



Registration of a Charge

Company name: **ESTEREL PROPERTIES LTD**

Company number: **09220368**



X69N1SFF

Received for Electronic Filing: **29/06/2017**

Details of Charge

Date of creation: **28/06/2017**

Charge code: **0922 0368 0006**

Persons entitled: **MIZRAHI TEFAHOT BANK LIMITED**

Brief description: **FREEHOLD PROPERTY - 26 ASHTEAD ROAD LONDON E5 9BH - TITLE NO: NGL74164**

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.**

Certified by:

RAY OSHRY



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 9220368

Charge code: 0922 0368 0006

The Registrar of Companies for England and Wales hereby certifies that a charge dated 28th June 2017 and created by ESTEREL PROPERTIES LTD was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 29th June 2017 .

Given at Companies House, Cardiff on 30th June 2017

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

Ref: ST005 – Third Party Deed of Charge over Property/Land-Corporate (non-regulated mortgage, non-consumer credit)
Page: 1 of 26

Dated 28 June 2017

ESTEREL PROPERTIES LTD

to

MIZRAHI TEFAHOT BANK LIMITED

THIRD PARTY DEED OF CHARGE OVER PROPERTY/LAND

We hereby certify ^{Redacted}
this to be a true/copy
of the original

29.6.2017

HB

Registered at the H.M. Land Registry on
the ____ day of _____ 20__

Harold Benjamin
Solicitors
Hill House
37/71 Lowlands Road
Harrow
Middlesex HA1 3EQ

[Third Party Legal Charge over land for use by corporates]

IMPORTANT NOTICE: we recommend that you consult your solicitor or other independent legal adviser before signing this document

THIS LEGAL CHARGE is made by deed the 28 day of June 2017.

BETWEEN:

- (1) **MIZRAHI TEFAHOT BANK LIMITED** acting through its London Branch, presently of 30 Old Broad Street, London EC2N 1HQ (the “Bank”)
- and
- (2) **ESTEREL PROPERTIES LTD** a company incorporated under the laws of England and Wales under company number 09220368 whose registered office is at 35 Moresby Road, London, E5 9LF (the “Mortgagor”)

NOW THIS DEED WITNESSES as follows:

1. Covenant to Pay
 - 1.1 The Mortgagor covenants that it will on demand pay to the Bank without deduction, set-off or counterclaim and discharge all monies and liabilities as defined in Clause 2.1 below.
 - 1.2 The liability of the Mortgagor under Clause 1.1 shall not exceed the amount or aggregate amounts realised by the Bank in exercising its rights under this Charge in relation to the Charged Property (as defined in Clause 5.2 below), provided that this Clause 1.2 is without prejudice to any other obligations of the Mortgagor in respect of the monies and liabilities as defined in Clause 2.1 below (including but not limited to any guarantee for such monies and liabilities) and to any obligation or liability of the Mortgagor arising under any other provision of this Charge.
2. Monies and Liabilities
 - 2.1 In this Charge the words “**monies and liabilities**” mean all present and future monies obligations and liabilities due owing or incurred by the Principal to the Bank or by the Mortgagor to the Bank under this Charge in each case whether actual or contingent and on any account and whether owed or incurred alone or jointly and/or severally with another and as principal or as surety or in any other capacity or of any nature including but without prejudice to the generality of the foregoing interest discount commission and other lawful costs charges and expenses (both before and after judgement) however incurred by the Bank in relation to this Charge or to such monies obligations or liabilities on a full indemnity basis with such interest being calculated and compounded from time to time in accordance with the terms agreed between the Principal and the Bank (if any) in respect of the corresponding monies and liabilities and in the absence of any such agreed terms calculated and compounded from time to time according to the then current practice of the Bank at the

rate of 3 per cent. per annum over the then prevailing one month London Interbank Offered Rate (as conclusively determined by the Bank) in the currency in respect of which demand has been made or any amount is owed, but shall not include any monies and liabilities arising under a regulated consumer credit agreement falling within the Consumer Credit Act 1974.

- 2.2 The monies and liabilities shall include those undertaken by the Principal or the Mortgagor under a different company name or style to that stated in this Charge and the Mortgagor's liability under this Charge shall continue and this Charge shall be available to the Bank despite any change in the name or business of the Principal or the Mortgagor or in their constitutions (whether by amalgamation consolidation reconstruction or otherwise).

3. Joint and Several Principals or Mortgagors

- 3.1 If the "Principal" and/or the "Mortgagor" shall consist of two or more parties such expression shall throughout mean and include such two or more parties and each of them and shall so far as the context admits be construed as well in the plural as in the singular and all covenants assignments charges agreements and undertakings expressed or implied on the part of the Mortgagor shall be deemed to be joint and several. This security and the covenant in Clause 1 and all other covenants charges agreements and undertakings contained in this Charge shall extend and apply to any money owing or obligation or liability incurred by any of such parties to the Bank whether solely or jointly with each other or with any other person and none of the persons included in the expression the "Mortgagor" shall as against the Bank be entitled to any of the rights or remedies legal or equitable of a surety as regards the indebtedness or liabilities of any of the other persons included in the expression the "Mortgagor".
- 3.2 Where more than one person is or is intended to be bound by this Charge, the liability of any one of them shall not be discharged, impaired or otherwise affected in any way by reason of (a) any invalidity, avoidability or un-enforceability (whether of this Charge or any other guarantee, indemnity, or security) as regards any other such person, (b) any release, discharge, composition or arrangement given to or made with any other such person or any variation of its liabilities under this Charge, (c) any failure to take, refusal, modification, exchange, dealing with, transfer, release perfection or failure to enforce any guarantee, indemnity or other security taken or agreed or intended to be taken by the Bank in respect of the obligations of any other such person under this Charge, (d) any death, insanity, bankruptcy, liquidation, administration, dissolution or other incapacitating event of or occurring to any other such person or any transfer or extinction of any liabilities of such other person by any law, order, regulation, decree, court order or similar instrument, or (e) the failure by any party to execute and deliver this Charge.
- 3.3 The signature of any Mortgagor shall not be a condition precedent to the liability of any other Mortgagor under this Charge.

4. Continuing Security

- 4.1 The security created by this Charge is continuing and extends to the ultimate balance of the monies and liabilities, regardless of any intermediate payment or discharge in whole or in part, and shall remain in full force and effect until released by the Bank or otherwise determined under this Charge.
- 4.2 This Charge shall extend to cover any monies and liabilities which shall, for the time being, constitute the balance due from the Principal or the Mortgagor to the Bank and shall be a continuing security until three calendar months' notice in writing has been received by the Bank from the Mortgagor (or the legal representatives of a Mortgagor who has become insolvent) and shall extend to secure all obligations whether actual or contingent and whether payable forthwith or at some future times or time existing at the close of business on the day on which such notice to discontinue expires together with any bills, notes or cheques current at the expiration of such notice to discontinue but afterwards dishonoured whether or not demand has been made on the Mortgagor or at the time of expiration of such notice provided also that the giving of such notice shall not entitle the Mortgagor (or the legal representatives of a Mortgagor who has become insolvent) until that notice expires without the Bank's consent to require the Principal to pay off the Principal's indebtedness to the Bank.

5. Charge

- 5.1 The Mortgagor with full title guarantee and as continuing security for the payment and discharge of the monies and liabilities:
- 5.1.1 charges to the Bank by way of legal mortgage all and every interest in or over the freehold, leasehold or other immovable property described in Schedule 1 including all buildings, fixtures and fittings on such property (subject only to the encumbrances (if any) referred to in Schedule 2), and the proceeds of sale of all such property;
- 5.1.2 assigns absolutely to the Bank the benefit of all rights licences guarantees rent deposits insurances contracts deeds undertakings and warranties relating to such property;
- 5.1.3 charges to the Bank by way of first fixed charge all plant, machinery, vehicles, computers and other equipment of the Mortgagor both present and future, including spare parts and replacements located on such property;
- 5.1.4 charges to the Bank by way of first fixed charge the goodwill of the Mortgagor in relation to any business from time to time carried on at such property;
- 5.1.5 assigns absolutely to the bank the benefit of all rents licence fees and other monies receivable now or after the date of this Charge by the Mortgagor under or arising out of any lease or licence of such property or otherwise derived from or in respect of such property (the "**rental income**").

5.2 The property described in Clauses 5.1.1 to 5.1.5 (inclusive) is referred to in this Charge as the “**Charged Property**” which expression shall include the whole or any part or parts of such property.

5.3 In respect of any part of or interest in the Charged Property title to which is registered at HM Land Registry the Chargor applies to the Chief Land Registrar to enter the following restriction on the register of the title to such property:

“No disposition of the registered estate by the proprietor of the registered estate or by the proprietor of any registered charge, is to be registered without a written consent by the proprietor for the time being of the charge dated _____ in favour of Mizrahi Tefahot Bank Limited referred to in the charges register”.

6. Restrictions

The Mortgagor shall not except with the prior written consent of the Bank or as expressly permitted by this Charge:

6.1 convey, assign, sell, lease, transfer or otherwise dispose of, by one or more transactions or series of transactions (whether related or not), the whole or any part of the Charged Property or enter into any agreement to do so;

6.2 create, purport to create or permit to subsist any mortgage charge lien pledge or other encumbrance over the whole or any part of the Charged Property;

6.3 release exchange compound set off grant time or indulgence in respect of or in any other manner deal with the Charged Property; or

6.4 otherwise agree to any disposition or variation of the rights attaching to the Charged Property.

7. Representations and Warranties

The Mortgagor represents and warrants as continuing representations and warranties which are deemed to be repeated during the continuance of the security created by this Charge, that:

7.1 it is a limited liability company, duly incorporated and validly existing under the laws of its jurisdiction of incorporation and has power to carry on its business as it is now being conducted and to own property and other assets;

7.2 the execution, delivery and performance of this Charge is within the corporate powers of the Mortgagor, has been duly authorised by all necessary corporate and other action and does not and will not conflict with or constitute a breach of (i) any law or regulation applicable to it or (ii) the Memorandum and Articles of Association or other constitutive documents of the Mortgagor or (iii) any agreement or instrument binding on the Mortgagor;

- 7.3 the obligations and liabilities expressed to be assumed by the Mortgagor under this Charge are legal, valid, binding and enforceable obligations of the Mortgagor;
- 7.4 all authorisations, consents, approvals, resolutions, licences, exemptions, filings or registrations required or desirable under any applicable law or regulation (i) to enable it lawfully to carry on its business and to enter into, exercise its rights and comply with its obligations in this Charge, and (ii) to make this Charge admissible in evidence in its jurisdiction of incorporation have been obtained or effected and are in full force and effect;
- 7.5 it is absolutely, solely and beneficially entitled to the Charged Property, the rights of the Mortgagor in respect of the Charged Property are free from any mortgage, charge, pledge, lien or other encumbrance (other than those created by this Charge or any prior charge listed in Schedule 2) and the Mortgagor has not assigned, transferred or otherwise disposed of the Charged Property (other than by this Charge); and
- 7.6 this Charge creates the security interests it purports to create and is not liable to be avoided or otherwise set aside on the winding-up or administration of the Mortgagor or otherwise.

8. Undertakings Relating to the Charged Property

Until this Charge is discharged the Mortgagor will:

- 8.1 keep all buildings forming part of the Charged Property in good and substantial repair and in good working order provided that the Bank may where it reasonably believes the Mortgagor shall have failed to do so (but without being under any duty to do so) itself repair such buildings and other tangible Charged Property (and the Mortgagor shall forthwith reimburse the Bank for all costs incurred by the Bank in doing so) and may for that purpose enter upon any land of the Mortgagor without being deemed to have gone into possession of such land;
- 8.2 insure and keep insured all buildings and other insurable Charged Property with such insurer and against fire and such other risks and in such amounts and otherwise upon such terms as the Bank may reasonably require (and failing such requirement in accordance with the practice in respect of assets of the same type from time to time current among prudent companies engaged in business similar to the Mortgagor) provided that the Bank may (but without being under any duty to do so) itself insure and keep insured any of the buildings and other insurable tangible Charged Property which the Mortgagor has in this clause covenanted to insure and the Mortgagor shall be liable to the Bank for the expenses incurred by the Bank in so doing;
- 8.3 pay all premiums and other monies necessary for effecting and maintaining such insurances within one week of the same becoming due provided that the Bank may (but without being under any duty to do so) itself pay such premiums and other monies and the Mortgagor shall be liable to the Bank for the premiums and any other expenses incurred by the Bank in so doing and ensure that every insurance policy contains a first loss payee clause and a standard mortgage protection clause by which such insurance will not be invalidated, vitiated or

avoided as against a mortgagor in the event of any misrepresentation, act, neglect or failure to disclose on the part of the insured;

- 8.4 procure that the interest of the Bank is noted upon all policies of such insurance and (if the Bank so requires) effect such insurance in the joint names of the Mortgagor and the Bank and (if the Bank so requires) produce to or deposit with the Bank all such policies and the receipts for all premiums and other payments necessary for effecting and keeping up such policies;
- 8.5 procure that all sums at any time payable under any of such policies of insurance shall be paid to the Bank (and unless paid directly to the Bank by the insurers then the Mortgagor shall be trustee of any such sum for the benefit of the Bank and shall account to the Bank accordingly). Such sums shall at the option of the Bank be applied in making good or recouping all expenditures in respect of the loss or damage for which such sums are received or (but subject to Clause 18) in or towards the discharge or reduction of any of the monies and liabilities;
- 8.6 not without the prior written consent of the Bank pull down or remove the whole or any part of any buildings forming part of the land charged by this Charge or sever or unfix or remove any of the fixtures to such buildings (except for the purpose of effecting necessary repairs or improvements provided in each case that the relevant plans have first been approved by the Bank in writing);
- 8.7 whenever any buildings forming part of the Charged Property are destroyed or damaged or deteriorates forthwith repair and make good the same or, if it is impossible to repair cost effectively, replace the same provided that the prior written consent of the Bank has been obtained;
- 8.8 comply and procure compliance by any occupiers of the Charged Property with all applicable laws or regulations relating to the following matters namely the pollution or protection of the environment, harm to or the protection of human health, the conditions of the workplace and any emission or substance capable of causing harm to any living organism or the environment (all such matters being together “**Environmental Matters**”) applicable to the Mortgagor or to the Charged Property and with any licence or approval relating to Environmental Matters and obtain and maintain in full force and effect all such licences and approvals as are necessary or desirable or obtained by prudent owners with similar assets or carrying on similar businesses and promptly on receipt provide the Bank with copies of all such licences and approvals and of any amendments to them. The Bank or its agents shall have power at reasonable times at the expense of the Mortgagor to enter on and inspect any of the Charged Property for compliance with this covenant;
- 8.9 promptly on becoming aware of the same notify the Bank in writing of:
 - 8.9.1 any indication that any of the Charged Property is or might be identified as contaminated land within the meaning of Part IIA of the Environmental Protection Act 1990;

- 8.9.2 any claim notice of violation prosecution official warning abatement or other order relating to Environmental Matters or requiring compliance with any environmental law or regulation or with any licence or approval relating to Environmental Matters which is pending or threatened against the Mortgagor or against any of the Charged Property or its occupier or of any requirement to make any investment or expenditure or to take or desist from taking action which might have a material adverse effect on the Mortgagor or any of the Charged Property;
- 8.9.3 the existence or recent existence of any Environmental Matters at any of the properties occupied by the Mortgagor which may give rise to any environmental liability and take or procure the taking of all necessary action to remedy or remove or prevent the incursion of such Environmental Matters in a manner that complies with all environmental laws or regulations;
- 8.9.4 any facts or circumstances entitling any environmental licence or approval to be revoked suspended amended or not renewed and of any requirement to make any investment or expenditure or to take or desist from taking any action where this might have a similar effect; and
- 8.9.5 full details of any inspections investigations audits tests or other analyses concerning Environmental Matters relating to the Mortgagor or to any of the Charged Property;
- 8.10 punctually pay and indemnify the Bank and any Receiver against all existing and future rent rates taxes duties charges assessments impositions and outgoings whatsoever (whether imposed by agreement statute or otherwise and whether in the nature of capital or revenue or otherwise) now or at any time during the continuance of this security payable in respect of the Charged Property or any part of it or by its owner or occupier. If any such sums shall be paid by the Bank or such Receiver the Mortgagor shall reimburse the Bank or such Receiver for such sums on demand with interest at the rate set out in Clause 2.1;
- 8.11 permit the Bank, its officers, employees and agents free access at all reasonable times and during business hours to view the state and condition of the Charged Property without becoming liable to account as a mortgagee in possession;
- 8.12 within 7 days after becoming aware of it give full particulars to the Bank of any notice order direction designation resolution or proposal having specific application to the land charged by this Charge or to the locality in which it is situate given or made whether by any private individual, or by any planning authority, any authority possessing powers of compulsory acquisition or other public body or authority whatsoever and (if the Bank so requires) forthwith and at the cost of the Mortgagor take all reasonable and necessary steps to comply with any such notice order direction designation or resolution and make or join with the Bank in making such appeals objections or representations in respect of any such proposal as the Bank acting reasonably may desire;

- 8.13 observe and perform all covenants stipulations and conditions to which the land charged by this Charge is now or in the future may be subjected and (if the Bank so requires) produce to the Bank evidence sufficient to satisfy the Bank that such covenants stipulations and conditions have been observed and performed and (but without limitation) as regards any lease under which all or any part of such land is held duly and punctually pay all rents becoming due or to become due under such lease and perform and observe all the covenants and conditions by the tenant in such lease;
- 8.14 not without the prior written consent of the Bank grant or agree to grant any licence lease or tenancy affecting all or any part of the land charged by this Charge nor exercise the powers of leasing or agreeing to lease or of accepting or agreeing to accept surrenders conferred by sections 99 and 100 of the Act nor in any other way dispose or agree to dispose of or create any legal or equitable estate or interest in the land charged by this Charge or any part of it without the prior written consent of the Bank;
- 8.15 procure that no person shall be registered under the Land Registration Act 2002 as proprietor of the land charged by this Charge or any part of it nor create or permit to arise any unregistered interest over such land which overrides first registration or which overrides a registered disposition under Schedule 1 or Schedule 3 respectively of the Land Registration Act 2002 nor permit any person to become entitled to any proprietary right or interest which might affect the value of such land and the Mortgagor shall be liable for the costs incurred by the Bank in lodging from time to time restrictions or notices against the registration of the title to all or any of such land;
- 8.16 save in respect of any development funded by the Bank as disclosed to the Bank, not without the prior written consent of the Bank make any application for planning permission whether for operational development or for change of use, enter into any agreement or undertaking under section 106 of the Town and Country Planning Act 1990, section 33 of the Local Government (Miscellaneous Provisions) Act 1982 or section 38 of the Highways Act 1980 or any similar act, make any applications for listed building consent or other consent relating to the use or development of land or carry out or permit or suffer to be carried out on the land charged by this Charge any development as defined in the Town and Country Planning Act 1990 or change or permit or suffer to be changed the use of such land;
- 8.17 procure that no person shall be or become entitled to any proprietary right or interest in respect of all or any part of the Charged Property;
- 8.18 not (without the prior written consent of the Bank) sell lease or dispose of any Charged Property to any connected person (as defined by section 249 of the Insolvency Act 1986) except on terms previously approved in writing by the Bank;
- 8.19 not do or cause or permit to be done anything which may in any way depreciate jeopardise or otherwise prejudice the value to the Bank of the security created by this Charge and not (without the prior written consent of the Bank) incur any expenditure or liabilities of an exceptional or unusual nature not required in connection with any development funded by the Bank as disclosed to the Bank;

- 8.20 subject to any prior charge made known to the Bank deposit with the Bank and permit the Bank during the continuance of this security to hold and retain all deeds and documents of title relating to the Charged Property as the Bank may from time to time require;
- 8.21 immediately notify the Bank in writing of any encumbrance on any Charged Property or any change in its rights arising out of or in connection with Charged Property; and
- 8.22 immediately notify the Bank in writing of the occurrence of any of the events of default however described under any document or agreement under which any of the monies and liabilities arises or which records their terms or of the occurrence of any event which with the lapse of time giving of notice or the making of any determination would or may constitute any such event of default.

9. Application of Monies

At any time before this Charge is discharged (and whether or not it shall have become enforceable) the Bank may if and whenever and so often as it shall think fit apply the whole or any part of the monies from time to time standing to the credit of any account of the Mortgagor with the Bank in or towards the discharge of all or any of the monies and liabilities and may pay the same to the credit of any other account (including an account opened by the Bank for the purpose) as security for any contingent or future liability of the Principal or the Mortgagor to the Bank.

10. Independence of this Charge

The Charge shall be in addition to and independent of every other security including any other negotiable instruments, mortgages, charges, guarantees, indemnities and any other securities whatsoever which the Bank may at any time hold from the Mortgagor or from the Principal or from any other person, firm or company and shall not merge with or otherwise affect such other security or any contractual legal or equitable rights of the Bank.

11. Enforcement

- 11.1 The security created by this Charge shall become immediately enforceable upon and at any time after the making of a demand upon the Principal or the Mortgagor for payment of all or part of the monies and liabilities or the occurrence of an event of default (however described) under any document or agreement under which any of the monies and liabilities arises or which records their terms. After the security created by this Charge has become enforceable the Bank may in its discretion enforce all or any part of such security in any manner it sees fit.
- 11.2 Upon the security created by this Charge becoming enforceable the powers of sale and of appointing a receiver conferred by section 101 of the Act shall immediately arise and become exercisable by the Bank free from the restrictions contained in sections 103 and 109 of the Act (which shall not apply to this security) and at any time thereafter (whether or not

any event of default is continuing) or at any time if requested by the Mortgagor in writing the Bank may appoint by deed or by writing under hand of a duly authorised officer of the Bank any one or more person or persons to be a Receiver (which expression shall where the context so admits include any person substituted as Receiver under the power contained in this Charge) of all or any of the Charged Property and may from time to time by deed or by writing under hand of a duly authorised officer of the Bank remove any person appointed to be the Receiver and may in like manner appoint another in his place.

- 11.3 In addition, to the fullest extent permitted by law, any right, power or discretion conferred by this Charge (either expressly or impliedly) or by law upon a Receiver of the Charged Property or any of it may after the security created by this Charge has become enforceable be exercised by the Bank without first appointing a Receiver or notwithstanding the appointment of a Receiver.
- 11.4 The consideration for any sale or other disposal of the Charged Property by the Bank or any Receiver in the exercise of their respective powers may (in addition to that permitted under the Act on a sale by the Bank) consist of cash, shares, or other valuable consideration, may fluctuate according to or dependent upon profit or turnover or be determined by a third party, and may be payable in a lump sum or in instalments (with or without security).
- 11.5 No purchaser or other person shall be bound or concerned to see or enquire whether the right of the Bank or any Receiver to exercise any of the powers conferred by this Charge has arisen or not or be concerned with notice to the contrary or with the propriety of the exercise or purported exercise of such powers.
- 11.6 The Bank shall not nor shall the Receiver be liable to account as mortgagee in possession in respect of all or any of the Charged Property nor be liable for any loss upon realisation or (in the absence of gross negligence or wilful default) for any neglect or default of any nature whatsoever in connection with all or any of the Charged Property for which a mortgagee in possession might as such be liable and all costs charges and expenses incurred by the Bank or the Receiver (including the costs of any proceedings in relation to this Charge or to the monies and liabilities) shall be paid by the Mortgagor on a full indemnity basis.
- 11.7 The powers of leasing, letting, entering into agreements for leases or lettings and accepting and agreeing to accept surrenders of leases conferred by sections 99 and 100 of the Act shall be exercisable by the Bank at any time after the security created by this Charge has become enforceable and whether or not the Bank shall then be in possession of the premises proposed to be leased, so as to authorise the Bank to make a lease or agreement for lease at a premium and for any length of time and generally without any restriction on the kinds of leases and agreements for lease that the Bank may make and generally without the necessity for the Bank to comply with any restrictions imposed by or the other provisions of sections 99 and 100 of the Act.
- 11.8 Section 93 of the Act shall not apply to this security or to any security given to the Bank pursuant to this Charge.

11.9 The Bank may redeem at any time any encumbrance having priority to the charges created by this Charge or procure the transfer of such encumbrance to itself and may settle and pass the accounts of the encumbrancer and any account so settled and passed shall be conclusive and binding on the Mortgagor and all monies paid by the Bank to the encumbrancer in accordance with such accounts shall as from such payment be due from the Chargor to the Bank on current account and shall bear interest and be secured as part of the monies and liabilities.

12. Receiver

12.1 The power to appoint a Receiver conferred by this Charge shall be in addition to all statutory and other powers of the Bank under the Act and the power to appoint a Receiver conferred by this Charge or by statute shall be and remain exercisable by the Bank notwithstanding any prior appointment in respect of all or any part of the Charged Property.

12.2 The Receiver shall be the agent of the Mortgagor and the Mortgagor shall be solely responsible for his acts omissions defaults and remuneration.

12.3 If at any time any two or more persons appointed by the Bank hold office as Receivers of the same assets or income, each of them may (unless otherwise stated in the instrument(s) appointing them) exercise all powers and discretions conferred on Receivers by this Charge individually and to the exclusion of the other or others of them.

13. Powers of the Receiver

Every Receiver shall (subject to any limitations or restrictions expressed in the instrument appointing him) have power in the name of the Mortgagor:

13.1 to exercise all powers provided for in the Act in the same way as if the Receiver had been duly appointed under the Act;

13.2 to take possession of collect and get in the Charged Property in respect of which he is appointed or any part of it and for that purpose to make such demands and take any proceedings as he thinks fit;

13.3 to 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 on from the Charged Property;

13.4 without the restrictions imposed by section 103 of the Act or the need to observe any of the provisions of sections 99 and 100 of the Act:

13.4.1 to sell and assign all or any of the Charged Property in respect of which the Receiver is appointed in such manner and generally on such terms and conditions and for such consideration as he thinks fit;

- 13.4.2 to let surrender or accept surrenders grant licences or otherwise dispose of or deal with all or any of the Charged Property or concur in so doing in such manner for such consideration and generally on such terms and conditions as he thinks fit with full power to convey let surrender accept surrenders or otherwise transfer or deal with such Charged Property in the name and on behalf of the Mortgagor or otherwise and for that purpose may execute any deed, receipt or other document and so that covenants and contractual obligations may be granted and assumed in the name of and so as to bind the Mortgagor (or other estate owner) if the Receiver shall consider it necessary or expedient so to do;
- 13.4.3 plant machinery fixtures fittings and equipment may be severed and sold separately from the premises containing them; and
- 13.4.4 the Receiver may apportion any rent and the performance of any obligations affecting the premises sold without the consent of the Mortgagor.
- 13.5 without any further consent by or notice to the Mortgagor exercise on behalf of the Mortgagor all the powers and provisions conferred on a landlord or a tenant by the Landlord and Tenant Acts 1927 to 1988, the Rent Acts 1974 to 1985, the Agricultural Holdings Acts 1986 to 2000 or any other legislation from time to time in force relating to rents or agriculture in respect of any part of the Charged Property but without any obligation to exercise any of such powers and without any liability in respect of powers so exercised or omitted to be exercised;
- 13.6 to make any arrangement or compromise between the Mortgagor and any other person including the Bank as he thinks fit;
- 13.7 to make effect and complete such improvements development and works of repair to the buildings forming part of the Charged Property as he thinks fit and to apply for and obtain any planning or other permissions, approvals, consents or licenses as may be necessary;
- 13.8 to engage and pay for the services of such lawyers, accountants, valuers, surveyors and other professional advisers (including his own firm) and to appoint managers officers employees contractors and agents for the purposes of exercising any power referred to in this Clause upon on such terms and for such periods as he thinks fit;
- 13.9 if he thinks fit but without prejudice to the indemnity contained in Clause 16.2 to effect with any insurer any policy or policies of insurance either in lieu or satisfaction of or in addition to such indemnity;
- 13.10 for any of the purposes authorised by this Clause to raise money by borrowing from the Bank or from any other person on the security of all or any of the Charged Property in respect of which the Receiver is appointed upon such terms (including if the Bank shall consent terms under which such security ranks in priority to all or any of the charges created by this Charge) as he thinks fit;

- 13.11 to make such elections for value added tax as he thinks fit;
- 13.12 to dispose of any chattels and produce found on the Charged Property as agent for the Mortgagor and without prejudice to any obligation to account for the proceeds of any such chattels or produce and the Receiver shall be indemnified by the Mortgagor against any liability arising from such disposal;
- 13.13 to do all such other acts and things as he may consider to be incidental or conducive to any of the matters or powers referred to in this Clause or which the Receiver lawfully may or can do as agent for the Mortgagor; and
- 13.14 to exercise in relation to the Charged Property all powers, authorities and things which it could exercise if it were the absolute beneficial owner of the Charged Property.

14. Application of Proceeds

All money received by the Bank or by any Receiver in the exercise of any powers conferred by this Charge other than insurance proceeds shall subject to claims having priority to the security created by this Charge be applied after the discharge of the remuneration and expenses of the Receiver in or towards satisfaction of such of the monies and liabilities and in such order as the Bank in its absolute discretion may from time to time conclusively determine (save that the Bank may credit the same to a suspense account for so long and in such manner as the Bank may from time to time determine and the Receiver may retain the same for such period as he and the Bank consider expedient).

15. Power of Attorney

The Mortgagor by way of security irrevocably appoints the Bank and the persons deriving title under the Bank and separately any Receiver to be its attorney in its name and on its behalf and as its act and deed or otherwise to execute and complete any documents which the Bank may require for perfecting its title to or for vesting the Charged Property in the Bank or its nominees or in any purchaser and otherwise generally to sign seal execute deliver and otherwise perfect any such legal or other mortgage charge or assignment referred to in Clause 19 and all such deeds and documents and to do all such acts and things as may be required for the full exercise of the powers conferred by this Charge including any sale lease disposition realisation or getting in of the Charged Property. The Mortgagor covenants with the Bank and separately with any such Receiver to ratify and confirm any deed document act and thing and all transactions which any such attorney may lawfully execute or do.

16. Indemnity

- 16.1 The Mortgagor agrees as a primary obligor to indemnify the Bank immediately on demand against any loss, cost or liability suffered by the Bank if all or part of the monies and liabilities or any actual or purported agreement, arrangement or instruction relating to all or part of the monies and liabilities or purporting to create or evidence any indebtedness or

other liability of the Principal to the Bank is or becomes invalid, unenforceable or illegal, irrespective of whether the reason for such invalidity, unenforceability or illegality was or ought to have been known to the Bank. The amount of such loss shall be the amount which the Bank would otherwise have been entitled to recover from the Principal provided that the amount recoverable by virtue of this Clause 16.1 shall not exceed the amount or aggregate amounts realised by the Bank in exercising its rights under this Charge in relation to the Charged Property, together with any amount payable pursuant to any other provision of this Charge (save for Clause 1.1).

- 16.2 The Mortgagor agrees on demand by the Bank to indemnify and hold harmless the Bank and the Receiver from and against all actions claims losses expenses demands and liabilities whether arising out of contract tort equity or in any other way incurred or which may at any time be incurred by it or him or by any manager agent officer employee or contractor for whose liability act or omission it or he may be answerable for anything done or omitted to be done in the exercise or purported exercise of their powers under the provisions of this Charge but only insofar as the stated liabilities do not arise out of or as a result of the gross negligence or wilful default of the Bank and the Receiver or any such representative of them. The Mortgagor shall pay interest on sums demanded at the interest rate set forth in Clause 2.1 (both before and after judgement).

17. Currency Indemnity

If any payment due from the Mortgagor under this Charge is made or is satisfied in a currency (the “**Other Currency**”) other than the currency in which the relevant payment is due (the “**Contractual Currency**”), then to the extent that the payment (when converted into the Contractual Currency at the rate of exchange on the date of payment or, in the case of the winding-up, administration or insolvency of the Mortgagor, at the rate of exchange on the latest date permitted by applicable law for the determination of liabilities in such winding-up, administration or insolvency) actually received by the Bank falls short of the amount expressed to be due under the terms of this Charge, the Mortgagor shall, as a separate and independent obligation, indemnify the Bank against the amount of such shortfall. For the purpose of this Clause “**rate of exchange**” means the rate at which the Bank is able on the relevant date to purchase the Contractual Currency with the Other Currency and shall take into account any premium and other costs of exchange.

18. Suspense Account

All monies received recovered or realised by the Bank under this Charge (including the proceeds of any conversion pursuant to Clause 17) may in the discretion of the Bank be credited to any interest bearing suspense or realisations account and may be held in such account for so long as the Bank may think fit pending the application from time to time (as the Bank shall be entitled to do as it may think fit) of such monies and accrued interest on them in or towards the discharge of any of the monies and liabilities.

19. Further Assurance

19.1 The Mortgagor shall at any time if and when required by the Bank, at the Mortgagor's expense, execute such further legal or other mortgages charges or assignments in favour of the Bank as the Bank shall from time to time require over all or any of the Charged Property and all rights and remedies relating to it both present and future (including any vendor's lien) to secure the monies and liabilities or to facilitate the realisation of the Charged Property or the exercise of the powers conferred on the Bank or a Receiver appointed by it such further mortgages charges or assignments to be prepared by or on behalf of the Bank at the cost of the Mortgagor and to contain an immediate power of sale without notice and a clause excluding section 93 and the restrictions contained in section 103 of the Act and such other clauses for the benefit of the Bank as the Bank may reasonably require.

19.2 The Mortgagor shall, from time to time on demand of the Bank and at the Mortgagor's cost, affix to such items of the Charged Property or endorse or cause to be endorsed on such documents as are referred to in Clauses 8.20 and 19.1 as the Bank shall in each case stipulate, labels, signs or memoranda in such form as the Bank shall require referring or drawing attention to the security constituted by or pursuant to this Charge.

20. New Accounts

- 20.1 If the Bank receives, or is deemed to be affected by, notice of any subsequent encumbrance or other interest affecting any of the Charged Property and/or the proceeds of sale of any of the Charged Property the Bank may open a new account for the Principal and/or the Mortgagor. If the Bank does not open a new account, it shall nevertheless be treated as if it had done so at the time when it received or was deemed to have received notice. As from that time all payments made to the Bank will be treated as having been credited to the new account and will not operate to reduce any amount for which this Charge is security.
- 20.2 The Bank shall be entitled (both before and after demand under this Charge) to set off the liability of the Mortgagor to the Bank under this Charge against any credit balance on any account of the Mortgagor with the Bank in whatever currency (whether current or otherwise or subject to notice or not and wherever located with any branch or subsidiary of the Bank).
- 20.3 Notwithstanding any term to the contrary in relation to any deposit or credit balance on any account of the Mortgagor with the Bank, no such deposit or credit balance shall be repayable by the Bank to the Mortgagor until all liability of the Mortgagor to the Bank under this Charge has been discharged.
- 20.4 If the Mortgagor has more than one account wherever located with any branch or subsidiary of the Bank in whatever currency whether current or otherwise and subject to notice or not for the Mortgagor the Bank may at any time without prior notice to the Mortgagor and without discharging or prejudicing or in any other way affecting the obligations and liabilities of the Mortgagor under this Charge forthwith combine any such account with or transfer all or any part of any balance outstanding to the credit of any such account to any other such account whether or not in debit.

21. Third Party Provisions

- 21.1 The liability of the Mortgagor under, and the security created by or pursuant to, this Charge shall not be reduced, discharged or otherwise adversely affected by any of the following events or circumstances:
- 21.1.1 any amendment, variation, novation, supplement, extension (whether of maturity or otherwise) or restatement (in each case, however fundamental and of whatever nature) or replacement of any credit or facilities to the Principal or of or relating to the monies and liabilities or of any other document or security;
 - 21.1.2 the grant by the Bank to the Principal or any other person of any time, waiver, consent or indulgence;
 - 21.1.3 any taking, dealing, exchange, renewal, variation, release, compromise, discharge, composition, arrangement or modification in relation to any guarantee, security or right which the Bank may now or after the date of this Charge have in respect of the monies and liabilities or against any person or over any asset or any release of any person under the terms of any composition or arrangement with any creditor of the Principal or any other person;
 - 21.1.4 the renewal by the Bank of any bill, promissory note or other negotiable instrument or security;
 - 21.1.5 the Bank obtaining or refusing, neglecting or otherwise failing to obtain, perfect, enforce or claim any other guarantee, security or right (whether contemporaneously with this Charge or otherwise) from or against any person or over any asset or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
 - 21.1.6 any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of the Principal or any other person;
 - 21.1.7 any unenforceability, illegality or invalidity of any obligation of the Principal or any person under any document, agreement or security;
 - 21.1.8 any death, insanity, bankruptcy, liquidation, administration, dissolution insolvency or similar proceedings or other incapacitating event of or occurring to the Principal the Mortgagor or any person, insolvency or similar proceedings; or
 - 21.1.9 any other act, omission, matter or thing which, but for this provision, would or might reduce, discharge or otherwise adversely affect the obligations of the Mortgagor under, or the security created by, this Charge.

- 21.2 Without prejudice to the generality of Clause 21.1 the Mortgagor expressly confirms that it intends that this Charge shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any document or agreement giving rise to or recording the terms of or relating to the monies and liabilities and/or any facility or amount made available under any such document or agreement for the purposes of or in connection with any of the following: business acquisitions of any nature; increasing working capital; enabling investor distributions to be made; carrying out restructurings; refinancing existing facilities; refinancing any other indebtedness; making facilities available to new borrowers; any other variation or extension of the purposes for which any such facility or amount might be made available from time to time; and any fees, costs and/or expenses associated with any of the foregoing.
- 21.3 Until all of the monies and liabilities have been irrevocably paid or discharged in full, the Mortgagor will not:
- 21.3.1 make or enforce any claim (including, but not limited to, a claim by way of set-off or counterclaim) or right against the Principal or prove in competition with the Bank, whether in respect of any payment under this Charge made by the Mortgagor or otherwise; or
 - 21.3.2 be entitled to claim or have the benefit of, any set-off, counterclaim or proof against, or dividend paid on a bankruptcy winding-up or administration of or composition with creditors by the Principal or the Principal's estate; or
 - 21.3.3 be entitled to claim or otherwise obtain the benefit (by way of subrogation or otherwise) of any security or guarantee or indemnity at any time held by the Bank for or in respect of any of the monies and liabilities; or
 - 21.3.4 claim or enforce any right of contribution against any other person providing security for or any person guaranteeing the monies and liabilities.
- 21.4 The Bank may exercise its rights under this Charge:
- 21.4.1 before making any demand on the Principal or the Principal's estate or any other person or enforcing any other security or any guarantee for the monies and liabilities; and
 - 21.4.2 for the payment of the ultimate balance after resorting to other means of payment, or for the balance due at any time notwithstanding that the Bank has not resorted to other means of payment (in which case the Mortgagor shall not be entitled to any benefit from such other means of payment so long as the monies and liabilities remain outstanding).
- 21.5 If, while the Mortgagor remains under any liability to the Bank under this Charge, any monies or other property or assets shall be received by the Mortgagor in breach of any provisions of this Clause 21, such monies or other property or assets shall, to the extent of such liability be held upon trust to pay or transfer the same to the Bank.

22. Discharge

22.1 Upon the Principal or the Mortgagor irrevocably and unconditionally paying and duly discharging all the monies and liabilities the Bank shall, in the absence of any express written agreement between the Mortgagor and the Bank to the contrary, at the request and cost of the Mortgagor discharge the security created by this Charge.

22.2 Any settlement, discharge or release between the Mortgagor and the Bank shall be conditional upon no security or payment to the Bank by the Principal or the Mortgagor or any other person being avoided or reduced by virtue of any provisions or enactment relating to bankruptcy administration or liquidation from to time in force. Subject to any limit in the total amount recoverable under the security created by this Charge, the Bank shall be entitled:

22.2.1 in the event of such avoidance or reduction, to recover the value or amount of any such security or payment from the Mortgagor subsequently as if such settlement discharge or release had not occurred; and

22.2.2 to retain any security held by it for the Mortgagor's liability until it is satisfied that it will not have to make any repayment under such law.

23. Costs of Execution, Administration and Enforcement

The Mortgagor shall on demand pay on a full indemnity basis all costs charges and expenses in any way incurred by the Bank or any Receiver in relation to the execution administration perfection stamping registration preservation and enforcement of this Charge and the security created by it (including the costs of any proceedings in relation to this Charge or the monies and liabilities) and until so paid shall carry interest at the rate set out in Clause 2.1 from the date of being incurred by the Bank, or as the case may be, the Receiver.

24. Service of Demand

Any demand or notice under this Charge or any writ or originating process may be made or given by any manager or officer of the Bank by letter addressed to the Mortgagor and delivered to the Mortgagor or sent by first class post or fax or other comparable means of communication to or left at the address of the Mortgagor stated in this Charge or as last notified in writing to the Bank or in the case of fax the fax number notified to or last known to the Bank and if sent by post shall be deemed to have been made or given at noon London time on the third day after the day the letter was posted and shall be effective notwithstanding that it be undelivered or be returned undelivered and in the case of fax or comparable means of communication during business hours of the Mortgagor then on the day of transmission, otherwise on the next following business day. Where there are two or more persons comprised in the expression the "Mortgagor" a demand or notice may be made or given to the Mortgagor by making or giving the same to the person first named above. Any communication to be given by the Mortgagor under this Charge shall be in writing and left at or posted to the Bank at the address to which this Charge was delivered

and shall be deemed for the purposes of this Charge to have been given only upon actual receipt by the Bank.

25. Benefit of this Charge

25.1 This Charge shall bind and enure to the benefit of the Mortgagor and the Bank and their respective successors.

25.2 The Bank may assign or transfer all or any part of its rights and/or obligations under this Charge without the consent of the Mortgagor. The Mortgagor shall enter into any documents specified by the Bank to be necessary to give effect to such assignment or transfer.

25.3 The Mortgagor may not assign or transfer all or any part of its rights and/or obligations under this Charge.

25.4 The Bank may disclose to a potential assignee or transferee or to any other person who may propose entering into contractual relations with the Bank in relation to this Charge such information about the Mortgagor or the Charged Property as the Bank considers appropriate.

26. Miscellaneous

26.1 The rights and remedies of the Bank provided in this Charge are in addition to and not in substitution for any rights or remedies provided by law, contract or otherwise.

26.2 No failure to exercise, nor any delay in exercising, on the part of the Bank any right or remedy under this Charge (each a “**right**”) shall impair or waive such right, nor shall any single or partial exercise of any right prevent its further or other exercise or the exercise of any other right.

26.3 If at any time any provision of this Charge is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, this shall not affect or impair the legality, validity or enforceability of the remaining provisions of this Charge nor the legality, validity or enforceability of such provision under the law of any other jurisdiction.

26.4 All payments to be made by the Mortgagor to the Bank under this Charge shall be made free and clear of and without deduction for any taxes, levies, imposts, duties, charges, fees, deductions, withholdings, conditions or restrictions of whatever nature. If the Mortgagor is obliged by law to make any such deduction or withholding from any such payment, the amount due from the Mortgagor in respect of such payment shall be increased to the extent necessary to ensure that, after the making of such deduction or withholding, the Bank receives an amount equal to the amount it would have received had no such deduction or withholding been required to be made.

- 26.5 A certificate of a manager or officer of the Bank as to the amount for the time being of the monies and liabilities and of any interest and costs shall (apart from obvious mistakes) be for all purposes conclusive against the Mortgagor.
- 26.6 This Charge will remain the property of the Bank after any release or settlement of the Mortgagor's liability to the Bank.
- 26.7 This Charge may be executed in any number of counterparts, each of which shall be deemed to be an original, and which together shall constitute one and the same agreement.
- 26.8 A person who is not a party to this Charge has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any term of this Charge.
- 26.9 This Charge shall remain in effect and binding on the Mortgagor notwithstanding any amalgamation or merger that may be effected by the Bank with any other company and notwithstanding any reconstruction by the Bank involving the formation of and transfer of the whole or any of its undertakings and assets to a new company and notwithstanding the sale or transfer of all or any part of its undertakings and assets to another company and whether or not the company with which the Bank amalgamates or merges or the company to which it transfers all or part of its undertakings and assets either on a reconstruction or sale or transfer as aforesaid shall differ in its objects, character or constitution from the Bank.
- 26.10 This Charge may not be varied save by a document signed by or on behalf of the Mortgagor and the Bank.
- 26.11 The terms of any agreement relating to the monies and liabilities and of any side letter between the parties to this Charge are incorporated in this Charge to the extent required to ensure that any purported disposition or agreement to dispose of the freehold leasehold or other immovable property contained in this Charge is a valid disposition in accordance with section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.
- 26.12 The Mortgagor confirms its understanding and acknowledges that the Bank has not and will not offer to provide nor shall it provide the Mortgagor with financial advice.
27. Interpretation
- 27.1 Unless the context otherwise requires, any reference in this Charge to:
- the "Act" means the Law of Property Act 1925;
- the "Bank" includes its successors and assigns;
- this "Charge" includes and extends to any separate or independent stipulation or agreement contained in it or in any variation of it entered into pursuant to Clause 26.10;
- the "Mortgagor" includes any person from time to time deriving title under the Mortgagor;

the "**Principal**" means 2 Wakefield Ltd, a company registered in England and Wales with registration number 09472436 whose registered office is at 35 Moresby Road, London, E5 9LE

"**Receiver**" means a receiver or receiver and manager or administrative receiver appointed by the Bank under this Charge or pursuant to any statute;

a person includes a company, partnership and/or unincorporated association;

the singular includes the plural and vice versa and words importing any gender shall include any other gender;

statutory provisions include reference to any modification or re-enactment of those provisions for the time being in force; and

the winding-up, administration or dissolution of a company includes any equivalent or analogous proceedings under the law of the jurisdiction in which such company is incorporated or any jurisdiction in which such company carries on business.

27.2 Headings and titles included in this Charge are for convenience only and do not affect its interpretation.

28. Governing Law

This Charge is governed by English law.

29. Jurisdiction

29.1 The courts of England have exclusive jurisdiction to settle any dispute (a "**Dispute**") arising out of or in connection with this Charge (including a dispute regarding the existence, validity or termination of this Charge).

29.2 It is agreed that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no party will argue to the contrary.

29.3 This Clause 29 is for the benefit of the Bank only. As a result, the Bank shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Bank may take concurrent proceedings in any number of jurisdictions.

EXECUTED and delivered as a Deed on the date stated at the beginning of this document.

SCHEDULE 1

(Scheduled Properties)

<u>Short description of the Property:</u>	<u>Title Number(s):</u>
26 Ashtead Road, London, E5 9BH	NGL74164

SCHEDULE 2

(Prior Charge or Charges)

Legal Charge/Charges dated and made by the Mortgagor in favour of:

Executed as a Deed
by Esterel Properties Ltd
acting by a director:

Signature:



Director

In the presence of:

Signature of witness:

Name of witness:



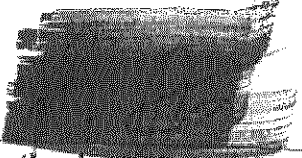
DEVORAH MEISELS

Address:

9 CASTLEWOOD ROAD

LONDON N16 6BZ

Signed as a Deed
for and on behalf of
Mizrahi Tefahot Bank Limited by:



Authorised Signatory

ARON STORFER
PROPERTY FINANCIAL
MIZRAHI TEFAHOT BANK LTD



Authorised Signatory

ELTON HILLMAN
PROPERTY FINANCIAL
MIZRAHI TEFAHOT BANK LIMITED
LONDON BRANCH