



Registration of a Charge

Company name: **CORNWALL RIVIERA LTD**

Company number: **10550812**



X8K6FWRD

Received for Electronic Filing: **12/12/2019**

Details of Charge

Date of creation: **11/12/2019**

Charge code: **1055 0812 0001**

Persons entitled: **EXETER FINANCE LIMITED**

Brief description: **THE FREEHOLD PROPERTY KNOWN AS LAND AT GRANGE FRUIT FARM, MAWGAN, HELSTON, TR12 6BE REGISTERED AT HM LAND REGISTRY WITH TITLE NUMBER CL340055**

Contains fixed 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: **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.**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 10550812

Charge code: 1055 0812 0001

The Registrar of Companies for England and Wales hereby certifies that a charge dated 11th December 2019 and created by CORNWALL RIVIERA LTD was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 12th December 2019 .

Given at Companies House, Cardiff on 13th December 2019

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 11 December 2019

Cornwall Riviera Ltd (as Chargor)

and

Exeter Finance Limited (as Lender)

Third Party Fixed Charge Over Land

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Deed

dated

11 DECEMBER 2019

Parties

- (1) **Cornwall Riviera Ltd** incorporated and registered in England and Wales with company number 10550812 whose registered office is at The Old Stable, New Street, Cornwall, TR11 3HX; (the **Chargor**); and
- (2) **Exeter Finance Limited** incorporated and registered in England and Wales with company number 08577273 whose registered office is at 3rd Floor, The Senate, Southernhay Gardens, Exeter, England, EX1 1UG (the **Lender**).

Introduction

- (A) The Lender has agreed to make loan facilities available to the Borrower in accordance with the terms of the Facility Agreement (as defined below).
- (B) The Chargor owns the Mortgaged Property.
- (C) It is a condition precedent to the granting of the loan facilities to the Borrower under the Facility Agreement that the Chargor enters into this Deed to provide security to the Lender for the purposes and on the terms as described below.
- (D) It is intended by the parties to this document that it will take effect as a deed.

Agreed terms

1 Definitions and interpretation

1.1 Definitions

In this Deed, unless the context otherwise requires:

Administrator has the meaning given to it by paragraph 1 of Schedule B1 to the Insolvency Act 1986 (incorporated by Schedule 16 to the Enterprise Act 2002);

Assigned Contracts means the agreements and deeds listed in Schedule 2;

Borrower means Hannah Louise St Ledger Brown of 35 Guildown Avenue, Guildford, GU2 4HA;

Certificate of Title means any report on or a certificate of title relating to the Mortgaged Property provided to the Lender by the Chargor (or on its behalf);

Collateral Rights means all rights, powers and remedies of the Lender provided by or pursuant to this Deed or by law;

Dangerous Substances means any substance or waste (as defined in the Environmental Protection Act 1990) which is capable of causing harm to man or any living organism supported by the Environment or damaging the Environment or public health or welfare;

Default Rate means the rate of interest calculated in accordance with the Facility Agreement;

Environment means the environment as defined in Section 1(2) of the Environmental Protection Act 1990;

Environmental Audit means a full risk assessment of the Security Assets to ascertain the nature and extent of any harm or detriment caused to, or the risk of any possible harm or detriment which may be caused to the Environment by any activity, including soil, air or water testing of the Security Assets and any other property;

Environmental Law means any applicable common or statutory law, regulation, standard or code having the force of law, any code of practice, circular, guidance note, judgment or decision of any court or tribunal relating to the protection of human health and safety, the workplace or the Environment;

Environmental Licence means a licence, permit, certificate of registration, consent, or approval, including any conditions which attach thereto, which relates to or affects the Security Assets and which is required by an Environmental Law;

Event of Default has the meaning given to it in the Facility Agreement;

Facility Agreement means the facility agreement entered into or around the date of this Mortgage between the Borrower and the Lender under which the Lender has agreed to make available certain loan facilities to the Borrower, such facilities being secured by this Deed;

Finance Documents means the Facility Agreement and other documents as defined in the Facility Agreement;

Fixtures includes all buildings, erections and structures at any time on or in the course of construction on the Mortgaged Property and includes all fixtures, fittings, plant, materials, machinery, equipment, installations and apparatus now and from time to time in or on the Mortgaged Property;

Insurances means all contracts and policies of insurance of whatever nature which are from time to time taken out by or with the authority or on behalf of the Chargor in relation to the Security Assets or any part of them;

Insured Risks means fire, storm, tempest, flood, earthquake, lightning, explosion, impact, aircraft and other aerial devices and articles dropped from them, riot, civil commotion, malicious damage, landslip, subsidence, burst pipes, environmental pollution, terrorist acts and other such risks as the Lender may, from time to time, require including demolition and site clearance costs and expenses and architects', surveyors' and other professional fees and all other incidental expenses;

Mortgaged Property means all the freehold and leasehold property specified in Schedule 1 and any other freehold or, as the case may be, leasehold property which is the subject of a Security Interest under this Deed;

Occupational Lease Document means any tenancy or licence to occupy or any agreement for any of the same from time to time granted or entered into by the Chargor in

respect of any part of the Mortgaged Property and any licence, consent or approval given thereunder;

Planning Acts means the **consolidating Acts** as defined in the Planning (Consequential Provisions) Act 1990 together with the Planning and Compensation Act 1991, the Planning and Compulsory Purchase Act 2004, the Planning Act 2008 and the Localism Act 2011 and all applicable laws, orders, regulations, instruments, by laws, instructions and standards, whether national, regional or local, including any subordinate legislation relating to town and country planning and to the use and/or occupation of a Mortgaged Property;

Receiver means a receiver or receiver and manager of the whole or any part of the Security Assets;

Related Rights means, in relation to any asset which comprises the Security Assets:

- (a) the proceeds of sale of any part of that asset;
- (b) all rights under any licence, agreement for sale or agreement for lease in respect of that asset;
- (c) all rights, covenants, easements, benefits, claims, contracts, warranties, remedies, security, indemnities or covenants for title in respect of that asset; and
- (d) any monies and proceeds paid or payable in respect of that asset;

Rent means all amounts payable to or for the benefit of the Chargor by way of rent or licence fee, service charge, dilapidations, ground rent and rent charge in respect of any part of the Mortgaged Property and all other monies payable to or for the benefit of the Chargor in respect of the occupation or use of any part of the Mortgaged Property;

Rights means any Security or other right or benefit whether arising by set-off, counterclaim, subrogation, indemnity, proof in liquidation or otherwise and whether from contribution or otherwise;

Secured Liabilities means all present and future monies, obligations and liabilities now or hereafter due owing or incurred to the Lender by the Borrower or the Chargor under the terms of the Facility Agreement/any Finance Document (including, without limitation, under any amendments, supplements or restatements of any of the Facility Agreement/the Finance Documents or in relation to any new or increased advances or utilisations) in any manner whatsoever, in any currency or currencies (whether present or future, actual or contingent) and whether owed by the Borrower or the Chargor as principal or surety or incurred solely or jointly with another, together with all interest accruing thereon and all costs charges and expenses incurred by the Lender in connection therewith;

Security means the security constituted by or pursuant to this Deed;

Security Assets means all the assets, rights, property and undertaking of the Chargor from time to time mortgaged, charged, assigned or agreed to be assigned to, the Lender by the Chargor under this Deed including, without limitation, the Mortgaged Property;

Security Interest means any mortgage, pledge, lien, charge, security assignment, right of set off, hypothecation or security interest or any other agreement or arrangement having

the effect of conferring security (including, for the avoidance of doubt, a floating charge) or any other type of preferential arrangement (including, without limitation, title transfer or retention of title) having a similar effect;

Security Period means the period beginning on the date hereof and ending on the date upon which the Lender is satisfied that all the Secured Liabilities have been irrevocably and unconditionally paid in full and no further Secured Liabilities are capable of being outstanding;

Sterling means the lawful currency of the United Kingdom;

Tax includes any form of taxation, levy, duty, charge, contribution or impost of whatever nature (including any applicable fine, penalty, surcharge or interest) imposed by any government authority, body or official (whether central, local, state or federal) anywhere in the world competent to impose any of them; and

Valuation means any valuation relating to the Mortgaged Property supplied to the Lender by the Chargor (or on its behalf).

1.2 Interpretation

In this Deed, unless the context otherwise requires, a reference to:

assets includes present and future properties, undertakings, revenues, rights and benefits of every description;

an **authorisation** includes an authorisation, consent, approval, resolution, licence, exemption, filing or registration;

the **Chargor**, the **Borrower** or the **Lender** includes a reference to its respective successors, permitted assigns and permitted transferees;

a **person** includes a permitted body corporate, unincorporated association and partnership, in each case, whether or not having a separate legal personality;

a **regulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;

one gender shall include a reference to other genders; an individual will be treated as including corporations and vice versa; words importing the singular will be treated as including the plural and vice versa and words importing the whole will be treated as including a reference to any part, in each case except where the context specifically requires otherwise;

this Deed or to any provision of this Deed or any other document (including, without limitation any of the Finance Documents) is a reference to it as amended, restated, supplemented, varied or novated from time to time;

the words **include** or **including** (or any similar term) are not to be construed as implying any limitation and general words introduced by the word **other** (or any similar term) will not be given a restrictive meaning by reason of the fact that they are preceded or followed by words indicating a particular class of acts, matters or things; and

a statute, a statutory provision, enactment or an EC Directive or subordinate legislation is a reference to any amendment, modification, extension, consolidation, replacement or re-enactment of any such statute, statutory provision, enactment or EC Directive, whether before or after the date of this Deed.

1.3 Facility Agreement

1.3.1 Words and expressions defined in the Facility Agreement will have the same meanings when used in this Deed, unless the context otherwise requires. In the case of inconsistency, definitions set out in the Facility Agreement will prevail.

1.3.2 In the event of any inconsistency, ambiguity or discrepancy between the provisions of the Facility Agreement and the provisions of this Deed, then the provisions of the Facility Agreement shall prevail.

1.4 Headings

The clause, paragraph and Schedule headings and the table of contents are inserted for ease of reference only and will not affect construction.

1.5 Law of Property (Miscellaneous Provisions) Act 1989

For the purposes of Rule 68 of the Land Registration Rules 2003 (as amended) the covenant set out in section 4(1)(b) of the Law of Property (Miscellaneous Provisions) Act 1994 will be extended by the provisions of this Deed.

1.6 Nature of Security over Mortgaged Property

A reference in this Deed to a **charge or mortgage of or over the Mortgaged Property** includes:

1.6.1 all buildings and Fixtures and fittings (including trade and tenant's Fixtures and fittings) and fixed plant and machinery which are situated on or form part of the Mortgaged Property at any time; and

1.6.2 all Related Rights.

1.7 Third party rights

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

1.8 Avoidance of payments

If the Lender considers an amount paid by the Chargor in respect of the Secured Liabilities is capable of being avoided or otherwise set aside on the insolvency, liquidation or administration of the Chargor or otherwise set aside, that amount shall not have been irrevocably and unconditionally paid for the purposes of this Deed.

1.9 Limited Recourse

Notwithstanding any other provision of this Deed or any of the Finance Documents, it is expressly agreed and understood that:

- 1.9.1 the sole recourse of the Lender to the Chargor under this Deed is for the Chargor's interest in the Security Assets; and
- 1.9.2 the liability of the Chargor pursuant to or otherwise in connection with this Deed or any of the Finance Documents shall be:
 - (a) limited in aggregate to an amount equal to that recovered as a result of the enforcement of this Deed with respect to the Security Assets; and
 - (b) satisfied only from the proceeds of sale or other disposal or realisation of the Security Assets pursuant to this Deed or the Finance Documents.

2 Payment of Secured Liabilities

2.1 Covenant to pay

The Chargor covenants with the Lender that it will, on demand, pay and discharge the Secured Liabilities as and when they fall due for payment in the manner provided in the Facility Agreement.

2.2 Interest on demand

If the Chargor fails to pay any sum on the due date for payment of that sum the Chargor will pay interest on such sum (before and after any judgment) from the date of demand until the date of payment calculated at the Default Rate.

3 Security

3.1 Fixed charges

The Chargor hereby charges in favour of the Lender with full title guarantee as continuing security for the payment and discharge of the Secured Liabilities:

- 3.1.1 by way of a first fixed legal mortgage the Mortgaged Property;
- 3.1.2 by way of first fixed charge:
 - (a) the benefit of all present and future licences, consents and authorisations (statutory or otherwise) held or utilised by the Chargor in connection with the Security Assets or the use of any of the Security Assets and all rights in connection with them;
 - (b) the benefit of all other contracts, rents, guarantees, appointments, covenants and warranties relating to the Mortgaged Property and other documents to which the Chargor is a party or which are in its favour or of which it has the benefit relating to letting, development, sale, purchase, use or the operation of the Mortgaged Property or any part of it or otherwise relating to the Mortgaged Property;

- (c) the Fixtures; and
- (d) insofar as the legal mortgage referred to in clause 3.1.1 or any of the assignments referred to in clause 3.2 shall for any reason be ineffective as a legal mortgage or an assignment, the assets referred to in those clauses.

3.2 Assignments

The Chargor hereby assigns and agrees to assign by way of security to the Lender with full title guarantee (to the fullest extent assignable or capable of assignment without infringing any contractual provision restricting the same (unless any applicable consent or waiver to any such assignment has been given)) for the payment of the Secured Liabilities, all the Chargor's right, title and interest in, to and under each of the following present and future assets:

- 3.2.1 the benefit of each of the Assigned Contracts and the benefit of any guarantee or security for the performance of each Assigned Contract;
- 3.2.2 all its rights and interests in the Rent and the benefit of any guarantee or security in respect of the Rent;
- 3.2.3 all its rights and interests in and claims under the Insurances; and
- 3.2.4 all rights and claims in relation to any Mortgaged Property including, without limitation, all rights and claims against any lessees, tenants, sub-lessees, sub-tenants, licensees or occupiers of the Mortgaged Property from time to time and all guarantors and sureties for the obligations of such persons (whether under the Occupational Lease Documents or otherwise) provided that, in each case, to the extent (if any) that the benefits, rights, titles, claims and interests assigned under this clause 3.2 are not assignable, such assignment will operate as an assignment of all proceeds received by the Chargor in connection with such benefits, rights, titles, claims and interests.

4 The Land Registry and further advances

4.1 Land registration

The Chargor hereby consents to an application being made to the Chief Land Registrar by or on behalf of the Lender to enter the following restriction (in form P of Schedule 4 to the Land Registration Rules 2003) in the Proprietorship Register of any property which is, or is required to be, registered forming part of the Mortgaged Property:

"No disposition of the registered estate by the proprietor of the registered estate or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction, is to be registered without a written consent signed by the proprietor for the time being of the charge dated [the date of this Deed] in favour of Exeter Finance Limited (as Lender) referred to in the Charges Register or their conveyancer or an individual identified as an authorised signatory of the Lender".

4.2 Implied covenants

For the purposes of Rule 68(1) of the Land Registration Rules 2003, the covenants set out in Sections 2 to 5 (inclusive) of the Law of Property (Miscellaneous Provisions) Act 1994 will be extended by the provisions of this Deed.

5 Further assurance

5.1 Further assurance: general

The Chargor shall, at its own expense, promptly do all such acts or execute all such documents (including, without limitation, assignments, transfers, mortgages, charges, notices and instructions) as the Lender or any Receiver may specify (and in such form as the Lender or any Receiver may require) in favour of the Lender or its nominees:

- 5.1.1 to perfect or protect the security created or intended to be created in respect of the Security Assets (which may include the execution by the Chargor of a mortgage, fixed charge or assignment over all or any of the assets constituting, or intended to constitute, Security Assets) or for the exercise of the Collateral Rights; and/or
- 5.1.2 to facilitate the realisation of the Security Assets; and/or
- 5.1.3 to obtain all necessary consents to procure the registration of this Deed with the registrar of companies and, in respect of the Mortgaged Property, at the Land Registry or on the Land Charges Register, as appropriate.

5.2 Consents

The Chargor will use all reasonable endeavours to obtain (in form and content satisfactory to the Lender) as soon as possible any consents necessary to enable the relevant Security Assets purported to be so charged or assigned to be the subject of an effective fixed charge or assignment pursuant to clauses 3.1 and 3.2 and, immediately upon obtaining any such consent, the relevant Security Asset shall become subject to such Security and the Chargor shall promptly deliver a copy of each such consent to the Lender.

5.3 Notice of assignment of Assigned Contracts

The Chargor will promptly give notice of assignment substantially in the form set out in part I of Schedule 3 to each counterparty to an Assigned Contract and shall procure that each relevant party acknowledges that notice substantially in the form set out in part II of Schedule 3.

5.4 Notice to tenants under Occupational Lease Documents

At any time after an Event of Default has occurred and is continuing, the Chargor shall issue a notice in the form of part I of Schedule 5 to the other parties to any Occupational Lease Document to pay rents and all other sums due under any Occupational Lease Document to the Lender or into such accounts as the Lender may require and to procure that such parties acknowledge such notice in the form of part II of Schedule 5.

5.5 Notice of assignment of Insurances

The Chargor shall deliver a notice to all insurers in respect of the Insurances in the form set out in part I of Schedule 6 and shall procure that such insurers acknowledge the notice in the form set out in part II of Schedule 6.

5.6 Preservation of rights

Neither the obligations of the Chargor contained in this Deed nor the rights, powers and remedies conferred in respect of the Chargor upon the Lender by the Finance Documents or by law shall be discharged, prejudiced or otherwise affected by:

- 5.6.1 the winding-up, dissolution, administration or reorganisation of the Chargor or any other person or any change in its status, function, control or ownership;
- 5.6.2 any of the obligations of the Chargor or any other person under the Finance Documents or under any other security relating to Finance Documents being or becoming illegal, invalid, unenforceable or ineffective in any respect;
- 5.6.3 any time or other indulgence being granted or agreed to be granted to the Chargor or any other person in respect of its obligations under the Finance Documents;
- 5.6.4 any amendment to, or any variation, waiver or release of any obligation of the Chargor or any other person under the Finance Documents;
- 5.6.5 any failure to take, or fully to take, any security contemplated by the Finance Documents or otherwise agreed to be taken in respect of the Chargor's or any other person's obligations under the Finance Documents;
- 5.6.6 any failure to realise or fully to realise the value of, or any release, discharge, exchange or substitution of, any security taken or agreed to be taken in respect of the Chargor's or any other person's obligations under the Finance Documents; or
- 5.6.7 any other act, event or omission which, but for this clause 5.6, might operate to discharge, impair or otherwise affect any of the obligations of the Chargor or any other person or any of the rights, powers or remedies conferred upon the Lender by the Finance Documents or by law.

6 Negative pledge and disposal restrictions

6.1 Negative pledge

Save as permitted by the Finance Documents, the Chargor will not, without the prior written consent of the Lender, create, purport to create, or permit to subsist (in favour of any person other than the Lender) any Security Interest over any of the Security Assets now or in the future, or agree or attempt to do so, or increase or extend any liability of the Chargor secured on any of the Security Assets.

6.2 Disposal of Security Assets

Save as permitted by the Finance Documents, the Chargor will not, without the prior written consent of the Lender (whether by a single transaction or number of related or unrelated transactions, and whether at the same time or over a period of time) sell, transfer, lease out, lend or otherwise dispose of any of the Security Assets or any interests therein or the right to receive or to be paid the proceeds arising from their disposal or agree or attempt to do so.

7 Representations and warranties

7.1 Duration and to whom made

The representations and warranties made by the Chargor in this clause 7 will remain in force (and will be deemed repeated on each day falling during) during the Security Period and are given to the Lender.

7.2 Matters represented

Except as disclosed in writing to the Lender or in the Certificate of Title on or prior to the date of this Deed or on or prior to the date the Mortgaged Property becomes subject to a fixed charge hereunder:

- 7.2.1 If the Chargor is a company it is a duly incorporated limited liability company validly existing under the laws of its jurisdiction of incorporation;
- 7.2.2 the Chargor has power to own its assets and carry on its business as it is being conducted;
- 7.2.3 the Chargor has the power and authority to execute, deliver and perform its obligations under this Deed and the transactions contemplated by it; no limit on its powers will be exceeded as a result of the entry into this Deed;
- 7.2.4 the Chargor is the legal and beneficial owner of the Mortgaged Property, and has good and marketable title to the Mortgaged Property;
- 7.2.5 planning permission has been obtained or is deemed to have been granted in accordance with statute for the purposes of the Planning Acts and has been complied with in respect to any development and the existing use of the Mortgaged Property, and the Planning Acts and all relevant building regulations or previously relevant building bye-laws have been complied with in respect of all developments, alterations and improvements to the Mortgaged Property and they have also been complied with in respect of the use of the Mortgaged Property;
- 7.2.6 there are no covenants, agreements, stipulations, reservations, conditions, interests, rights or other matters whatsoever affecting the Mortgaged Property which materially adversely affect or are likely to materially adversely affect the value of the Mortgaged Property or the ability of the Chargor to perform its obligations owed to the Lender;

- 7.2.7 nothing has arisen or has been created or is subsisting which would be an overriding interest over the Mortgaged Property which materially adversely affects or is likely to materially adversely affect the value of the Mortgaged Property or the ability of the Chargor to perform its obligations owed to the Lender;
- 7.2.8 no facilities necessary for the enjoyment and use of the Mortgaged Property are enjoyed by the Mortgaged Property on terms entitling any person to terminate or curtail its or their use which materially adversely affects or is likely to materially adversely affect the value of the Mortgaged Property or the ability of the Chargor to perform its obligations owed to the Lender;
- 7.2.9 the Chargor has received no notice of any adverse claims by any person in respect of the ownership of the Mortgaged Property or any interest therein, nor has any acknowledgement been given to any person in respect thereof which has not been disclosed to the Lender;
- 7.2.10 nothing has arisen, has been created, which would be an overriding interest in any Mortgaged Property;
- 7.2.11 the Mortgaged Property will be free from any tenancies or licences, other than those tenancies or licences permitted under the Facility Agreement;
- 7.2.12
- (a) all written information supplied by the Chargor or on its behalf for the purpose of each Valuation and Certificate of Title was true and accurate in all material respects as at its date or as at the date (if any) on which it was stated to be given;
 - (b) the information referred to in clause 7.2.12(a) was, as at its date or as at the date (if any) on which it was stated to be given, complete and the Chargor did not omit to supply any information which, if disclosed, would adversely affect the Valuation or Certificate of Title; and
 - (c) in the case of the first Valuation or Certificate of Title only, nothing has occurred since the date the information referred to in clause 7.2.12(a) was supplied and the date of this Deed which would adversely affect such Valuation or Certificate of Title;
- 7.2.13 the Chargor has disclosed to the Lender full details of all inspections, investigations, studies, Environmental Audits and other analyses commissioned by it in relation to environment matters in respect of the Mortgaged Property and any adjoining land;
- 7.2.14 the Chargor is, and has at all times been, in compliance with all applicable Environmental Law; and
- 7.2.15 the Chargor has obtained and is, and has at all times been, in compliance with all Environmental Licences.

7.3 Non-competition

The Chargor warrants to the Lender that it has not taken or received, and shall not take, exercise or receive the benefit of any Rights from or against the Borrower, its liquidator, an Administrator, any co-guarantor or any other person in connection with any liability of, or payment by, the Chargor under this Deed but:

- 7.3.1 if any of the Rights is taken, exercised or received by the Chargor, those Rights and all monies at any time received or held in respect of those Rights shall be held by the Chargor on trust for the Lender for application in or towards the discharge of the Secured Liabilities; and
- 7.3.2 on demand by the Lender, the Chargor shall promptly transfer, assign or pay to the Lender all Rights and all monies from time to time held on trust by the Chargor under this clause 7.3.

7.4 Security created

Subject to registration with the registrar of companies, at the Land Registry or at the Land Charges Registry as appropriate, this Deed creates those Security Interests it purports to create ranking as set out above and is not liable to be avoided or otherwise set aside on the liquidation or administration of the Chargor or otherwise.

8 General undertakings

8.1 Duration and benefit

The undertakings in this clause 8:

- 8.1.1 shall remain in force during the Security Period; and
- 8.1.2 and are given to the Lender.

8.2 Not to jeopardise the Security

The Chargor will not do or allow to be done anything which could reasonably be expected materially to decrease the value of the Security to the Lender (other than fair wear and tear arising from the use of the Security Assets in the ordinary course of business).

8.3 Maintenance

The Chargor will keep all plant, machinery, Fixtures, fittings, vehicles, computers and other equipment included in the Security Assets in a good state of repair and in good working order and condition and when necessary replace the same by items of similar quality and value.

8.4 Information and access

The Chargor will, at the request of the Lender, promptly provide the Lender with such information as the Lender may reasonably require about the Security Assets and the Chargor's compliance with the terms of this Deed and the Chargor will permit the Lender, its representatives, professional advisers and contractors, free access at all reasonable times and on reasonable notice:

8.4.1 to view the Security Assets (without becoming liable as mortgagee in possession); and

8.4.2 to inspect and take copies and extracts from such books, accounts and records of the Chargor as relate to the Security Assets.

8.5 **Law**

The Chargor will comply with all applicable laws, regulations and authorisations affecting the Security Assets.

9 **Mortgaged Property**

The Chargor undertakes to the Lender at all times during the Security Period:

9.1 **Repair**

to keep the Mortgaged Property in good and substantial repair and condition;

9.2 **Outgoings**

to pay punctually all Taxes, rents, rates, duties, assessments and other outgoings payable in respect of the Mortgaged Property;

9.3 **Covenants**

to perform and observe all covenants (positive and restrictive), conditions and stipulations from time to time affecting the Mortgaged Property or the use or enjoyment of it;

9.4 **Development**

(within the meaning of that expression in the Planning Acts and being development for which the permission of the local planning authority is required) not without the prior written consent of the Lender to carry out or permit any development of the Mortgaged Property, or remove any of the Fixtures on the Mortgaged Property (except in connection with the renewal or replacement of them);

9.5 **User**

to use the Mortgaged Property only for such purpose or purposes as may for the time being be authorised as the permitted use or user thereof under or by virtue of the Planning Acts;

9.6 **Planning**

9.6.1 to comply with any conditions attached to any planning permissions relating to or affecting the Mortgaged Property;

9.6.2 not without the prior written consent of the Lender to make any application for planning permission or implement any planning permission obtained or enter or agree to enter into any agreement or undertaking under the Planning Acts in each case in respect of the Mortgaged Property;

9.7 Notices

to pass onto the Lender immediately upon receipt a copy of any notice or proposal for a notice or order served on the Chargor by any public or local or any other authority in respect of the Mortgaged Property or any part thereof and to give notice to the Lender immediately on becoming aware of any other matter which is likely to affect adversely the Value of the Mortgaged Property, and in each case if the Lender so requires or approves and at the Chargor's cost to make such representations in respect of such notice or order as the Lender may require;

9.8 Information

at the request of the Lender promptly to provide the Lender with such documents or information relating to the Mortgaged Property or its development as the Lender may reasonably require;

9.9 Compliance with leases

where the Mortgaged Property is leasehold or subject to any lease, agreement for lease, tenancy or licence:

9.9.1 to observe and perform all the covenants, stipulations and obligations contained in any lease, agreement for lease, tenancy or licence affecting the Mortgaged Property of which the Chargor is the lessee, tenant or licensee; and

9.9.2 to comply with all covenants on the part of the lessor or licensor contained in the lease, agreement for lease, tenancy or licence affecting the Mortgaged Property of which the Chargor is the lessor or licensor;

9.10 Environmental matters

9.10.1 to obtain and maintain all licences required by it under Environmental Law and comply in all material respects with all Environmental Law applicable to it; and

9.10.2 to ensure that no Dangerous Substances are used, disposed of, generated, stored, transported, deposited, buried or emitted at, on, from or under any premises (whether or not owned, leased, occupied or controlled by it) in circumstances where this might result in a liability of the Lender;

9.11 Leases

9.11.1 save as permitted by the Facility Agreement, not without the previous consent in writing of the Lender to grant or agree to grant (whether in exercise or independently of any statutory power) any lease or tenancy of the Mortgaged Property or any part thereof or accept a surrender of any lease or tenancy or confer upon any person any contractual licence or right to occupy the Mortgaged Property and provided, on request by the Lender, it notifies the Lender of all leases, tenancies, licences or rights to occupy granted or surrendered by it and if so reasonably requested by the Lender provided it sends a copy thereof to the Lender forthwith upon request;

- 9.11.2 to enforce and not waive or release the covenants, conditions, agreements and obligations contained in or imposed by any of the Occupational Lease Documents or any guarantee in respect of the obligations of the tenants, lessees, licensees or other parties thereunder which materially affects or is reasonably likely to materially affect the value of the Mortgaged Property;
- 9.11.3 not without the prior written consent of the Lender to accept or agree to accept the surrender or alteration of any of the Occupational Lease Documents which materially affects or is reasonably likely to materially affect the value of the Mortgaged Property and observe and perform all the covenants, conditions, agreements and obligations on its part in all material respects; and
- 9.11.4 to deliver to the Lender within 14 days of demand full particulars of all Occupational Lease Documents.

9.12 **Commonhold**

The Chargor shall not convert, or permit the conversion of, any freehold estate of any of the Mortgaged Property to a freehold estate in a commonhold land under Part I of the Commonhold and Leasehold Reform Act 2002.

10 **Insurance**

10.1 **Insured Risks**

Except where insured by the lessor of any Mortgaged Property, the Chargor will insure all of the Security Assets (which are of an insurable nature) against:

10.1.1 the Insured Risks;

10.1.2 loss of rents payable by the tenants or other occupiers of the Mortgaged Property for a period of three years or such other period as may be agreed with the Lender;

10.1.3 third party and public liability; and

10.1.4 any other risks normally insured against by persons carrying on the same class of business as that carried on by it.

10.2 **Replacement value**

Any insurance must be in a sum or sums not less than the replacement value of the Security Assets. For this purpose, **replacement value** means the total cost of rebuilding, reinstating or replacing those Security Assets in the event of their being completely destroyed, together with any relevant architects' and surveyors' fees.

10.3 **Insurance company**

Any Insurances required under this clause must be with an insurance company or underwriters acceptable to the Lender.

10.4 **Application**

Subject to the provisions of any lease or prior charge of all or part of the Security Assets, all monies received or receivable under any Insurances must be applied:

- 10.4.1 in replacing, restoring or reinstating the Security Assets destroyed or damaged or in any other manner which the Lender may agree; or
- 10.4.2 if the Lender so directs and the terms of the relevant Insurances allow in or towards satisfaction of the Secured Liabilities.

10.5 **Co-insurance**

The Chargor will procure that a note of the Lender's interest as co-insured (composite) is endorsed upon all Insurances maintained by the Chargor and that the Lender is named first loss payee (other than in relation to insurance against third parties and public liability risks).

10.6 **Provisions of Insurances**

The Chargor will procure that the relevant Insurances contain provisions that:

- 10.6.1 they will not be terminated, invalidated or otherwise allowed to lapse for failure to pay any premium or otherwise unless 30 days' notice is given to the Lender;
- 10.6.2 they will not be vitiated or avoided as against the Lender in the event or as a result of any misrepresentation, act, neglect or failure to make disclosure on the point of any insured party or any circumstances beyond the control of an insured party; and
- 10.6.3 a waiver of the rights of subrogation of the insurer as against the Chargor, the Lender and the tenants of any Mortgaged Property.

10.7 **Avoidance of policy**

The Chargor will not do or permit anything to be done which may make the Insurances void or voidable.

10.8 **Premiums**

The Chargor will promptly pay all premiums and do all other things necessary to keep the Insurances in force.

10.9 **Return of policy**

The Chargor will, immediately at the request of the Lender, produce to the Lender the policy, certificate or cover note relating to any of the Insurances and the receipt for the payment of the last premium and will if the Lender requests deposit all Insurances with the Lender.

11 Assigned Contracts

11.1 Performance

The Chargor will remain liable to perform all the obligations to be performed in respect of any of the Assigned Contracts and the Lender will have no obligation of any kind whatsoever in relation to them or be under any liability whatsoever in the event of any failure by the Chargor to perform its obligations in respect of them. The Chargor agrees to indemnify and hold the Lender harmless from all costs, claims, damages or liabilities whatsoever and howsoever arising out of the performance of or the failure in performance of the Chargor's obligations in respect of the Assigned Contracts.

11.2 No amendments

Save as permitted under the Facility Agreement, the Chargor will not without the prior written consent of the Lender:

11.2.1 amend, supplement, novate or waive any provision of or terminate any Assigned Contract; or

11.2.2 do anything which might jeopardise the enforceability of any Assigned Contract.

12 Rent

12.1 Restriction on dealing

The Chargor will not without the prior written consent of the Lender deal with the Rent otherwise than by collecting the Rent in the ordinary course of business and will not charge, factor, discount or assign the Rent in favour of any third party.

12.2 Notice of assignment of Rent

The Chargor shall, promptly following the occurrence of an Event of Default, give notice to the relevant tenant, licensee, guarantor or surety of the assignment pursuant to clause 3.2.2 of the Chargor's rights and interest to the Rent and each guarantee or security in respect of the Rent and shall procure that each addressee of such notice promptly provides an acknowledgment of that notice to the Lender.

13 Deposit of title deeds

The Chargor will deposit all deeds and documents of title relating to the Security Assets with the Lender and such other documents relating to the Security Assets as the Lender may require from time to time, for the duration of the Security Period, except to the extent that any such Security Assets are released by the Lender pursuant to the terms of the Facility Agreement.

14 Power to remedy

In the case of default by the Chargor in repairing or keeping in repair or insuring the Security Assets or any part thereof or in observing or performing any of the covenants or stipulations affecting the same, the Chargor will permit the Lender or its agents and contractors to enter on the Security Assets and to comply with or object to any notice served on the Chargor in respect of the Security Assets and to effect such repairs or

insurance or generally do such things or pay all such costs, charges and expenses as the Lender may consider are necessary or desirable to prevent or remedy any breach of covenant or stipulation or to comply with or object to any notice. The Chargor will indemnify and keep the Lender indemnified against all losses, costs, charges and expenses reasonably incurred in connection with the exercise of the powers contained in this clause 14.

15 Enforcement of Security

15.1 When Security becomes enforceable

The Security shall be immediately enforceable if an Event of Default occurs. After the Security has become enforceable, the Lender may in its absolute discretion enforce all or any part of such Security at the times, in the manner, and on the terms as it shall think fit and take possession of or hold or dispose of all or any part of the Security.

15.2 Exercise of powers

At any time after the Security becomes immediately enforceable, the Lender may, without notice to the Chargor or prior authorisation from any court, in its absolute discretion whether or not it has appointed a Receiver, exercise all or any of the powers, authorities and discretions conferred by the Law of Property Act 1925 (as varied or extended by this Deed) on mortgagees and by this Deed on any Receiver or otherwise conferred by law on mortgagees or Receivers.

15.3 Possession

If the Lender, any Receiver or any delegate of any such person takes possession of the Security Assets, it or he may at any time relinquish such possession.

15.4 No liability as mortgagee in possession

The Lender will not be liable to account as a mortgagee in possession in respect of all or any part of the Security Assets or be liable for any loss upon realisation or for any neglect, default or omission in connection with the Security Assets to which a mortgagee in possession might otherwise be liable.

15.5 Power of sale

The power of sale under this Deed may be exercised notwithstanding that the Lender or the Receiver may have previously waived or refrained from exercising that power; and no demand or notice of sale made or given under this Deed will be waived by the acceptance of any payment on account of the Secured Liabilities, or by any negotiations between the Lender and the Chargor or any other party who is acting as agent for the Chargor or on behalf of it.

15.6 Receiver's liability

All the provisions of clause 15.4 will apply, mutatis mutandis, in respect of the liability of any Receiver and delegate of the Receiver or the Lender or any officer, employee or agent of the Lender, any Receiver or any delegate.

16 Extension and variation of the Law of Property Act 1925

16.1 Extension of powers

The power of sale or other disposal conferred on the Lender and on any Receiver by this Deed will operate as a variation and extension of the statutory power of sale under Section 101 of the Law of Property Act 1925 and such power will arise (and the Secured Liabilities will be deemed due and payable for that purpose) on the execution of this Deed.

16.2 Restrictions

The restrictions contained in Sections 93 and 103 of the Law of Property Act 1925 will not apply to this Deed or to the exercise by the Lender of its right to consolidate all or any of the Security with any other security in existence at any time or to its power of sale, which powers may be exercised by the Lender without notice to the Chargor.

16.3 Power of leasing

The statutory powers of leasing may be exercised by the Lender at any time and the Lender and any Receiver may make any lease or agreement for lease, accept surrenders of leases and grant options on such terms as it will think fit, without the need to comply with any restrictions imposed by Sections 99 and 100 of the Law of Property Act 1925.

16.4 Non-application

The following provisions of the Law of Property (Miscellaneous Provisions) Act 1994 will not apply to clause 3 being:

16.4.1 the words 'other than any charges, encumbrances or rights which that person does not and would not reasonably be expected to know about' in Section 3(1);

16.4.2 the words 'except to the extent that' and all words thereafter in Section 3(2); and

16.4.3 Section 6(2).

16.5 Application

Section 109(8) of the Law of Property Act 1925 will not apply, and all monies received by the Lender or any Receiver in the exercise of any powers conferred by this Deed will be applied in the following order:

16.5.1 in the payment of:

(a) all costs, charges, liabilities and expenses incurred by the Lender or any Receiver in the exercise of those powers or incidental to any Receiver's appointment, together with interest at the applicable rate set out in clause 2.2 (both before and after judgment) from the date those amounts became due until the date they are irrevocably paid in full; and

(b) any Receiver's remuneration;

16.5.2 in or towards discharge of all liabilities having priority to the Secured Liabilities;

16.5.3 in or towards the satisfaction of the Secured Liabilities in such order as the Lender determines; and

16.5.4 in the payment of any surplus to the Chargor or other person entitled to it.

16.6 Application of sums received

The Chargor will have no rights in respect of the application by the Lender of any sums received, recovered or realised by the Lender under this Deed.

17 Appointment of Receiver

17.1 Appointment and removal

At any time after the Security becomes enforceable, or if requested to do so by the Chargor, the Lender may by deed or otherwise (acting through an authorised officer of the Lender), without prior notice to the Chargor:

17.1.1 appoint one or more persons to be a Receiver of the whole or any part of the Security Assets or an Administrator of the Chargor;

17.1.2 remove (so far as it is lawfully able) any Receiver or an Administrator so appointed; and

17.1.3 appoint another person(s) as an additional or replacement Receiver(s) or Administrator(s).

17.2 Capacity of Receivers

Each person appointed to be a Receiver under this Deed will be:

17.2.1 entitled to act individually or together with any other person appointed or substituted as Receiver;

17.2.2 for all purposes will be deemed to be the agent of the Chargor which will be solely responsible for his acts, defaults and liabilities and for the payment of his remuneration and no Receiver will at any time act as agent for the Lender; and

17.2.3 entitled to remuneration for his services at a rate to be fixed by the Lender from time to time (without being limited to the maximum rate specified by the Law of Property Act 1925).

17.3 Statutory powers of appointment

The powers of a Receiver will be in addition to all statutory and other powers of the Lender under the Law of Property Act 1925 (as extended by this Deed), an administrative receiver under the Insolvency Act 1986 or otherwise and such powers will remain exercisable from time to time by the Lender in respect of any part of the Security Assets.

18 Powers of Receiver

18.1 Powers

Every Receiver appointed by the Lender will (in addition to all powers conferred on him by law) have the following powers exercisable in respect of the Security Assets upon such terms and conditions as he thinks fit:

- 18.1.1 to take possession of and generally to manage the Security Assets and any business of the Chargor;
- 18.1.2 to enter into, carry into effect, complete, deliver, perform, repudiate, rescind or vary any deed, contract, transaction or arrangement to which the Chargor is or is to be a party;
- 18.1.3 to carry out on any Mortgaged Property (or on any other property which it may in his opinion be necessary or desirable to work upon) any development or new works or complete any unfinished works of building, reconstruction, maintenance, furnishing or equipment and to apply for and obtain all planning permissions, consents or licences as may be necessary or desirable for such purposes;
- 18.1.4 to purchase or acquire any land and purchase, acquire, grant or release any interest in or right over land and enter into, take or release the benefit of covenants (positive or restrictive) binding on or benefiting the Mortgaged Property;
- 18.1.5 to sell, lease, licence, surrender or accept surrender of leases or licences of, charge or otherwise deal with and dispose of the Security Assets without restriction including power to dispose of any Fixtures separately from the land;
- 18.1.6 to carry into effect and complete any transaction by executing deeds or documents in the name of or on behalf of the Chargor;
- 18.1.7 to insure the Security Assets and any works and effect indemnity insurance or other similar insurance and obtain bonds or give commitments, guarantees, indemnities and security;
- 18.1.8 to engage, rely on the advice of and discharge advisers, consultants, officers, managers, agents, workmen and others (including the removal, appointment and replacement from time to time of any person engaged to provide security officers (howsoever described) for the Mortgaged Property or any other Security Assets);
- 18.1.9 to purchase materials, tools, equipment, goods or supplies;
- 18.1.10 to bring, continue or defend any claim, dispute, action or legal proceedings and enter into any arrangement or compromise in relation to the Security Assets or any part of them;
- 18.1.11 to redeem any security and to borrow or raise any money and secure the payment of any money in priority to the Secured Liabilities for the purposes of

the exercise of his powers and/or defraying any costs or liabilities incurred by him in such exercise;

18.1.12 to make any options to tax for value added tax purposes; and

18.1.13 to do any other acts or things as:

(a) he may consider to be necessary or desirable for the realisation of the Security Assets or any part thereof;

(b) as he may consider incidental or conducive to any of the rights or powers conferred on a Receiver under or by virtue of this Deed or law.

19 Protection of purchasers

19.1 Consideration

The receipt of the Lender or any Receiver will be conclusive discharge to a purchaser and, in making any sale or disposal of any of the Security Assets or making any acquisition, the Lender or any Receiver may do so for such consideration, in such manner and on such terms as it thinks fit.

19.2 Protection of purchaser

No purchaser or other person dealing with the Lender or any Receiver will be bound to inquire whether the right of the Lender or such Receiver to exercise any of its powers has arisen or become exercisable or be concerned with any propriety or regularity on the part of the Lender or such Receiver in such dealings.

20 Power of attorney

20.1 Appointment and powers

The Chargor by way of security irrevocably appoints the Lender and every Receiver or Administrator and any delegate or sub-delegate severally to be its attorney and in its name, on its behalf and as its act and deed to execute, deliver and perfect all documents and do all things which:

20.1.1 the Chargor ought to have done by this Deed (including the execution and delivery of any deeds, charges, legal mortgages, assignments or other security and any transfers of the Security Assets);

20.1.2 enable the Lender and any Receiver or Administrator or any delegate or sub-delegate to exercise, or delegate the exercise of, any of the rights, powers and authorities conferred on them by or pursuant to this Deed or by law (including the exercise of any right of a legal or beneficial owner of the Security Assets).

20.2 Ratification

The Chargor will ratify and confirm all things lawfully done and all documents executed by any attorney in the exercise or purported exercise of all or any of his powers.

21 Effectiveness of Security

21.1 Continuing Security

The Security will remain in full force and effect as a continuing security for the Secured Liabilities unless and until discharged by the Lender.

21.2 Cumulative rights

The Security and the Collateral Rights will be cumulative, in addition to and independent of every other security which the Lender may at any time hold for the Secured Liabilities or any other obligations or any rights, powers and remedies provided by law. No prior security held by the Lender over the whole or any part of the Security Assets will merge into the Security.

21.3 No prejudice

Neither the Security nor the Collateral Rights will be prejudiced by any time or indulgence granted to the Chargor or any other person or by any other thing which might otherwise prejudice the Security or any Collateral Right.

21.4 Remedies and waivers

No failure on the part of the Lender to exercise, or any delay on its part in exercising, any Collateral Right will operate as a waiver thereof, nor will any single or partial exercise of any Collateral Right preclude any further or other exercise of that or any other Collateral Right.

21.5 No liability

None of the Lender, any Receiver or any delegate or sub-delegate will be liable by reason of:

21.5.1 taking any action permitted by this Deed; or

21.5.2 any neglect or default in connection with the Security Assets; or

21.5.3 taking possession of or realising all or any part of the Security Assets

except in the case of negligence or wilful default or fraud upon its part.

21.6 Partial invalidity

If, at any time, any provision of this Deed is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions of this Deed nor of such provision under the laws of any other jurisdiction will in any way be affected or impaired thereby and, if any part of the Security is invalid, unenforceable or ineffective for any reason, that will not affect or impair any other part of the Security.

21.7 Other security

The Lender will not be obliged to resort to any guarantees, indemnities, Security Interests or other means of payment now or hereafter held by or available to it before enforcing this Deed and no action taken or omitted by the Lender in connection with any such guarantee, indemnity, Security Interests or other means of payment will discharge, reduce, prejudice or affect the liability of the Chargor or the Secured Liabilities nor will the Lender be obliged to account for any money or other property received or recovered in consequence of any enforcement or realisation of any such guarantees, indemnities, Security Interests or other means of payment.

21.8 Variation

No variation of the terms of this Deed will be valid unless it is in writing and executed as a deed by the Chargor and confirmed in writing by the Lender.

22 Release of Security

Upon the expiry of the Security Period and the Lender not being under any further actual or contingent obligation to make advances or provide other financial accommodation to the Chargor, the Lender will, at the request and cost of the Chargor, release and cancel the Security and procure the reassignment to the Chargor of the property and assets assigned to the Lender pursuant to this Deed and without recourse to, or any representation or warranty by, the Lender or any of its nominees.

23 Subsequent Security Interests

If the Lender at any time receives or is deemed to have received notice of any subsequent Security Interest affecting all or any part of the Security Assets or any assignment or transfer of the Security Assets which is prohibited by the terms of this Deed, all payments thereafter by or on behalf of the Chargor to the Lender will be treated as having been credited to a new account of the Chargor and not as having been applied in reduction of the Secured Liabilities as at the time when the Lender received such notice.

24 Assignment

24.1 Right of Lender to assign

The Lender may at any time assign or otherwise transfer all or any part of its rights under this Deed.

24.2 Restriction on Chargor

The Chargor may not assign or transfer any of its rights or obligations under this Deed.

24.3 Confidentiality

The Lender may give such information relating to the Chargor and the Secured Liabilities as it thinks fit to any person proposing to take an assignment and/or transfer from the Lender and/or to enter into contractual relations with the Lender with respect to this Deed.

25 Expenses, stamp taxes and indemnity

25.1 Expenses

The Chargor will, from time to time on demand of the Lender, reimburse the Lender on a full indemnity basis for all the costs and expenses (including legal fees) together with any VAT thereon properly incurred by it or by any Receiver in connection with:

- 25.1.1 the negotiation, preparation and execution of this Deed and the completion of the transactions and perfection of the security contemplated in this Deed; or
- 25.1.2 the exercise, preservation and/or enforcement of any of the Collateral Rights or the security contemplated by this Deed or any proceedings instituted by or against the Lender or any Receiver as a consequence of taking or holding the security or of enforcing the Collateral Rights,

and such expenses will carry interest until so reimbursed at the rate referred to in clause 2.2.

25.2 Stamp taxes

The Chargor will pay all stamp, stamp duty land tax, registration and other Tax to which this Deed, the Security or any judgment given in connection with it is or at any time may be subject and will, from time to time, indemnify the Lender on demand against any liabilities, costs, claims and expenses resulting from any failure to pay or delay in paying any such Tax.

25.3 Indemnity

The Chargor will, notwithstanding any release or discharge of all or any part of the Security, indemnify the Lender, its agents, attorneys and any Receiver against any action, proceeding, claims, losses, liabilities and costs which it may sustain as a consequence of any breach by the Chargor of the provisions of this Deed, the exercise or purported exercise of any of the rights and powers conferred on them by this Deed or otherwise relating to the Security Assets.

26 Payments free of deduction

All payments to be made under this Deed will be made free and clear of and without deduction or withholding whatsoever for or on account of any Tax except to the extent that the Chargor is required by law to make such payment subject to the deduction or withholding of any Tax. If any Tax or amount in respect of Tax is required to be deducted from any amounts payable or paid by the Chargor, the Chargor will pay such additional amounts as may be necessary to ensure that after the making of the deduction or withholding which is required the relevant recipient receives and retains (free from any liability in respect of any such deduction or withholding) a net amount equal to the full amount which it would have received and retained had no such deduction or withholding been made.

27 Discretion and delegation

27.1 Discretion

Any power or discretion which may be exercised or any determination which may be made hereunder by the Lender or any Receiver may be exercised or made in its absolute and unfettered discretion without any obligation to give reasons.

27.2 Delegation

Each of the Lender and any Receiver will have full power to delegate (either generally or specifically) the powers, authorities and discretions conferred on it by this Deed (including the power of attorney) on such terms and conditions as it sees fit, which delegation may include power to sub-delegate and will not preclude either the subsequent exercise of such power, authority or discretion by the Lender or the Receiver itself or any subsequent delegation or revocation thereof.

28 Perpetuity period

The perpetuity period under the rule against perpetuities, if applicable to this Deed, will be the period of 125 years from the date of this Deed (as specified in section 5(1) of the Perpetuities and Accumulations Act 2009).

29 Counterparts

This Deed may be executed in counterparts, all of which when taken together will constitute a single deed.

30 Certification

If the Chargor is a company the Chargor hereby certifies that its creation of this Deed in favour of the Lender does not contravene any of the provisions of the Companies Act 2006 or its articles of association.

31 Reorganisation

This Deed will remain binding on the Chargor notwithstanding any change in the constitution of the Lender or its absorption by, or amalgamation with, or the acquisition of all or part of its undertaking by, any other person, or any reconstruction or reorganisation of any kind. The Security will remain valid and effective in all respects in favour of the Lender and for any assignee, transferee or other successor in title of the Lender.

32 Set off

The Lender may set off any matured obligation due from the Chargor under this Deed against any matured obligation owed by the Lender to the Chargor (whether actual or contingent, present or future), regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Lender may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

33 Payment of monies

33.1 Date for payment

Where neither the Facility Agreement nor this Deed specified the due date for payment of any monies owed by the Chargor to the Lender such monies will be due and payable to the Lender by the Chargor on demand.

33.2 Currency

The Chargor's liability under this Deed is to discharge the Secured Liabilities in Sterling. If at any time the Lender receives a payment (including by set-off) referable to any of the Secured Liabilities from any source in a currency other than Sterling, then such payment will take effect as a payment to the Lender of the amount in Sterling which the Lender is able to purchase (after deduction of any relevant costs) with the amount of the payment so received in accordance with its usual practice.

33.3 Currency indemnity

If a payment is made under a court order or in satisfaction of a claim or proof and is treated by clause 33.2 as a payment of an amount which falls short of the relevant liability of the Chargor expressed in Sterling, the Chargor as a separate and independent obligation will on demand from time to time indemnify the Lender against such shortfall and pay interest on such shortfall from the date of such payment to the date on which the shortfall is paid.

33.4 Certificates

A certificate signed by an official of the Lender as to the amount due or owing from the Chargor will be conclusive evidence against the Chargor, except in the case of manifest error.

34 Notices

34.1 Service

Any notice or communication to be given in connection with this Deed will be in writing and delivered by hand or sent by first class prepaid post or fax and:

34.1.1 sent to the Chargor at:

The Old Stable, New Street, Cornwall, TR11 3HX

Attention: Hannah St Ledger- Brown

34.1.2 sent to the Lender at:

3rd Floor, the Senate, Southernhay Gardens, Exeter, EX1 1UG

Attention: Peter Keech

Unless either party has communicated another address to the other in which case it must be sent to the last address so communicated.

34.2 Receipt by Chargor

A notice or communication sent by the Lender to the Chargor under clause 34 will be deemed to have been received:

- 34.2.1 if delivered by hand, at the time of delivery;
- 34.2.2 if sent by first class pre-paid post, on the next business day after posting; or
- 34.2.3 if sent by fax, when received in legible form.

34.3 Receipt by Lender

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

34.4 Confirmation in Writing

The Chargor may not rely on any oral notice, waiver, consent, approval, representation, advice, statement or other communication by the Lender or any of its employees, agents or representatives except where such communications are confirmed in writing and signed for the Lender pursuant to clause 34.

34.5 Electronic communication

34.5.1 Any communication to be made between the Chargor and the Lender under or in connection with this Deed may be made by electronic mail or other electronic means to the extent that they agree that, unless and until notified to the contrary, this is to be an accepted form of communication and if they:

- (a) notify each other in writing of their electronic mail address and/or any other information required to enable the transmission of information by that means; and
- (b) notify each other of any change to their address or any other such information supplied by them by not less than five Business Days notice.

34.5.2 Any electronic communication made between the Chargor and the Lender will be effective only when actually received in readable form and in the case of any electronic communication made by the Chargor to the Lender only if it is addressed in such a manner as Lender shall specify for this purpose.

34.5.3 Any electronic communication which becomes effective, in accordance with clause 34.5.2 above, after 5.00 pm in the place of receipt shall be deemed only to become effective on the following Business Day.

35 Governing law

35.1 Governing law

This Deed and any non-contractual obligations arising out of or in connection with it shall be governed by, and be construed in accordance with, the laws of England.

35.2 Exclusive jurisdiction

The courts of England have exclusive jurisdiction to settle any dispute arising in connection with this Deed (a **Dispute**). The parties agree that these courts are the most appropriate and convenient courts to settle any Dispute that arises under or in connection with this Deed and accordingly neither party will argue to the contrary.

35.3 Benefit of the Lender

This clause 35 is for the benefit of the Lender only. As a result the Lender will not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Lender may take concurrent proceedings in any number of jurisdictions.

This Deed has been executed as a deed by the parties and is delivered and takes effect on the date at the beginning of this Deed.

Schedule 1

Mortgaged Property

The freehold property known as Land at Grange Fruit Farm, Mawgan, Helston, TR12 6BE registered at HM Land Registry with title number CL340055

Schedule 2

Assigned Contracts

Schedule 3

Part I

Form of notice of assignment of an Assigned Contract

To: []
[]

Date:

Notice of Assignment

We hereby give notice that by a fixed charge dated [•] made between [] (the **Chargor**) (1) and [] (the **Lender**) (2) (the **Fixed Charge**), the Chargor assigned to the Lender all its rights, title and interest present and future in [the [•] between you and [•] dated [•]] [together with all ancillary or other agreements and documents entered into pursuant to or in connection therewith] (each an **Agreement** and together the **Agreements**) as security for the obligations more particularly referred to in the Fixed Charge.

By signing and returning to the Lender the additional copy of this letter, please acknowledge notice of this Fixed Charge and confirm and agree that:

- 1 you have not received notice of any previous assignment, charge, lien or other security interest of or affecting the [Agreements];
- 2 all monies due or to become due from you to the Chargor under the [Agreements] will be paid to the Chargor's account number [•] ([•]) with [•] at its [•] (sort code [•]) or to such other account as the Lender (or the Chargor and the Lender) may notify you in writing and without set-off or counterclaim save as provided in the [Agreements]; and
- 3 you will not without prior written consent of the Lender determine, agree to amend or accept a waiver of your obligations under the [Agreements].

Until the Lender serves written notice to the contrary, the Chargor will be entitled, subject to the provisions of this notice, to exercise its rights under the [Agreements].

This letter and any non-contractual obligations arising out of or in connection with it shall be governed by, and construed in accordance with, the laws of England.

Please acknowledge receipt of this letter and your acceptance of the instructions and authorisations contained in it by sending a letter, addressed to us and the Lender in the form attached hereto.

Yours faithfully

.....
Authorised signatory
for and on behalf of
[Chargor]

Schedule 3

Part II

Form of acknowledgement of notice of assignment of an Assigned Contract

To: (as Lender)

Copy: [Chargor]

Dated:

Dear Sirs

Acknowledgement of notice

We hereby acknowledge receipt of a letter (a copy of which is attached hereto) dated [•] and addressed to us by [Chargor] (the **Notice**) and hereby acknowledge the Fixed Charge (as defined the **Notice**) and accept the instructions and authorisations contained in the **Notice**.

We also confirm that we will pay all sums due under the Agreement(s) (as defined in the **Notice**) as directed in the **Notice**.

Yours faithfully

for and on behalf of

[]

signed as a deed by)
Cornwall Riviera Ltd acting)
by *HANNI KAT ST. LEGER - BROWN*)
by a)

director in the presence of: Director

witness signature 

name *JOHN MARK HEYWOOD*
address *Bank House, West End, Redruth TR12 8D*
occupation *Scholar*

executed as a deed by)
Exeter Finance Limited)
acting by)
a director in the presence of:)

Director

witness signature:

name:

address:

occupation:

signed as a deed by)
Cornwall Riviera Ltd acting)
by a)

director in the presence of:

Director

witness signature

name

address

occupation

executed as a deed by)
Exeter Finance Limited)
acting by PETER KEECH...)
a director in the presence of:)

Director

witness signature:

name:

BECKY MOORE

address:

C/O TROWERS + HAMMONS LLP

occupation:

THE SENATE, SOUTHERN HAY GARDENS, EXETER, EX1 1UG
PARALEGAL