



Registration of a Charge

Company name: **CARR'S FLOUR MILLS LIMITED**

Company number: **00480341**



X5GTP1G9

Received for Electronic Filing: **03/10/2016**

Details of Charge

Date of creation: **20/09/2016**

Charge code: **0048 0341 0010**

Persons entitled: **HSBC CORPORATE TRUSTEE COMPANY (UK) LIMITED AS SECURITY TRUSTEE FOR THE SECURED PARTIES**

Brief description: **(FIRST) ALL AND WHOLE THE LANDS AND BUILDINGS KNOWN AS AND FORMING THE MALTINGS, THE HARBOUR, KIRKCALDY BEING THE SUBJECTS REGISTERED IN THE LAND REGISTER OF SCOTLAND UNDER TITLE NUMBER FFE97568; AND (SECOND) ALL AND WHOLE THE SUBJECTS KNOWN AS AND FORMING EAST BRIDGE FLOUR MILL, KIRKCALDY AND 1 BRAEHEAD COTTAGES, 2 BRAEHEAD COTTAGE AND 3 BRAEHEAD COTTAGES, MID STREET, KIRKCALDY, KY1 2PF BEING THE SUBJECTS REGISTERED IN THE LAND REGISTER OF SCOTLAND UNDER TITLE NUMBER FFE22743.**

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: **MORTON FRASER LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 480341

Charge code: 0048 0341 0010

The Registrar of Companies for England and Wales hereby certifies that a charge dated 20th September 2016 and created by CARR'S FLOUR MILLS LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 3rd October 2016 .

Given at Companies House, Cardiff on 4th October 2016

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

STANDARD SECURITY

by

CARR'S FLOUR MILLS LIMITED
(as Chargor)

in favour of

HSBC CORPORATE TRUSTEE
COMPANY (UK) LIMITED
(as security trustee for the Secured
Parties)

Subjects at The Maltings, The
Harbour, Kirkcaldy

2016
PK4/ASM/GO476 X038

MORTON FRASER
LAWYERS

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STANDARD SECURITY

by

- (1) **CARR'S FLOUR MILLS LIMITED**, a company incorporated in England and Wales under the Companies Acts with registered number 00480341 and having its registered office at Old Croft Stanwix, Carlisle CA3 9BA (the "**Chargor**")

in favour of

- (2) **HSBC CORPORATE TRUSTEE COMPANY (UK) LIMITED**, a company incorporated in England and Wales under the Companies Acts with registered number 06447555 and having its registered office at 8 Canada Square, London E14 5HQ as security trustee for the Secured Parties as defined in the Facility Agreement referred to below (the "**Security Agent**")

CONSIDERING THAT:

- (A) The Finance Parties have agreed to make a loan facility available under the Facility Agreement (as defined below);
- (B) One of the conditions precedent to the availability of the facility referred to in Recital (A) above is that the Chargor grants to the Security Agent this standard security.

NOW IT IS HEREBY AGREED AND DECLARED AS FOLLOWS:

1 Definitions and Interpretation

1.1 In this Standard Security:

Direction has the meaning given to it in clause 4.1.4.1;

"Facility Agreement" means the facility agreement between the Whitworth Holdings Limited, Whitworth Bros. Limited and the Chargor as Original Borrowers, Whitworths Holdings Limited, Whitworths Bros. Limited and the Chargor and others as Original Guarantors, HSBC Bank plc and Santander UK plc as Arrangers, HSBC Bank plc and Santander UK plc as Original Lenders, Santander UK plc as Original Ancillary Lender, HSBC Bank plc as Agent and HSBC Corporate Trustee Company (UK) Limited as Security Agent and dated on or about the date of this Standard Security under which the Lenders agree to make available to the Borrowers a revolving credit facility and ancillary facilities;

Occupational Lease means a lease of the Security Subjects or part thereof in respect of which the Chargor is landlord;

Planning Acts means the Town and Country Planning (Scotland) Act 1997, the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, the Planning (Hazardous Substances) (Scotland) Act 1997, the Planning (Consequential Provisions) (Scotland) Act 1997 and the Planning etc (Scotland) Act 2006 and any regulations or subordinate legislation made under any of the foregoing and any other statute or regulation governing or controlling the use or development of land and buildings;

"Secured Obligations" means, in respect of any Obligor, all monies and liabilities now or after the date of this Standard Security due, owing or incurred by that Obligor to the Finance Parties (or any of them) under the Finance Documents (or any of them) in any manner and in any currency or currencies and whether present or future, actual or contingent, whether incurred solely or jointly with any other person and whether as principal or surety, together with all interest accruing on such monies and liabilities and all costs, charges and expenses incurred by any Finance Party under any Finance Document, except for any obligation which, if it were

included here, would constitute unlawful financial assistance, or its equivalent in any other jurisdiction;

"Security Period" means the period beginning on the date of this Standard Security and ending on the date on which the Security Agent is satisfied that the Secured Obligations have been irrevocably and unconditionally satisfied in full and all facilities made available by the Finance Parties (or any of them) under the Finance Documents (or any of them) have been cancelled; and

the **"Security Subjects"** means ALL and WHOLE (First) ALL and WHOLE the lands and buildings known as and forming The Maltings, The Harbour, Kirkcaldy being the subjects registered in the Land Register of Scotland under Title Number FFE97568; and (Second) ALL and WHOLE the subjects known as and forming East Bridge Flour Mill, Kirkcaldy and 1 Braehead Cottages, 2 Braehead Cottages and 3 Braehead Cottages, Mid Street, Kirkcaldy KY1 2PF being the subjects registered in the Land Register of Scotland under Title Number FFE22743.

1.2 Construction

- 1.2.1 Capitalised terms defined in the Facility Agreement have, unless expressly defined in this Standard Security, the same meaning in this Standard Security.
- 1.2.2 In this Standard Security, the term **dispose** includes any sale, lease, licence, transfer or loan.
- 1.2.3 The provisions of clause 1.2 (Construction) of the Facility Agreement apply to this Standard Security as though they were set out in full in this Standard Security except that references to the Facility Agreement are to be construed as references to this Standard Security.
- 1.2.4 A Finance Document or other document includes (without prejudice to any prohibition on amendments) all amendments however fundamental to that Finance Document or other document, including any amendment providing for any increase in the amount of a facility or any additional facility.
- 1.2.5 If the Security Agent considers that an amount paid to it or any Finance Party is capable of being avoided or otherwise set aside on the liquidation or administration of the payer or otherwise, then that amount will not be considered to have been irrevocably paid for the purposes of this Standard Security.

2 Covenant to Pay

The Chargor undertakes to the Security Agent as security trustee for the Finance Parties to pay and discharge the Secured Obligations when they become due for payment and discharge in accordance with the terms of the Finance Documents.

3 Charge

The Chargor hereby in security of the Secured Obligations grants a standard security in favour of the Security Agent over the Security Subjects.

4 Standard Conditions

The Standard Conditions specified in Schedule 3 to the Conveyancing and Feudal Reform (Scotland) Act 1970, and any lawful variation thereof operative for the time being, shall apply, and the Chargor agrees that (One) the Standard Conditions shall be varied by the whole terms, undertakings, obligations, powers, rights, provisions and others contained in the

Facility Agreement and (two) the Standard Conditions shall be further varied as set out in this Standard Security. For the avoidance of doubt, to the extent that the Standard Conditions (as varied by this Standard Security) conflict with or are inconsistent with the terms of the Facility Agreement then the terms of the Facility Agreement shall prevail and have effect in preference to the Standard Conditions:

The Standard Conditions shall be modified as follows:

4.1 Heritable Property

4.1.1 Access

The Chargor will permit the Security Agent and such person or persons as the Security Agent shall nominate at all reasonable times and on reasonable notice to enter on any part of the Security Subjects.

4.1.2 Repair

4.1.2.1 The Chargor shall keep the Security Subjects in good and substantial repair and condition and decorative order.

4.1.2.2 The Chargor shall repair any defect or damage to the Security Subjects or part thereof promptly and if it fails to do so the Security Agent may, but shall not be obliged to, do so.

4.1.3 Planning

The Chargor shall not do or allow or omit to be done anything which may infringe or contravene the Planning Acts affecting the Security Subjects, nor make any application for the grant of planning permission within the meaning of the Planning Acts without the prior written consent of the Security Agent.

4.1.4 Planning directions

4.1.4.1 Within 5 Business Days of receipt by the Chargor of any notice or order (**Direction**) served on or issued to it by any local or other authority (whether under the Planning Acts or otherwise) in respect of the Security Subjects or part thereof, the Chargor shall give full particulars of the Direction to the Security Agent and, if so requested by the Security Agent, produce the Direction or a copy of it to the Security Agent.

4.1.4.2 The Chargor shall advise the Security Agent of all steps taken or proposed to be taken by it from time to time to comply with the terms of the Direction.

4.1.4.3 The Chargor shall take all necessary steps to comply with the Direction.

4.1.4.4 The Chargor shall at the request of the Security Agent (but at the cost of the Chargor) make or join with the Security Agent in making such objections, representations against, appealing against or in respect of any proposal contained in the Direction as the Security Agent shall deem expedient in order to protect the interests of the Secured Parties.

4.1.5 Development

4.1.5.1 The Chargor shall not carry out any development (as defined in the Planning Acts) on the Security Subjects or part thereof without the prior written consent of the Security Agent.

4.1.5.2 The Chargor shall not change the use of the Security Subjects or part thereof without the prior written consent of the Security Agent.

4.1.6 Future acquisitions and standard security

The Chargor shall:

4.1.6.1 notify the Security Agent immediately of its intention to acquire any heritable, leasehold or other interest in property including the proposed date of such acquisition (and for the purposes of this clause 4.1.6 the date of conclusion of the contract for such an acquisition shall be deemed the date of acquisition);

4.1.6.2 at the Chargor's cost, execute and deliver to the Security Agent on demand, a standard security (in form and substance satisfactory to the Security Agent and in substantially the same terms as this Standard Security) in favour of the Security Agent of any heritable or leasehold or other interest in property which becomes vested in it after the date of this Standard Security; and

4.1.6.3 obtain any consents required for the Security referred to in this clause 4.1.6; and

4.1.7 Deposit of title deeds

The Chargor shall deposit with the Security Agent all deeds and documents of title relating to the Security Subjects.

4.1.8 Outgoings

The Chargor will punctually pay and indemnify the Security Agent against all present and future rents, rates, taxes, assessments and outgoings of whatsoever nature imposed on or payable in respect of the Security Subjects or any part thereof or payable by the owner or occupier of the Security Subjects or any part thereof.

4.1.9 Investigation of title

On request by the Security Agent, the Chargor shall grant the Security Agent or its advisers (at the cost of the Chargor) all facilities within its power to enable the Security Agent or its advisers or delegates to carry out such investigations of title to and enquiries into the Security Subjects as may be carried out by a prudent mortgagee or chargee.

4.2 Lease

4.2.1 Lease and compliance with obligations

The Chargor shall:

- 4.2.1.1 perform all the terms on its part contained in any lease or agreement for lease under which it holds an interest in the Security Subjects or to which the Security Subjects is subject;
- 4.2.1.2 properly perform (and indemnify the Security Agent for any breach of) any obligations and stipulations of whatsoever nature affecting the Security Subjects or part thereof;
- 4.2.1.3 not make any election or take any other action so as to alter the treatment of any Occupational Lease for the purposes of value added tax.

4.2.2 No variation to lease

The Chargor shall not without the prior written consent of the Security Agent alter or vary or agree to alter or vary the terms of any lease under which it holds the Security Subjects or any lease to which the Security Subjects is subject.

4.2.3 No surrender or termination

The Chargor shall not without the prior written consent of the Security Agent surrender or otherwise terminate any lease under which it holds the Security Subjects or terminate, irritate or accept a surrender of any lease to which any Security Subjects is subject.

4.2.4 Compliance by tenants

The Chargor shall use reasonable endeavours to procure that each tenant under an Occupational Lease complies with the terms of that Occupational Lease.

4.2.5 Lease or right to occupy

The Chargor will not without the prior written consent of the Security Agent:

- 4.2.5.1 grant any lease or tenancy or exercise any other power of leasing of the whole of the Security Subjects or any part thereof; or
- 4.2.5.2 grant any person any contractual licence or the right to occupy the Security Subjects or part thereof or part with possession of the Security Subjects or part thereof.

4.2.6 Irritancy

The Chargor shall not do or permit anything which may render any lease or agreement for lease under which it holds an interest in the Security Subjects, or to which the Security Subjects is subject, liable to irritancy or otherwise determinable.

4.3 Insurance

- 4.3.1 The Chargor shall comply with clause 24.23 (Insurance) of the Facility Agreement.

4.3.2 The Chargor shall ensure that:

- 4.3.2.1 the name of the Security Agent be noted on each policy of insurance as mortgagee and first loss payee;
- 4.3.2.2 each policy of insurance shall contain a standard mortgagee clause whereby, among other things, the insurance shall not be vitiated or avoided as against a mortgagee notwithstanding that it could otherwise be so against any Chargor; and
- 4.3.2.3 each policy of insurance shall contain a provision to the effect that the insurance shall not be invalidated as against the Security Agent for non-payment of any premium due without the insurer first giving to the Security Agent not less than 14 days' written notice.

4.3.3 If a Chargor shall be in default of effecting or maintaining insurances or in producing any such policy or receipt to the Security Agent on demand, the Security Agent may take out or renew such insurances in any sum which the Security Agent may think expedient and all monies expended and costs incurred by the Security Agent under this provision shall be for the account of any such Chargor.

4.4 General

It shall not do or cause or permit to be done anything which may in any way materially depreciate, jeopardise or otherwise prejudice the value to the Finance Parties of the Security created by or under this Standard Security.

5 **Negative Pledge**

5.1 The Chargor shall not create or permit to subsist any Security over any of its assets other than the heritable security detailed in clause 14.1.1 and the agreement regulating its ranking detailed in clause 14.1.2.

5.2 The Chargor shall not:

- 5.2.1 sell, transfer or otherwise dispose of any of its assets on terms whereby they are or may be leased to or re-acquired by an Obligor or any other member of the Group;
- 5.2.2 sell, transfer or otherwise dispose of any of its receivables on recourse terms;
- 5.2.3 enter into any arrangement under which money or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts; or
- 5.2.4 enter into any other preferential arrangement having a similar effect,

in circumstances where the arrangement or transaction is entered into primarily as a method of raising Financial Indebtedness or of financing the acquisition of an asset.

5.3 Clauses 5.1 and 5.2 do not apply to any Security or arrangement which is Permitted Security.

6 **Enforcement**

Upon the occurrence of an Event of Default which is continuing, the Chargor, shall be held to be in default within the meaning of Standard Condition 9(1)(b) of the Standard Conditions.

7 Notice of Subsequent Charge

If the Security Agent or any other Finance Party receives notice of any subsequent charge or other interest affecting all or any part of the Security Subjects, the Security Agent and each other Finance Party may open a new account or accounts in the name of the Chargor and, if or insofar as the Security Agent or such other Finance Party does not open a new account or accounts, it shall nevertheless be treated as if it had done so at the time when it receives such notice and as and from that time all payments made by the Chargor to the Security Agent (whether in its capacity as trustee or otherwise) or to another Finance Party shall, notwithstanding any instructions by the Chargor to the contrary, be credited or treated as having been credited to the new account or accounts and shall not operate to reduce the Secured Obligations.

8 Assignment by the Security Agent

The Security Agent may assign or otherwise transfer all or any part of its rights under this Standard Security or any Security created by or under it in accordance with the terms of the Finance Documents.

9 Notices

Any communication under this Standard Security or any other Security or Finance Document created by or under this Standard Security, shall be made and given in accordance with the terms of clause 34 (Notices) of the Facility Agreement.

10 Application of Monies

10.1 All monies received by the Security Agent under this Standard Security shall be applied in accordance with the terms of the Intercreditor Deed and the Facility Agreement.

10.2 The Security Agent may place any money received, recovered or realised pursuant to this Standard Security in an interest bearing suspense account and it may retain the same for such period as it considers expedient without having any obligation to apply the same or any part of it in or towards discharge of the Secured Obligations.

11 Invalidity

Clause 36 (Partial Invalidity) of the Facility Agreement shall apply to this Standard Security as if set out here in full but so that references to the Finance Documents shall be construed as references to this Standard Security and any Security created by or under it.

12 Certificates and Determinations

Clause 35.2 (Certificates and determinations) of the Facility Agreement shall apply to this Standard Security as if set out here in full but so that references to the Finance Documents shall be construed as references to this Standard Security and any Security created by or under it.

13 Governing Law and Jurisdiction

This Standard Security shall be governed by, and construed in all respects in accordance with, the law of Scotland and, for the benefit of the Security Agent, the Chargor irrevocably submits to the non-exclusive jurisdiction of the Scottish Courts but without prejudice to the ability of the Security Agent to proceed against the Chargor in any other appropriate jurisdiction.

14 Warrandice and Consent to Registration

14.1 The Chargor hereby grants warrandice subject to:

14.1.1 Standard Security by the Chargor in favour of HSBC Equipment Finance (UK) Limited executed by the Chargor on or around the date of the Chargor's execution of this Standard Security and registered or to be registered in the Land Register of Scotland under Title Numbers FFE97568 and FFE22743 and

14.1.2 Ranking Agreement between HSBC Equipment Finance (UK) Limited, the Security Agent and the Chargor executed by the Chargor on or around the date of the Chargor's execution of this Standard Security and registered or to be registered in the Land Register of Scotland under Title Numbers FFE97568 and FFE22743.

14.2 A certificate signed by any official, manager or equivalent account officer of the Security Agent shall, in the absence of manifest error, conclusively determine the Secured Obligations at any relevant time. The Chargor hereby consents to the registration of this Standard Security and of any such certificate for preservation and execution: IN WITNESS WHEREOF these presents consisting of this and the preceding 7 pages are executed as follows:

THE CHARGOR

SUBSCRIBED for and on behalf of

CARR'S FLOUR MILLS LIMITED

at No 1 Colmore Square, Birmingham B46AA
on 3rd September 2016

by

NOEL BUTLER

Print Full Name

[Redacted Signature]
Director

before this witness

ANDREW GULOTT

Print Full Name

[Redacted Signature]
Witness

Address

[Redacted Address]