by way of email, when received in legible form,and, if a particular department or officer is specified as part of its address details provided under clause 27.2 (*Addresses*), if addressed to that department or officer.
- (b) Any communication or document to be made or delivered to the Chargee will be effective only when actually received by the Chargee and then only if it is expressly marked for the attention of the department or officer identified with the signature of the Chargee below (or any substitute department or officer as the Chargee shall specify for this purpose).

28. AMENDMENTS AND WAIVERS

Any provision of this Deed may be amended only if the Chargee and the Chargor so agree in writing and any breach of this Deed may be waived before or after it occurs only if the Chargee so agrees in writing. A waiver given or consent granted by the Chargee under this Deed will be effective only if given in writing and then only in the instance and for the purpose for which it is given.

29. CALCULATIONS AND CERTIFICATES

A certificate of the Chargee or determination by the Chargee specifying the amount of any Secured Obligation due from the Borrower or the Chargor (including details of any relevant calculation thereof) shall be prima facie evidence of such amount against the Chargor in the absence of manifest error.

30. WAIVER, RIGHTS AND REMEDIES

No failure to exercise, nor any delay in exercising, on the part of the Chargee, 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 are cumulative and not exclusive of any rights or remedies provided by law.

31. PARTIAL INVALIDITY

All the provisions of this Deed are severable and distinct from one another and if at any time any provision is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of any of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

32. RELEASE

32.1. Release

Upon the expiry of the Security Period (but not otherwise) the Chargee shall, at the request and cost of the Chargor, take whatever action is necessary to release (without recourse or warranty) the Property and the Security Assets from the Security.

32.2. Reinstatement

Where any discharge (whether in respect of the obligations of the Chargor or any security for those obligations or otherwise) is made in whole or in part or any arrangement is made on the faith of any payment, security or other disposition which is avoided or must be restored on insolvency, on the liquidation, administration, dissolution of or similar event affecting the Chargor or otherwise (without limitation), the liability of the Chargor under this Deed shall continue as if the discharge or arrangement had not occurred. The Chargee may concede or compromise any claim that any payment, security or other disposition is liable to avoidance or restoration.

33. COUNTERPARTS

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

34. GOVERNING LAW

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

35. ENFORCEMENT

35.1. Jurisdiction of English courts

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute relating to the existence, validity or termination of this Deed or any non-contractual obligation arising out of or in connection with this Deed) (a "**Dispute**").
- (b) Each of the Parties hereto agrees that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.
- (c) Clauses 35.1(a) and 35.1(b) are for the benefit of the Chargee only. As a result, the Chargee shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Chargee may take concurrent proceedings in any number of jurisdictions.
- (d) The Chargor expressly agrees and consents to the provisions of this clause 35 and clause 34 (*Governing law*).

IN WITNESS of which this Deed has been duly executed by the Chargor as a deed and duly executed by the Chargee and has been delivered by the Chargor.

SCHEDULE: THE PROPERTY

Registered land

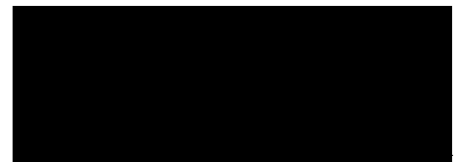
Address	Administrative area	Title number
ELMS BARN, ELMS ROAD, TOFT MONKS (NR34 0EJ)	NORFOLK, SOUTH NORFOLK	NK404056
LAND LYING TO THE WEST OF ELMS ROAD, TOFT MONKS, BECCLES	NORFOLK, SOUTH NORFOLK	NK432775
BARN COTTAGE AND MEADOW COTTAGE, ELMS ROAD, TOFT MONKS, BECCLES (NR34 0EJ)	NORFOLK, SOUTH NORFOLK	NK463967

EXECUTION PAGE

THE CHARGOR

Executed as a deed by
ELMS BARN LIMITED acting by:

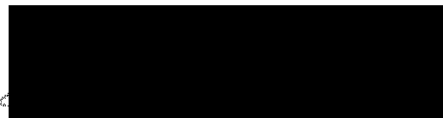
)
)
) Signature



Name

**ANDREW RICHARD
DOUGLAS FREELAND**

Witness signature



Witness name
(block capitals)

LUCKY CHAMBERS

Witness address

Birketts LLP
Kingfisher House,
1 Gilders Way,
Norwich,
NR3 1UB

THE CHARGE

Signed by **CHRISTOPH M. WIDMER** for and)
on behalf of **AFP ASSETS LIMITED:**)

Signature

