

MR01

Particulars of a charge



Companies House

100160113

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

You can use the WebFiling service to file this form online
Please go to www.companieshouse.gov.uk

☒ **What this form is for**
You may use this form to register
a charge created or evidenced by
an instrument

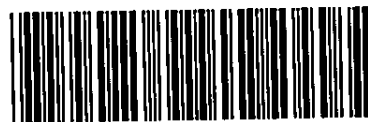
☒ **What this form is NOT for**
You may not use this form to
register a charge where there is no
instrument. Use form MR02

For further information, please
refer to our guidance at
www.companieshouse.gov.uk

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

☒ You must enclose a certified copy of the instrument with this form.
It will be scanned and placed on the public record. **Do not send the original.**

WEDNESDAY



A43XLZF5

A04

25/03/2015

#75

COMPANIES HOUSE

1 Company details

Company number 06024939 ✓

Company name in full Mount Wellington Mine Limited ✓

For official use

→ Filling in this form

Please complete in typescript or in
bold black capitals

All fields are mandatory unless
specified or indicated by *

2 Charge creation date

Charge creation date 04/03/2015 ✓

3 Names of persons, security agents or trustees entitled to the charge

Please show the names of each of the persons, security agents or trustees
entitled to the charge

Name Trent & Dove Housing Limited

Name

Name

Name

If there are more than four names, please supply any four of these names then
tick the statement below

☐ I confirm that there are more than four persons, security agents or
trustees entitled to the charge

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Particulars of a charge

4

Brief description

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

Brief description

Legal mortgage over Mount Wellington Mine located at Bissoe Truro registered at Land Registry under title numbers CL135064 and CL235216

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

Please limit the description to the available space

5

Other charge or fixed security

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

☒ Yes

☐ No

6

Floating charge

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

☐ Yes Continue

☒ No Go to **Section 7**

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

☐ Yes

7

Negative Pledge

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

☒ Yes

☐ No

8

Trustee statement¹

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

☐

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

9

Signature

Please sign the form here

Signature

Signature

X *Phydias Legal Limited*
(Solicitor for Company) X

This form must be signed by a person with an interest in the charge

MR01

Particulars of a charge

**Presenter information**

You do not have to give any contact information, but if you do, it will help Companies House if there is a query on the form. The contact information you give will be visible to searchers of the public record.

Contact name **Andrew Smith**

Company name **Prydis Legal Limited**

Address **Southgate House**

59 Magdalen Street

Post town **Exeter**

County/Region **Devon**

Postcode **E X 2 4 H Y**

Country **England**

DX **8390 Exeter**

Telephone **01392 671672**

**Certificate**

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

**Checklist**

We may return forms completed incorrectly or with information missing

Please make sure you have remembered the following

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

**Important information**

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

**How to pay**

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

Make cheques or postal orders payable to 'Companies House'

**Where to send**

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

For companies registered in England and Wales:

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

For companies registered in Scotland

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

For companies registered in Northern Ireland

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

**Further information**

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

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



FILE COPY

DX

CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 6024939

Charge code: 0602 4939 0007

The Registrar of Companies for England and Wales hereby certifies that a charge dated 4th March 2015 and created by MOUNT WELLINGTON MINE LTD was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 25th March 2015.

Given at Companies House, Cardiff on 31st March 2015



Companies House



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES

DATED 04th March 2015

**THIRD-PARTY LEGAL MORTGAGE OVER PROPERTY FROM A COMPANY SECURING
SPECIFIC LIABILITIES**

between

MOUNT WELLINGTON MINE LIMITED

and

TRENT & DOVE HOUSING LIMITED

We hereby certify that this is a true and
complete copy of the original and each
page is a true and complete copy of the
corresponding page of the original
Prydis Legal Limited



ANDREW SMITH
DIRECTOR 4.3.15

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SCHEDULE

SCHEDULE 1	PROPERTY	34
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THIS DEED is dated the 4th day of March 2015

PARTIES

- (1) MOUNT WELLINGTON MINE LIMITED incorporated and registered in England and Wales with company number 6024939 whose registered office is at Mount Wellington Mine, Fernsplatt, Truro, TR4 8RJ (**Mortgagor**)
- (2) TRENT & DOVE HOUSING LIMITED an Industrial and Provident Society registered as a charitable community benefit society under the Co-operative and Community Benefit Societies Act 2014 with registered number 030668R whose registered office is at Trinity Square, Horninglow Stret, Burton on Trent, DE14 1BL (**Beneficiary**)

BACKGROUND

- (A) Kensa Heat Pumps Limited (defined below as the "Obligor") owes an obligation to pay certain amounts to the Beneficiary subject to and in accordance with the terms of a supplemental agreement relating to the installation of ground source heats pumps by the Obligor for the Beneficiary (defined below as the "Supplemental Agreement")
- (B) The Mortgagor owns the Property and being wholly owned by a major shareholder of the Obligor has a commercial interest in the success of the Obligor and, accordingly, the Obligor has agreed to grant a charge over the Property on the terms of this deed as security for the Obligor's liabilities under the Supplemental Agreement

AGREED TERMS

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

Terms defined in the Supplemental Agreement shall, unless otherwise defined in this deed, have the same meaning in this deed. In addition, the following definitions apply in this deed

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

Certificate of Title any report on or certificate of title relating to the Property supplied to the Beneficiary by the Mortgagor (or on its behalf)

Charged Property all the assets, property and undertaking for the time being subject to any Security created by this deed (and references to the Charged Property shall include references to any part of it)

Delegate any person appointed by the Beneficiary or any Receiver under clause 15 and any person appointed as attorney of the Beneficiary, Receiver or Delegate

Environment the natural and man-made environment including all or any of the following media, namely air, water and land (including air within buildings and other

natural or man-made structures above or below the ground) and any living organisms (including man) or systems supported by those media

Environmental Law all applicable laws, statutes, regulations, secondary legislation, bye-laws, common law, directives, treaties and other measures, judgments and decisions of any court or tribunal, codes of practice and guidance notes in so far as they relate to or apply to the Environment

Environmental Licence any authorisation, permit or licence necessary under Environmental Law in respect of any of the Charged Property

Event of Default means the failure of the Obligor to make a payment required under the terms of the Supplemental Agreement within 60 (sixty) days of a written demand being issued by the Beneficiary to the Obligor and copied at the time of such demand to the Mortgagor

Insurance Policy: each contract or policy of insurance effected or maintained by the Mortgagor from time to time in respect of the Property

LPA 1925: the Law of Property Act 1925

Obligor Kensa Heat Pumps Limited (company number 03739805)

Permitted Security: the first ranking charge over the Property granted by the Mortgagor in favour of HSBC Bank plc

Property: the freehold or leasehold property (whether registered or unregistered) owned by the Mortgagor described in Schedule 1

Receiver: a receiver or a receiver and manager of any or all of the Charged Property

Rent all amounts payable to or for the benefit of the Mortgagor by way of rent, licence fee, service charge, dilapidations, ground rent and rent charge in respect of any part of the Property and other monies payable to or for the benefit of the Mortgagor in respect of occupation or usage of any part of the Property, including (without limitation) for display of advertisements on licence or otherwise

Rights 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 all present and future monies, obligations and liabilities of the Obligor to the Beneficiary, whether actual or contingent, under the Supplemental Agreement

Security any mortgage, charge (whether fixed or floating, legal or equitable), pledge, lien, assignment by way of security or other security interest securing any obligation of any person, or any other agreement or arrangement having a similar effect

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

Supplemental Agreement the supplemental agreement in relation to ground source heat pump installation dated the 4th day of March 2015 between the Obligor and the Beneficiary

Valuation any valuation relating to the Property supplied to the Beneficiary by the Mortgagor (or on its behalf)

VAT value added tax

1.2 Interpretation

In this deed

- (a) clause, Schedule and paragraph headings shall not affect the interpretation of this deed,
- (b) a reference to a **person** shall include a reference to an individual, firm, company, corporation, partnership, unincorporated body of persons, government, state or agency of a state or any association, trust, joint venture or consortium (whether or not having separate legal personality) and that person's personal representatives, successors, permitted assigns and permitted transferees,
- (c) unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular,
- (d) unless the context otherwise requires, a reference to one gender shall include a reference to the other genders,
- (e) a reference to a party and the **Obligor** shall include that party's or the Obligor's successors, permitted assigns and permitted transferees,
- (f) a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time,
- (g) a reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision,
- (h) a reference to **writing** or **written** includes fax but not e-mail,
- (i) an obligation on a party not to do something includes an obligation not to allow that thing to be done,
- (j) a reference to **this deed** (or any provision of it) or to any other agreement or document referred to in this deed is a reference to this deed, that provision or such other agreement or document as amended (in each case, other than in breach of the provisions of this deed) from time to time,
- (k) unless the context otherwise requires, a reference to a clause or Schedule is to a clause of, or Schedule to, this deed and a reference to a paragraph is to a paragraph of the relevant Schedule,
- (l) any words following the terms **including**, **include**, **in particular**, **for example** or any similar expression shall be construed as illustrative and

shall not limit the sense of the words, description, definition, phrase or term preceding those terms,

- (m) a reference to an **amendment** includes a novation, re-enactment, supplement or variation (and **amended** shall be construed accordingly),
- (n) a reference to **assets** includes present and future properties, undertakings, revenues, rights and benefits of every description,
- (o) a reference to an **authorisation** includes an approval, authorisation, consent, exemption, filing, licence, notarisation, registration and resolution,
- (p) a reference to **continuing** in relation to an Event of Default means an Event of Default that has not been remedied or waived,
- (q) a reference to **determines** or **determined** means, unless the contrary is indicated, a determination made at the absolute discretion of the person making it, and
- (r) a reference to a **regulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, inter-governmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation

1 3 **Clawback**

If the Beneficiary considers that an amount paid by the Obligor or the Mortgagor in respect of the Secured Liabilities is capable of being avoided or otherwise set aside on the liquidation or administration of the Obligor or the Mortgagor, or otherwise, then that amount shall not be considered to have been irrevocably paid for the purposes of this deed

1 4 **Nature of security over real property**

A reference in this deed to a **charge or mortgage of or over the Property** includes

- (a) all buildings and fixtures and fittings (including trade and tenant's fixtures and fittings) and fixed plant and machinery that are situated on or form part of the Property at any time,
- (b) the proceeds of the sale of any part of the Property and any other monies paid or payable in respect of or in connection with the Property,
- (c) the benefit of any covenants for title given, or entered into, by any predecessor in title of the Mortgagor in respect of the Property and any monies paid or payable in respect of those covenants, and
- (d) all rights under any licence, agreement for sale or agreement for lease in respect of the Property

1 5 **Law of Property (Miscellaneous Provisions) Act 1989**

For the purposes of section 2 of the Law of Property (Miscellaneous Provisions) Act 1989, the terms of the Supplemental Agreement and of any side letters between any parties in relation to the Supplemental Agreement are incorporated into this deed

1 6 Perpetuity period

If the rule against perpetuities applies to any trust created by this deed, the perpetuity period shall be 125 years (as specified by section 5(1) of the Perpetuities and Accumulations Act 2009)

1 7 Schedules

The Schedules form part of this deed and shall have effect as if set out in full in the body of this deed. Any reference to this deed includes the Schedules

2 COVENANT TO PAY

2 1 Covenant to pay

The Mortgagor shall, on demand, pay to the Beneficiary and discharge the Secured Liabilities when they become due

2 2 Limited recourse

Notwithstanding any other provision of the Supplemental Agreement, it is expressly agreed and understood that

- (a) the sole recourse of the Beneficiary to the Mortgagor under this deed is to the Mortgagor's interest in the Charged Property, and
- (b) the liability of the Mortgagor to the Beneficiary pursuant to or otherwise in connection with the Supplemental Agreement shall be
 - (i) limited in aggregate to an amount equal to that recovered as a result of enforcement of this deed with respect to the Charged Property, and
 - (ii) satisfied only from the proceeds of sale or other disposal or realisation of the Charged Property pursuant to this deed

3. GRANT OF SECURITY

3 1 Legal mortgage and fixed charges

As a continuing security for the payment and discharge of the Secured Liabilities, the Mortgagor with full title guarantee charges the Property to the Beneficiary by way of legal mortgage

3 2 Assignment

As a continuing security for the payment and discharge of the Secured Liabilities, the Mortgagor with full title guarantee assigns to the Beneficiary absolutely, subject to a proviso for reassignment on irrevocable discharge in full of the Secured Liabilities

- (a) all its rights in each Insurance Policy, including all claims, the proceeds of all claims and all returns of premiums in connection with each Insurance Policy, and
- (b) the Rent and the benefit of any guarantee or security in respect of the Rent,

provided that nothing in this clause 3 2 shall constitute the Beneficiary as mortgagee in possession

4. PERFECTION OF SECURITY

4 1 Registration of legal mortgage at the Land Registry

The Mortgagor consents to an application being made by the Beneficiary to the Land Registrar for the following restriction in Form P to be registered against its title to the 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 [] in favour of Trent & Dove Housing Limited referred to in the charges register or their conveyancer "

4 2 Cautions against first registration and notices

If any caution against first registration or any notice (whether agreed or unilateral) is registered against the Mortgagor's title to the Property, the Mortgagor shall immediately provide the Beneficiary with full particulars of the circumstances relating to such caution or notice. If such caution or notice was registered to protect a purported interest the creation of which is not permitted under this deed, the Mortgagor shall immediately, and at its own expense, take such steps as the Beneficiary may require to ensure that the caution or notice, as applicable, is withdrawn or cancelled

5 LIABILITY OF THE MORTGAGOR AND BENEFICIARY'S PROTECTIONS

5.1 Liability not discharged

The Mortgagor's liability under this deed in respect of any of the Secured Liabilities shall not be discharged, prejudiced or affected by

- (a) any intermediate payment, settlement of account or discharge in whole or in part of the Secured Liabilities,
- (b) any variation, extension, discharge, compromise, dealing with, exchange or renewal of any right or remedy which the Beneficiary may now or after the date of this deed have from or against the Obligor, the Mortgagor or any other person in connection with the Secured Liabilities,
- (c) any act or omission by the Beneficiary or any other person in taking up, perfecting or enforcing any Security, indemnity, or guarantee from or against the Obligor, the Mortgagor or any other person,
- (d) any termination, amendment, variation, novation, replacement or supplement of or to any of the Secured Liabilities [including, without limitation, any change in the purpose of, any increase in or extension of the Secured Liabilities and any addition of new Secured Liabilities],
- (e) any grant of time, indulgence, waiver or concession to the Obligor, the Mortgagor or any other person,
- (f) any insolvency, bankruptcy, liquidation, administration, winding-up, incapacity, limitation, disability, the discharge by operation of law, or any change in the constitution, name or style of the Obligor, the Mortgagor or any other person,
- (g) any invalidity, illegality, unenforceability, irregularity or frustration of any actual or purported obligation of, or Security held from, the Obligor, the Mortgagor or any other person in connection with the Secured Liabilities,
- (h) any claim or enforcement of payment from the Obligor, the Mortgagor or any other person, or
- (i) any other act or omission which would not have discharged or affected the liability of the Mortgagor had it been a principal debtor or by anything done or omitted by any person which, but for this provision, might operate to exonerate or discharge the Mortgagor or otherwise reduce or extinguish its liability under this deed

5.2 Immediate recourse

The Mortgagor waives any right it may have to require the Beneficiary

- (a) to take any action or obtain judgment in any court against the Obligor or any other person,

- (b) to make or file any claim in a bankruptcy, liquidation, administration or insolvency of the Obligor or any other person, or
- (c) to make demand, enforce or seek to enforce any claim, right or remedy against the Obligor or any other person,

before taking steps to enforce any of its rights or remedies under this deed

5.3 Non-competition

The Mortgagor warrants to the Beneficiary that it has not taken or received, and shall not take, exercise or receive the benefit of any Rights from or against the Obligor, its liquidator, an administrator, co-guarantor or any other person in connection with any liability of, or payment by, the Mortgagor under this deed but

- (a) if any of the Rights is taken, exercised or received by the Mortgagor, those Rights and all monies at any time received or held in respect of those Rights shall be held by the Mortgagor on trust for the Beneficiary for application in or towards the discharge of the Secured Liabilities under this deed, and
- (b) on demand by the Beneficiary, the Mortgagor shall promptly transfer, assign or pay to the Beneficiary all Rights and all monies from time to time held on trust by the Mortgagor under this clause 5.3

6. REPRESENTATIONS AND WARRANTIES

6.1 Times for making representations and warranties

The Mortgagor makes the representations and warranties set out in this clause 6 to the Beneficiary on the date of this deed

6.2 Due incorporation

The Mortgagor

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

6.3 Powers

The Mortgagor 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 of this deed

6 4 Non-contravention

The execution, delivery and performance of the obligations in, and transactions contemplated by, this deed do not and will not contravene or conflict with

- (a) the Mortgagor's constitutional documents,
- (b) any agreement or instrument binding on the Mortgagor or its assets, or
- (c) any law or regulation or judicial or official order applicable to it

6 5 Authorisations

The Mortgagor has taken all necessary action and obtained all required or desirable consents to enable it to execute, deliver and perform its obligations under this deed. Any such authorisations are in full force and effect.

6 6 Binding obligations

Subject to any general principles of law limiting its obligations

- (a) the Mortgagor's obligations under this deed are legal, valid, binding and enforceable, and
- (b) this deed creates
 - (i) valid, legally binding and enforceable Security for the obligations expressed to be secured by it, and
 - (ii) subject to registration pursuant to Part 25 of the Companies Act 2006 and, in the case of real property, registration at the Land Registry, perfected Security over the assets referred to in this deed, in favour of the Beneficiary, having the priority and ranking expressed to be created by this deed and ranking ahead of all (if any) Security and rights of third parties, except those preferred by law

6 7 Litigation

No litigation, arbitration or administrative proceedings are taking place, pending or, to the Mortgagor's knowledge, threatened against it or any of its assets or the Charged Property.

6 8 Registration

Subject to registration pursuant to Part 25 of the Companies Act 2006 and, in the case of real property, registration at the Land Registry and payment of registration fees to Companies House and the Land Registry, it is not necessary to file, record or

enroll this deed with any court or other authority or pay any stamp, registration or similar tax in relation to this deed

6 9 Ownership of Charged Property

The Mortgagor is the legal and beneficial owner of the Charged Property and has good and marketable title to the Property

6 10 No Security

The Charged Property is free from any Security other than Permitted Security and the Security created by this deed

6 11 No adverse claims

The Mortgagor has not received, or acknowledged notice of, any adverse claim by any person in respect of the Charged Property or any interest in it

6 12 No adverse covenants

There are no covenants, agreements, reservations, conditions, interests, rights or other matters whatever that materially and adversely affect the Charged Property

6 13 No breach of laws

There is no breach of any law or regulation, that materially and adversely affects the Charged Property

6 14 No interference in enjoyment

No facility necessary for the enjoyment and use of the Charged Property is subject to terms entitling any person to terminate or curtail its use

6 15 No overriding interests

Nothing has arisen, has been created or is subsisting that would be an overriding interest in the Property

6 16 No prohibitions or breaches

There is no prohibition on the Mortgagor assigning its rights in any of the Charged Property referred to in clause 3 2 and the entry into of this deed by the Mortgagor

does not and will not constitute a breach of any policy, agreement, document, instrument or obligation binding on the Mortgagor or its assets

6 17 Environmental compliance

The Mortgagor has received no notice of enforcement action for breach of relevant Environmental Law or Environmental Licences

6 18 Information for Valuations and Certificates of Title

- (a) All written information supplied by the Mortgagor or on its behalf for the purpose of each Valuation and Certificate of Title was true and accurate in all material respects at its date or at the date (if any) on which it was stated to be given
- (b) The information referred to in clause 6 18(a) was, at its date or at the date (if any) on which it was stated to be given, complete and the Mortgagor did not omit to supply any information that, if disclosed, would adversely affect the Valuation or Certificate of Title
- (c) In the case of the first Valuation and Certificate of Title only, nothing has occurred since the date the information referred to in clause 6 18(a) was supplied and the date of this deed which would adversely affect such Valuation or Certificate of Title

6 19 Avoidance of security

No Security expressed to be created under this deed is liable to be avoided, or otherwise set aside, on the liquidation or administration of the Mortgagor or otherwise

7. GENERAL COVENANTS

7 1 Negative pledge and disposal restrictions

The Mortgagor shall not at any time, except with the prior written consent of the Beneficiary

- (a) create, purport to create or permit to subsist any Security on, or in relation to, any Charged Property other than any Security created by this deed or any Permitted Security,
- (b) sell, assign, transfer, part with possession of or otherwise dispose of in any manner (or purport to do so) all or any part of, or any interest in, the Charged Property, or
- (c) create or grant (or purport to create or grant) any interest in the Charged Property in favour of a third party

7.2 Preservation of Charged Property

The Mortgagor shall not do, or permit to be done, any act or thing that would or might depreciate, jeopardise or otherwise prejudice the security held by the Beneficiary or materially diminish the value of any of the Charged Property or the effectiveness of the security created by this deed

7.3 Compliance with laws and regulations

- (a) The Mortgagor shall not, without the Beneficiary's prior written consent, use or permit the Charged Property to be used in any way contrary to law
- (b) The Mortgagor shall
 - (i) comply with the requirements of any law or regulation relating to or affecting the Charged Property or the use of it or any part of it,
 - (ii) obtain, and promptly renew from time to time, and comply with the terms of all authorisations that are required in connection with the Charged Property or its use or that are necessary to preserve, maintain or renew any Charged Property, and
 - (iii) promptly effect any maintenance, modifications, alterations or repairs to be effected on or in connection with the Charged Property that are required to be made by it under any law or regulation

7.4 Enforcement of rights

The Mortgagor shall use its best endeavours to

- (a) procure the prompt observance and performance by the relevant counterparty to any agreement or arrangement with the Mortgagor and forming part of the Charged Property of the covenants and other obligations imposed on such counterparty, and
- (b) enforce any rights and institute, continue or defend any proceedings relating to any of the Charged Property that the Beneficiary may require from time to time

7.5 Notice of misrepresentations and breaches

The Mortgagor shall, promptly on becoming aware of any of the same, give the Beneficiary notice in writing of

- (a) any representation or warranty set out in this deed that is incorrect or misleading in any material respect when made or deemed to be repeated, and
- (b) any breach of any covenant set out in this deed

7 6 Title documents

The Mortgagor shall, on the execution of this deed, deposit with the Beneficiary and the Beneficiary shall, for the duration of this deed, be entitled to hold

- (a) all deeds and documents of title relating to the Charged Property that are in the possession or control of the Mortgagor (and if these are not within the possession and/or control of the Mortgagor, the Mortgagor undertakes to obtain possession of all these deeds and documents of title), and
- (b) each Insurance Policy

7 7 Notices to be given by the Mortgagor

- (a) The Mortgagor shall if requested in writing give notice to the relevant insurers of the assignment of the Mortgagor's rights and interest in and under each Insurance Policy (including the proceeds of any claims under that Insurance Policy) under clause 3 2(a) and procure that each addressee of such notice promptly provides an acknowledgement of that notice to the Beneficiary, and
- (b) The Mortgagor shall obtain the Beneficiary's prior approval of the form of any notice or acknowledgement to be used under this clause 7 7

7 8 Mortgagor's waiver of set-off

The Mortgagor waives any present or future right of set-off it may have in respect of the Secured Liabilities (including sums payable by the Mortgagor under this deed)

7 9 Ranking of obligations

The Mortgagor's payment obligations under this deed will, at all times, rank in all respects in priority to all its other indebtedness, other than indebtedness preferred by operation of law in the event of its winding-up

7 10 Authorisations

The Mortgagor shall obtain all consents and authorisations necessary (and do all that is needed to maintain them in full force and effect) under any law or regulation of its jurisdiction of incorporation to enable it to perform its obligations under this deed and to ensure the legality, validity, enforceability and admissibility in evidence of this deed in its jurisdiction of incorporation

8 PROPERTY COVENANTS

8 1 Repair and maintenance

- (a) The Mortgagor shall keep all premises, and fixtures and fittings on the Property, in good and substantial repair and condition

8.2 No alterations

- (a) The Mortgagor shall not, without the prior written consent of the Beneficiary
 - (i) pull down or remove the whole or any part of any building forming part of the Property nor permit the same to occur, or
 - (ii) make or permit to be made any material alterations to the Property or sever or remove or permit to be severed or removed any of its fixtures or fittings (except to make any necessary repairs or renew or replace the same in accordance with clause 8.1)
- (b) The Mortgagor shall promptly give notice to the Beneficiary if the premises or fixtures or fittings forming part of the Property are destroyed or damaged

8.3 Development restrictions

The Mortgagor shall not, without the prior written consent of the Beneficiary

- (a) make or, in so far as it is able, permit others to make any application for planning permission or development consent in respect of the Property, or
- (b) carry out or permit or suffer to be carried out on the Property any development (as defined in each of the Town and Country Planning Act 1990 and the Planning Act 2008) or change or permit or suffer to be changed the use of the Property

8.4 Insurance

- (a) The Mortgagor shall insure and keep insured the Charged Property against
 - (i) loss or damage by fire or terrorist acts,
 - (ii) other risks, perils and contingencies that would be insured against by reasonably prudent persons carrying on the same class of business as the Mortgagor, and
 - (iii) any other risk, perils and contingencies as the Beneficiary may reasonably require
- (b) Any such insurance must be with an insurance company or underwriters and on such terms as are reasonably acceptable to the Beneficiary and must be for not less than the replacement value of the relevant Charged Property (meaning in the case of any premises on the Property, the total cost of entirely rebuilding, reinstating or replacing the premises in the event of their being destroyed, together with architects', surveyors', engineers' and other professional fees and charges for demolition and reinstatement) and

loss of rents payable by the tenants or other occupiers of the Property for a period of at least three years

- (c) The Mortgagor shall, if requested by the Beneficiary, produce to the Beneficiary each policy, certificate or cover note relating to any insurance required by clause 8 4(a)
- (d) The Mortgagor shall, if requested by the Beneficiary, procure that a note of the Beneficiary's interest is endorsed upon each Insurance Policy maintained by it or any person on its behalf in accordance with clause 8 4(a) and the Beneficiary is named as first loss payee and that the terms of each such Insurance Policy require the insurer not to invalidate the policy as against the Beneficiary by reason of the act or default of any other joint or named insured and not to cancel it without giving at least 30 days' prior written notice to the Beneficiary

8 5 Insurance premiums

The Mortgagor shall

- (a) promptly pay all premiums in respect of each Insurance Policy and do all other things necessary to keep that policy in full force and effect, and
- (b) (if the Beneficiary so requires) give to the Beneficiary copies of the receipts for all premiums and other payments necessary for effecting and keeping up each Insurance Policy

8 6 No invalidation of insurance

The Mortgagor shall not do or omit to do, or permit to be done or omitted, any act or thing that may invalidate or otherwise prejudice any Insurance Policy

8 7 Leases and licences affecting the Property

The Mortgagor shall not, without the prior written consent of the Beneficiary (which consent, in the case of clause 8 7(d), is not to be unreasonably withheld or delayed in circumstances in which the Mortgagor may not unreasonably withhold or delay its consent)

- (a) grant any licence or tenancy affecting the whole or any part of the Property, or exercise the statutory powers of leasing or of accepting surrenders under section 99 or section 100 of the LPA 1925 (or agree to grant any such licence or tenancy, or agree to exercise the statutory powers of leasing or of accepting surrenders under section 99 or section 100 of the LPA 1925),
- (b) in any other way dispose of, accept the surrender of, surrender or create any legal or equitable estate or interest in the whole or any part of the Property (or agree to dispose of, accept the surrender of, surrender or

create any legal or equitable estate or interest in the whole or any part of the Property),

- (c) let any person into occupation of or share occupation of the whole or any part of the Property, or
- (d) grant any consent or licence under any lease or licence affecting the Property

8 8 No restrictive obligations

The Mortgagor shall not, without the prior written consent of the Beneficiary, enter into any onerous or restrictive obligations affecting the whole or any part of the Property or create or permit to arise any overriding interest, easement or right whatever in or over the whole or any part of the Property

8 9 Proprietary rights

The Mortgagor shall procure that no person shall become entitled to assert any proprietary or other like right or interest over the whole or any part of the Property, without the prior written consent of the Beneficiary

8 10 Compliance with and enforcement of covenants

The Mortgagor shall

- (a) observe and perform all covenants, stipulations and conditions to which the Property, or the use of it, is or may be subject and (if the Beneficiary so requires) produce to the Beneficiary evidence sufficient to satisfy the Beneficiary that those covenants, stipulations and conditions have been observed and performed, and
- (b) diligently enforce all covenants, stipulations and conditions benefiting the Property and shall not (and shall not agree to) waive, release or vary any of the same

8 11 Notices or claims relating to the Property

The Mortgagor shall give full particulars to the Beneficiary of any notice, order, direction, designation, resolution, application, requirement or proposal given or made by any public or local body or authority (a **Notice**) that specifically applies to the Property, if the Mortgagor considers it relevant to the Beneficiary's security

8 12 Payment of outgoings

The Mortgagor shall pay (or procure payment of the same) when due all charges, rates, taxes, duties, assessments and other outgoings relating to or imposed upon the Property or on its occupier

8 13 Rent reviews

The Mortgagor shall, if the Property is subject to occupational leases or licences, implement any upwards rent review provisions and shall not, without the prior written consent of the Beneficiary, agree to any change in rent to less than the open market rental value of the relevant part of the Property

8 14 Environment

The Mortgagor shall in respect of the Property

- (a) comply in all material respects with all the requirements of Environmental Law, and
- (b) obtain and comply in all material respects with all Environmental Licences

8 15 Conduct of business on Property

The Mortgagor shall carry on its trade and business on those parts (if any) of the Property as are used for the purposes of trade or business in accordance with the standards of good management from time to time current in such trade or business

8 16 Inspection

The Mortgagor shall permit the Beneficiary and any Receiver and any person appointed by either of them to enter on and inspect the Property on reasonable prior notice

8 17 VAT option to tax

The Mortgagor shall not, without the prior written consent of the Beneficiary

- (a) exercise any VAT option to tax in relation to the Property, or
- (b) revoke any VAT option to tax exercised, and disclosed to the Beneficiary in writing, before the date of this deed

9. RENT COVENANTS

9 1 Collection of and dealings with Rent

- (a) The Mortgagor may deal with the Rent without restriction until the occurrence of an Event of Default

- (b) The Mortgagor agrees with the Beneficiary that any monies received by the Beneficiary under clause 9 1(a) shall not constitute the Beneficiary as mortgagee in possession of the Property

9 2 Notice of assignment of Rent

The Mortgagor shall, promptly following the occurrence of an Event of Default, give notice to the relevant tenant, guarantor or surety of the assignment under clause 3 2(b) of the Mortgagor's rights and interest to the Rent and each guarantee or security in respect of the Rent

10 POWERS OF THE BENEFICIARY

10 1 Power to remedy

- (a) The Beneficiary shall be entitled (but shall not be obliged) to remedy, at any time, a breach by the Mortgagor of any of its obligations contained in this deed
- (b) The Mortgagor irrevocably authorises the Beneficiary and its agents to do all things that are necessary or desirable for that purpose
- (c) Any monies expended by the Beneficiary in remedying a breach by the Mortgagor of its obligations contained in this deed shall be reimbursed by the Mortgagor to the Beneficiary on a full indemnity basis and shall carry interest in accordance with clause 17 1
- (d) In remedying any breach in accordance with this clause 10 1, the Beneficiary, its agents and their respective officers, agents and employees shall be entitled to enter onto the Property and to take any action as the Beneficiary may reasonably consider necessary or desirable including, without limitation, carrying out any repairs, other works or development

10 2 Exercise of rights

The rights of the Beneficiary under clause 10 1 are without prejudice to any other rights of the Beneficiary under this deed. The exercise of any rights of the Beneficiary under this deed shall not make the Beneficiary liable to account as a mortgagee in possession

10 3 Beneficiary has Receiver's powers

To the extent permitted by law, any right, power or discretion conferred by this deed on a Receiver may, after the security constituted by this deed has become enforceable, be exercised by the Beneficiary in relation to any of the Charged

Property whether or not it has taken possession of any Charged Property and without first appointing a Receiver or notwithstanding the appointment of a Receiver

10.4 Conversion of currency

- (a) For the purpose of, or pending, the discharge of any of the Secured Liabilities, the Beneficiary may convert any monies received, recovered or realised by it under this deed (including the proceeds of any previous conversion under this clause 10.4) from their existing currencies of denomination into any other currencies of denomination that the Beneficiary may think fit
- (b) Any such conversion shall be effected at the then prevailing spot selling rate of exchange for such other currency against the existing currency
- (c) Each reference in this clause 10.4 to a currency extends to funds of that currency and, for the avoidance of doubt, funds of one currency may be converted into different funds of the same currency

10.5 Indulgence

The Beneficiary may, at its discretion, grant time or other indulgence, or make any other arrangement, variation or release with any person not being a party to this deed (whether or not any person is jointly liable with the Mortgagor) in respect of any of the Secured Liabilities or of any other security for them without prejudice either to this deed or to the liability of the Mortgagor for the Secured Liabilities

11. WHEN SECURITY BECOMES ENFORCEABLE

11.1 Security becomes enforceable on Event of Default

The security constituted by this deed shall be immediately enforceable if an Event of Default occurs

11.2 Discretion

After the security constituted by this deed has become enforceable, the Beneficiary may, in its absolute discretion, enforce all or any part of that security at the times, in the manner and on the terms it thinks fit, and take possession of and hold or dispose of all or any part of the Charged Property

12. ENFORCEMENT OF SECURITY

12.1 Enforcement powers

- (a) The power of sale and other powers conferred by section 101 of the LPA 1925 (as varied or extended by this deed) shall, as between the Beneficiary and a purchaser from the Beneficiary, arise on and be exercisable at any time after the execution of this deed, but the Beneficiary shall not exercise such power of sale or other powers until the security constituted by this deed has become enforceable under clause 11.1
- (b) Section 103 of the LPA 1925 does not apply to the security constituted by this deed

12.2 **Extension of statutory powers of leasing**

The statutory powers of leasing and accepting surrenders conferred on mortgagees under the LPA 1925 and by any other statute are extended so as to authorise the Beneficiary and any Receiver, at any time after the security constituted by this deed has become enforceable, whether in its own name or in that of the Mortgagor, to

- (a) grant a lease or agreement for lease,
- (b) accept surrenders of leases, or
- (c) grant any option in respect of the whole or any part of the Property with whatever rights relating to other parts of it,

whether or not at a premium and containing such covenants on the part of the Mortgagor and on such terms and conditions (including the payment of money to a lessee or tenant on a surrender) as the Beneficiary or Receiver thinks fit, without the need to comply with any of the restrictions imposed by sections 99 and 100 of the LPA 1925

12.3 **Prior Security**

- (a) At any time after the security constituted by this deed has become enforceable, or after any powers conferred by any Security having priority to this deed shall have become exercisable, the Beneficiary may
 - (i) redeem that or any other prior Security,
 - (ii) procure the transfer of that Security to itself, and
 - (iii) settle any account of the holder of any prior Security
- (b) The settlement of any such account shall be, in the absence of any manifest error, conclusive and binding on the Mortgagor. All monies paid by the Beneficiary to an encumbrancer in settlement of such an account shall be, as from its payment by the Beneficiary, due from the Mortgagor to the Beneficiary on current account and shall bear interest at the default rate of interest (if any) specified in the Supplemental Agreement and be secured as part of the Secured Liabilities

12.4 Protection of third parties

No purchaser, mortgagee or other person dealing with the Beneficiary, any Receiver or Delegate shall be concerned to enquire

- (a) whether any of the Secured Liabilities have become due or payable, or remain unpaid or undischarged,
- (b) whether any power the Beneficiary, a Receiver or Delegate is purporting to exercise has become exercisable or is properly exercisable, or
- (c) how any money paid to the Beneficiary, any Receiver or any Delegate is to be applied

12.5 Privileges

Each Receiver and the Beneficiary is entitled to all the rights, powers, privileges and immunities conferred by the LPA 1925 on mortgagees and receivers

12.6 No liability as mortgagee in possession

Neither the Beneficiary, any Receiver nor any Delegate shall be liable to account as mortgagee in possession in respect of all or any of the Charged Property, nor shall any of them be liable for any loss on realisation of, or for any neglect or default of any nature in connection with, all or any of the Charged Property for which a mortgagee in possession might be liable as such

12.7 Relinquishing possession

If the Beneficiary, any Receiver or Delegate enters into or takes possession of the Charged Property, it or he may at any time relinquish possession

12.8 Conclusive discharge to purchasers

The receipt of the Beneficiary or any Receiver or Delegate shall be a conclusive discharge to a purchaser and, in making any sale or other disposal of any of the Charged Property or in making any acquisition in the exercise of their respective powers, the Beneficiary, every Receiver and Delegate may do so for any consideration, in any manner and on any terms that it or he thinks fit

13. RECEIVERS

13.1 Appointment

At any time after the security constituted by this deed has become enforceable, or at the request of the Mortgagor, the Beneficiary may, without further notice, appoint by way of deed, or otherwise in writing, any one or more person or persons to be a Receiver of all or any part of the Charged Property

13 2 Removal

The Beneficiary may, without further notice (subject to section 45 of the Insolvency Act 1986), from time to time, by way of deed, or otherwise in writing, remove any Receiver appointed by it and may, whenever it thinks fit, appoint a new Receiver in the place of any Receiver whose appointment may for any reason have terminated

13 3 Remuneration

The Beneficiary may fix the remuneration of any Receiver appointed by it without the restrictions contained in section 109 of the LPA 1925 and the remuneration of the Receiver shall be a debt secured by this deed, to the extent not otherwise discharged

13 4 Power of appointment additional to statutory powers

The power to appoint a Receiver conferred by this deed shall be in addition to all statutory and other powers of the Beneficiary under the Insolvency Act 1986, the LPA 1925 or otherwise, and shall be exercisable without the restrictions contained in sections 103 and 109 of the LPA 1925 or otherwise

13 5 Power of appointment exercisable despite prior appointments

The power to appoint a Receiver (whether conferred by this deed or by statute) shall be, and remain, exercisable by the Beneficiary despite any prior appointment in respect of all or any part of the Charged Property

13 6 Agent of the Mortgagor

Any Receiver appointed by the Beneficiary under this deed shall be the agent of the Mortgagor and the Mortgagor shall be solely responsible for the contracts, engagements, acts, omissions, defaults, losses and remuneration of that Receiver and for liabilities incurred by that Receiver. The agency of each Receiver shall continue until the Mortgagor goes into liquidation and after that the Receiver shall act as principal and shall not become the agent of the Beneficiary

14. POWERS OF RECEIVER

14.1 Powers additional to statutory powers

- (a) Any Receiver appointed by the Beneficiary under this deed shall, in addition to the powers conferred on him by statute, have the powers set out in clause 14.2 to clause 14.20
- (b) If there is more than one Receiver holding office at the same time, each Receiver may (unless the document appointing him states otherwise) exercise all of the powers conferred on a Receiver under this deed individually and to the exclusion of any other Receiver
- (c) Any exercise by a Receiver of any of the powers given by clause 14 may be on behalf of the Mortgagor, the directors of the Mortgagor or himself

14.2 Repair and develop the Property

A Receiver may undertake or complete any works of repair, alteration, building or development on the Property and may apply for and maintain any planning permission, development consent, building regulation approval or any other permission, consent or licence to carry out any of the same

14.3 Grant or accept surrenders of leases

A Receiver may grant, or accept, surrenders of any leases or tenancies affecting the Property on any terms and subject to any conditions that he thinks fit

14.4 Employ personnel and advisers

A Receiver may provide services and employ, or engage, any managers, officers, servants, contractors, workmen, agents, other personnel and professional advisers on any terms, and subject to any conditions, that he thinks fit. A Receiver may discharge any such person or any such person appointed by the Mortgagor

14.5 Make and revoke VAT options to tax

A Receiver may exercise or revoke any VAT option to tax that he thinks fit

14.6 Charge for remuneration

A Receiver may charge and receive any sum by way of remuneration (in addition to all costs, charges and expenses incurred by him) that the Beneficiary may prescribe or agree with him

14 7 Realise Charged Property

A Receiver may collect and get in the Charged Property or any part of it in respect of which he is appointed and make any demands and take any proceedings as may seem expedient for that purpose, and take possession of the Charged Property with like rights

14 8 Manage or reconstruct the Mortgagor's business

A Receiver may carry on, manage, develop, reconstruct, amalgamate or diversify or concur in carrying on, managing, developing, reconstructing, amalgamating or diversifying the business of the Mortgagor carried out at the Property

14 9 Dispose of Charged Property

A Receiver may grant options and licences over all or any part of the Charged Property, grant any other interest or right over, sell, assign or lease (or concur in granting options and licences over all or any part of the Charged Property, granting any other interest or right over, selling, assigning or leasing) all or any of the Charged Property in respect of which he is appointed for such consideration and in such manner (including, without limitation, by public auction or private sale) and generally on any terms and conditions that he thinks fit A Receiver may promote, or concur in promoting, a company to purchase the Charged Property to be disposed of by him

14 10 Sever fixtures and fittings

A Receiver may sever and sell separately any fixtures or fittings from the Property without the consent of the Mortgagor

14 11 Give valid receipts

A Receiver may give valid receipts for all monies and execute all assurances and things that may be proper or desirable for realising any of the Charged Property

14 12 Make settlements

A Receiver may make any arrangement, settlement or compromise between the Mortgagor and any other person that he may think expedient

14 13 Bring proceedings

A Receiver may bring, prosecute, enforce, defend and abandon all actions, suits and proceedings in relation to any of the Charged Property that he thinks fit

14 14 Insure

A Receiver may, if he thinks fit, but without prejudice to the indemnity in clause 17 2, effect with any insurer any policy of insurance either in lieu or satisfaction of, or in addition to, the insurance required to be maintained by the Mortgagor under this deed

14 15 Powers under LPA 1925

A Receiver may exercise all powers provided for in the LPA 1925 in the same way as if he had been duly appointed under the LPA 1925 and exercise all powers provided for an administrative receiver in Schedule 1 to the Insolvency Act 1986

14 16 Borrow

A Receiver may, for any of the purposes authorised by this clause 14, raise money by borrowing from the Beneficiary (or from any other person) either unsecured or on the security of all or any of the Charged Property in respect of which he is appointed on any terms that he thinks fit (including, if the Beneficiary consents, terms under which that Security ranks in priority to this deed)

14 17 Redeem prior Security

A Receiver may redeem any prior Security and settle the accounts to which the Security relates Any accounts so settled shall be, in the absence of any manifest error, conclusive and binding on the Mortgagor, and the monies so paid shall be deemed to be an expense properly incurred by the Receiver

14 18 Delegation

A Receiver may delegate his powers in accordance with this deed

14 19 Absolute beneficial owner

A Receiver may, in relation to any of the Charged Property, exercise all powers, authorisations and rights he would be capable of exercising, and do all those acts and things, as an absolute beneficial owner could exercise or do in the ownership and management of the Charged Property or any part of the Charged Property

14 20 Incidental powers

A Receiver may do any other acts and things

- (a) that he may consider desirable or necessary for realising any of the Charged Property,
- (b) that 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, or
- (c) that he lawfully may or can do as agent for the Mortgagor

15. DELEGATION

15.1 Delegation

The Beneficiary or any Receiver may delegate (either generally or specifically) by power of attorney or in any other manner to any person any right, power, authority or discretion conferred on it by this deed (including the power of attorney granted under clause 19.1)

15.2 Terms

The Beneficiary and each Receiver may make a delegation on the terms and conditions (including the power to sub-delegate) that it thinks fit

15.3 Liability

Neither the Beneficiary nor any Receiver shall be in any way liable or responsible to the Mortgagor for any loss or liability arising from any act, default, omission or misconduct on the part of any Delegate

16. APPLICATION OF PROCEEDS

16.1 Order of application of proceeds

All monies received by the Beneficiary, a Receiver or a Delegate under this deed after the security constituted by this deed has become enforceable (other than sums received under any Insurance Policy), shall (subject to the claims of any person having prior rights and by way of variation of the LPA 1925) be applied in the following order of priority

- (a) in or towards payment of or provision for all costs, charges and expenses incurred by or on behalf of the Beneficiary (and any Receiver, Delegate, attorney or agent appointed by it) under or in connection with this deed and of all remuneration due to any Receiver under or in connection with this deed,
- (b) in or towards payment of or provision for the Secured Liabilities in any order and manner that the Beneficiary determines, and

- (c) in payment of the surplus (if any) to the Mortgagor or other person entitled to it

16.2 Appropriation

Neither the Beneficiary, any Receiver nor any Delegate shall be bound (whether by virtue of section 109(8) of the LPA 1925, which is varied accordingly, or otherwise) to pay or appropriate any receipt or payment first towards interest rather than principal or otherwise in any particular order between any of the Secured Liabilities

16.3 Suspense account

All monies received by the Beneficiary, a Receiver or a Delegate under this deed (other than sums received under any Insurance Policy that are not going to be applied in or towards discharge of the Secured Liabilities)

- (a) may, at the discretion of the Beneficiary, Receiver or Delegate, be credited to any suspense or securities realised account,
- (b) shall bear interest, if any, at the rate agreed in writing between the Beneficiary and the Mortgagor, and
- (c) may be held in that account for so long as the Beneficiary, Receiver or Delegate thinks fit

17 COSTS AND INDEMNITY

17.1 Costs

The Mortgagor shall, promptly on demand, pay to, or reimburse, the Beneficiary and any Receiver, on a full indemnity basis, all costs, charges, expenses, taxes and liabilities of any kind (including, without limitation, legal, printing and out-of-pocket expenses) incurred by the Beneficiary, any Receiver or any Delegate in connection with

- (a) this deed or the Charged Property,
- (b) taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) any of the Beneficiary's, a Receiver's or a Delegate's rights under this deed, or
- (c) taking proceedings for, or recovering, any of the Secured Liabilities,

together with interest, which shall accrue and be payable (without the need for any demand for payment being made) from the date on which the relevant cost or expense arose until full discharge of that cost or expense (whether before or after judgment, liquidation, winding-up or administration of the Mortgagor) at the rate and in the manner specified in the Supplemental Agreement

17.2 Indemnity

- (a) The Mortgagor shall indemnify the Beneficiary, each Receiver and each Delegate, and their respective employees and agents against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by any of them arising out of or in connection with
 - (i) the exercise or purported exercise of any of the rights, powers, authorities or discretions vested in them under this deed or by law in respect of the Charged Property,
 - (ii) taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) the security constituted by this deed, or
 - (iii) any default or delay by the Mortgagor in performing any of its obligations under this deed
- (b) Any past or present employee or agent may enforce the terms of this clause 17.2 subject to and in accordance with the provisions of the Contracts (Rights of Third Parties) Act 1999

18. FURTHER ASSURANCE

The Mortgagor shall, at its own expense, take whatever action the Beneficiary or any Receiver may reasonably require for

- (a) creating, perfecting or protecting the security intended to be created by this deed,
- (b) facilitating the realisation of any of the Charged Property, or
- (c) facilitating the exercise of any right, power, authority or discretion exercisable by the Beneficiary or any Receiver in respect of any of the Charged Property,

including, without limitation (if the Beneficiary or Receiver thinks it expedient) the execution of any transfer, conveyance, assignment or assurance of all or any of the assets forming part of (or intended to form part of) the Charged Property (whether to the Beneficiary or to its nominee) and the giving of any notice, order or direction and the making of any registration

19. POWER OF ATTORNEY

19.1 Appointment of attorneys

By way of security, the Mortgagor irrevocably appoints the Beneficiary, every Receiver and every Delegate separately to be the attorney of the Mortgagor and, in

its name, on its behalf and as its act and deed, to execute any documents and do any acts and things that

- (a) the Mortgagor is required to execute and do under this deed, or
- (b) any attorney deems proper or desirable in exercising any of the rights, powers, authorities and discretions conferred by this deed or by law on the Beneficiary, any Receiver or any Delegate

19 2 Ratification of acts of attorneys

The Mortgagor ratifies and confirms, and agrees to ratify and confirm, anything that any of its attorneys may do in the proper and lawful exercise, or purported exercise, of all or any of the rights, powers, authorities and discretions referred to in clause 19 1

20. RELEASE

Subject to clause 26 3, on the expiry of the Security Period (but not otherwise), the Beneficiary shall, at the request and cost of the Mortgagor, take whatever action is necessary to

- (a) release the Charged Property from the security constituted by this deed, and
- (b) reassign the Charged Property to the Mortgagor

21 ASSIGNMENT AND TRANSFER

21 1 Assignment by Beneficiary

- (a) At any time, without the consent of the Mortgagor, the Beneficiary may assign or transfer any or all of its rights and obligations under this deed
- (b) The Beneficiary may disclose to any actual or proposed assignee or transferee any information in its possession that relates to the Mortgagor, the Charged Property and this deed that the Beneficiary considers appropriate

21 2 Assignment by Mortgagor

The Mortgagor may not assign any of its rights, or transfer any of its rights or obligations, under this deed

22 AMENDMENTS, WAIVERS AND CONSENTS

22 1 Amendments

No amendment of this deed shall be effective unless it is in writing and signed by, or on behalf of, each party (or its authorised representative)

22.2 Waivers and consents

- (a) A waiver of any right or remedy under this deed or by law, or any consent given under this deed, is only effective if given in writing by the waiving or consenting party and shall not be deemed a waiver of any other breach or default. It only applies in the circumstances for which it is given and shall not prevent the party giving it from subsequently relying on the relevant provision.
- (b) A failure to exercise or a delay in exercising any right or remedy provided under this deed or by law shall not constitute a waiver of that or any other right or remedy, prevent or restrict any further exercise of that or any other right or remedy or constitute an election to affirm this deed. No single or partial exercise of any right or remedy provided under this deed or by law shall prevent or restrict the further exercise of that or any other right or remedy. No election to affirm this deed by the Beneficiary shall be effective unless it is in writing.

22.3 Rights and remedies

The rights and remedies provided under this deed are cumulative and are in addition to, and not exclusive of, any rights and remedies provided by law.

23. SEVERANCE

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

24. COUNTERPARTS

- (a) This deed may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute one deed.
- (b) No counterpart shall be effective until each party has executed and delivered at least one counterpart.

25. THIRD PARTY RIGHTS

- (a) Except as expressly provided elsewhere in this deed, a person who is not a party to this deed shall not have any rights under the Contracts (Rights of

Third Parties) Act 1999 to enforce, or enjoy the benefit of, any term of this deed This does not affect any right or remedy of a third party which exists, or is available, apart from that Act

- (b) The rights of the parties to rescind or agree any amendment or waiver under this deed are not subject to the consent of any other person

26 FURTHER PROVISIONS

26 1 Independent security

The security constituted by this deed shall be in addition to, and independent of, any other security or guarantee that the Beneficiary may hold for any of the Secured Liabilities at any time No prior security held by the Beneficiary over the whole or any part of the Charged Property shall merge in the security created by this deed

26 2 Continuing security

The security constituted by this deed shall remain in full force and effect as a continuing security for the Secured Liabilities, despite any settlement of account, or intermediate payment, or other matter or thing, unless and until the Beneficiary discharges this deed in writing

26 3 Discharge conditional

Any release, discharge or settlement between the Mortgagor and the Beneficiary shall be deemed conditional on no payment or security received by the Beneficiary in respect of the Secured Liabilities being avoided, reduced or ordered to be refunded under any law relating to insolvency, bankruptcy, winding-up, administration, receivership or otherwise Despite any such release, discharge or settlement

- (a) the Beneficiary or its nominee may retain this deed and the security created by or under it, including all certificates and documents relating to the whole or any part of the Charged Property, for any period that the Beneficiary deems necessary to provide the Beneficiary with security against any such avoidance, reduction or order for refund, and
- (b) the Beneficiary may recover the value or amount of such security or payment from the Mortgagor subsequently as if the release, discharge or settlement had not occurred

26 4 Certificates

A certificate or determination by the Beneficiary as to any amount for the time being due to it from the Mortgagor under this deed shall be, in the absence of any manifest error, conclusive evidence of the amount due

26.5 **Consolidation**

The restriction on the right of consolidation contained in section 93 of the LPA 1925 shall not apply to this deed

27. **NOTICES**

27.1 **Delivery**

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

- (a) in writing,
- (b) delivered by hand, by pre-paid first-class post or other next working day delivery service or sent by fax, and
- (c) sent to
 - (i) the Mortgagor at
Mount Wellington Mine, Fernsplatt, Truro, TR4 8RJ
Attention Director
 - (ii) the Beneficiary at
Trinity Square, Horninglow Street, Burton on Trent, Staffordshire,
DE14 1BL
Attention Director

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

27.2 **Receipt by Mortgagor**

Any notice or other communication that the Beneficiary gives to the Mortgagor shall be deemed to have been received

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

A notice or other communication given as described in clause 27.2(a) or clause 27.2(c) on a day that is not a Business Day, or after normal business hours, in the place it is received, shall be deemed to have been received on the next Business Day

27.3 Receipt by Beneficiary

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

27.4 Service of proceedings

This clause 27 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution

27.5 No notice by e-mail

A notice or other communication given under or in connection with this deed is not valid if sent by e-mail

28. GOVERNING LAW AND JURISDICTION

28.1 Governing law

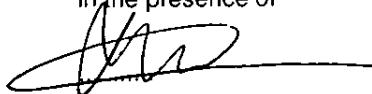
This deed and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales

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

Schedule 1 Property

Mount Wellington Mine, Bissoe, Truro registered at H M Land Registry under title numbers CL135064 and CL235216

Executed as a deed by **MOUNT
WELLINGTON MINE LIMITED** acting
by **RICHARD FREEDMAN** director,
in the presence of



SIGNATURE OF WITNESS

NAME **Simon Abraham**

ADDRESS **30 ROOPEAN CR BRIGHTON, BN2 5RH**

OCCUPATION OF WITNESS **Company Director**

 28/2/2015
Director

Executed as a Deed by **TRENT &
DOVE HOUSING LIMITED** acting by
two directors or by a Director and its
Secretary

Director

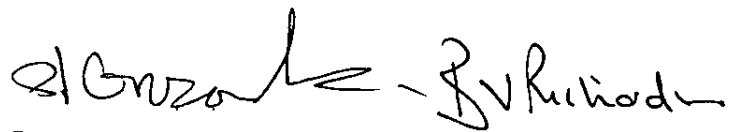
Director/Secretary

Executed as a deed by **MOUNT
WELLINGTON MINE LIMITED** acting
by _____, a director,
in the presence of _____

Director

SIGNATURE OF WITNESS
NAME
ADDRESS
OCCUPATION OF WITNESS

Executed as a Deed by **TRENT &
DOVE HOUSING LIMITED** acting by
two directors or by a Director and its
Secretary



Director



Director/Secretary

Sc 10
Andrew Smith
Pydis Legal Ltd
DX 8390 EXETER