



Registration of a Charge

Company name: **WILMINGTON TRUST SP SERVICES (LONDON) LIMITED**
Company number: **02548079**



Received for Electronic Filing: **04/07/2018**

Details of Charge

Date of creation: **29/06/2018**
Charge code: **0254 8079 0009**
Persons entitled: **CITIBANK, N.A., LONDON BRANCH, CITIGROUP CENTRE, CANADA SQUARE, CANARY WHARF, LONDON E14 5LB AS SECURITY TRUSTEE.**
Brief description:
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:

CLIFFORD CHANCE LLP



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 2548079

Charge code: 0254 8079 0009

The Registrar of Companies for England and Wales hereby certifies that a charge dated 29th June 2018 and created by WILMINGTON TRUST SP SERVICES (LONDON) LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 4th July 2018 .

Given at Companies House, Cardiff on 6th July 2018

The above information was communicated by electronic means and authenticated by the Registrar of Companies under section 1115 of the Companies Act 2006



Companies House



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES

DATED 29 JUNE 2018

WILMINGTON TRUST SP SERVICES (LONDON) LIMITED
AS CHARGOR

AND

CITIBANK, N.A., LONDON BRANCH
AS SECURITY TRUSTEE

SHARE CHARGE

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THIS CHARGE is made as a **DEED** on 29 June 2018

BY

- (1) **WILMINGTON TRUST SP SERVICES (LONDON) LIMITED** (registered number 2548079), whose registered office is at Third Floor, 1 King's Arms Yard, London, EC2R 7AF as the "**Chargor**";

IN FAVOUR OF

- (2) **CITIBANK, N.A., LONDON BRANCH**, having its registered office at Citigroup Centre, Canada Square, Canary Wharf, London E14 5LB as the "**Security Trustee**" (which expression, unless the context otherwise requires, includes its successor in title, permitted assigns and permitted transferees and any person for the time being appointed as Security Trustee or Security Trustees in accordance with Transaction Documents).

WHEREAS:

- (A) The Chargor holds entire issued share capital in Hastings Warehouse Borrower Limited (the "**Issuer**") on discretionary trust for charitable purposes.
- (B) Under this Charge, the Chargor charges the Shares by way of security to the Security Trustee, as security for the Secured Obligations.
- (C) It is intended that this document shall take effect as a deed of those parties that have executed it as such.

IT IS AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

Capitalised terms used but not defined in this Deed shall have the meaning given to them in the senior loan note issuance facility agreement dated on or about the date hereof between, among others, the Issuer and the Security Trustee (the "**Senior Loan Note Issuance Facility Agreement**") or in the security trust deed dated on or about the date hereof between, among others, the Issuer and the Security Trustee (the "**Security Trust Deed**"). In addition, unless the context otherwise requires, the following definitions shall apply in this Charge:

"**Additional Shares**" means any shares in the capital of the Issuer (as described in Schedule 1 (*Details of Shares*)) which are acquired or subscribed by the Chargor after the date of this Charge.

"**Charged Property**" means all the assets of the Chargor which from time to time are the subject of the security created or expressed to be created in favour of the Security Trustee by or pursuant to this Charge (and references to the Charged Property shall include references to any part of it).

"**Collateral Rights**" means all rights, powers and remedies of the Security Trustee provided by or pursuant to this Charge or by law.

"Derivative Rights" means:

- (a) all dividends, interest, distributions and other income paid or payable on or in respect of any Shares;
- (b) all stocks, shares, securities or other property derived from any Shares;
- (c) all other allotments, accretions, rights, benefits and advantages of any kind accruing, offered or otherwise derived from or incidental to any Shares (whether by way of redemption, bonus, preference, option, substitution, conversion, exchange or otherwise); and
- (d) all other Related Rights in relation to any Shares.

"Enforcement Notice" has the meaning given to it in Clause 4 (*Conversion to a Legal Mortgage*).

"Receiver" means a receiver or receiver and manager or administrative receiver of the whole or any part of the Shares.

"Related Rights" means, in relation to any asset:

- (a) the proceeds of sale of any part of that asset;
- (b) all rights under any agreement for sale in respect of that asset;
- (c) all rights, benefits, claims, contracts, warranties, covenants for title, negotiable and non-negotiable instruments, guarantees, indemnities, security, liens, reservation of proprietary rights, rights of tracing or remedies in respect of that asset; and
- (d) any monies and proceeds paid or payable in respect of that asset,

and shall include, without limitation, all rights relating to any Shares which are deposited with or registered in the name of any trustee, fiduciary, depository, custodian, nominee, clearing house or system, investment manager, chargee or other similar person or their nominee on behalf of the Chargor (in each case whether or not on a fungible basis) (including all rights and claims against such person).

"Security Period" means the period beginning on the date hereof and ending on the date upon which the Security Trustee is satisfied that all the Secured Amounts which have arisen have been irrevocably paid and discharged in full (and no Finance Party is under any obligation to make any advances or extend any credit to the Issuer under any Finance Document).

"Share Declaration of Trust " has the meaning given to it in the Corporate Services Agreement.

"Shares" means the shares, stock or other securities specified in Schedule 1 (*Details of Shares*) and any Additional Shares, whether the same are held directly by or to the order of the Chargor or are deposited with or registered in the name of any trustee, fiduciary, depository, custodian, nominee, clearing house or system, investment manager, chargee

or other similar person or their nominee on behalf of the Chargor (in each case whether or not on a fungible basis) and whether or not the same have been delivered to or to the order of the Security Trustee (or its nominee).

1.2 Construction

The provisions of clause 1.2 (*Construction*) of the Senior Loan Note Issuance Facility Agreement shall apply to this Deed as if set out mutatis mutandis herein.

1.3 Currency symbols and definitions

"£", "GBP" and "sterling" denote the lawful currency of the United Kingdom.

1.4 Third party rights

- (a) Unless expressly provided to the contrary in this Deed, a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 (the "**Third Parties Act**") to enforce or to enjoy the benefit of any term of this Deed.
- (b) Notwithstanding any term of this Deed the consent of any person who is not a Party is not required to rescind or vary this Deed at any time.

1.5 Role of the Security Trustee

In acting hereunder, the Security Trustee does so in accordance with its terms of appointment under the Security Trust Deed and is entitled to the protections set out therein.

2. GRANT OF SECURITY

The Chargor hereby, with full title guarantee, charges in favour of the Security Trustee (as Security Trustee for the Secured Creditors), by way of first fixed charge as security for the payment, performance and discharge of all the Secured Amounts, all of the Chargor's right, title and interest from time to time in and to the Shares and all Derivative Rights.

3. DELIVERY OF DOCUMENTS

The Chargor shall:

- (a) upon the execution of this Charge, deliver to the Security Trustee or its nominee, or procure such delivery of, all share certificates and other documents of title representing, or evidencing ownership of, the Shares specified in Schedule 1 (*Details of Shares*) and stock transfer forms (executed in blank by or on behalf of the Chargor and left undated) in respect of such Shares, together with all other documents the Security Trustee may reasonably require to enable the Security Trustee (or its nominee) to be registered as the owner of, or otherwise to obtain legal title to, such Shares in circumstances where enforcement of the security hereunder is permitted; and
- (b) within ten (10) Business Days following the accrual or issue to, or the acquisition or receipt by, it or any of its nominees of any Additional Shares

(including comprised in any Derivative Rights) promptly notify the Security Trustee and comply with each of the obligations set out in paragraph (a) above in circumstances where enforcement of the security hereunder is permitted.

4. CONVERSION TO A LEGAL MORTGAGE

The Security Trustee may:

- (a) hold all certificates and other documents of title deposited with it pursuant to Clause 3 (*Delivery of Documents*) until expiry of the Security Period; and
- (b) as attorney for the Chargor by virtue of the power in Clause 15.4, at any time after (but not prior to) the delivery of an Enforcement Notice in accordance with clause 10 (*Security Enforceable*) of the Security Trust Deed execute all such instruments of transfer and otherwise do all such things as the Security Trustee may elect so as to cause any Share or any Derivative Rights to be registered in its own name (or the name(s) of its nominee(s)).

5. WARRANTIES AND COVENANTS

5.1 Representations and Warranties

- (a) The Chargor makes the representations and warranties set out in this Clause 5 to the Security Trustee (as Security Trustee for the Secured Creditors) on the date of this Charge.
- (b) The covenants set out in sections 3(1), 3(2) and 6(2) of the Law of Property (Miscellaneous Provisions) Act 1994 will not extend to Clause 2 (*Grant of Security*).
- (c) It shall be implied in respect of Clause 2 (*Grant of Security*) that the Chargor is disposing of the Charged Property free from all charges and encumbrances (whether monetary or not) and from all other rights exercisable by third parties (including liabilities imposed and rights conferred by or under any enactment).

5.2 Creation of Security

Subject to reservations specifically referred to in any legal opinion delivered pursuant to the Senior Note Issuance Facility Agreement this Charge creates the security which it purports to create over the Charged Property and such security has the ranking and priority it is expressed to have.

5.3 Ownership of Charged Property

- (a) It is the sole absolute legal owner of, and has good title to, the Charged Property, free from any Security except as created by this Charge and pursuant to the Share Declaration of Trust.
- (b) It has not agreed to create any Security (other than a Permitted Security) over any of the Charged Property.

5.4 No Claims in Respect of Charged Property

None of the Charged Property is (to the best of the knowledge and belief of the Chargor, having made due and careful enquiry) the subject of any claim, litigation, arbitration or administrative proceedings which might have a material adverse effect.

5.5 Accuracy of Particulars

The particulars of the Shares set out in Schedule 1 (*Details of Shares*) are accurate and complete.

5.6 Shares

- (a) The shares described in Schedule 1 (*Details of Shares*) constitute the entire issued share capital of the Issuer as at the date of this Charge.
- (b) All of the Shares are validly issued, fully paid and are and will be free from any restriction on transfer or rights of pre-emption.
- (c) There are no agreements in force or corporate resolutions passed which call for the issue or allotment of, or grant to any person any right (whether conditional or unconditional) to call for the issue or allotment of, any further shares in the capital of any issuer of any of the Shares (including an option or a right of pre-emption or conversion).
- (d) No person (to the best of the knowledge and belief of the Chargor, having made due and careful enquiry) has or is entitled to any option or other right (whether conditional or unconditional) to purchase or otherwise acquire the Shares.
- (e) There are no duplicate copies of any of the certificates relating to the Shares.

6. GENERAL UNDERTAKINGS

6.1 Duration of Undertakings

The Chargor undertakes to the Security Trustee (as Security Trustee for the Secured Creditors) in the terms of the following provisions of this Clause 6 and the provisions of Clause 7 (*Shares*), such undertakings to commence on the date of this Charge and to continue throughout the Security Period.

6.2 Negative Pledge

It shall not create or permit to subsist any Security over all or any part of the Charged Property.

6.3 Disposals

It shall not, except as permitted by the Senior Note Issuance Facility Agreement or this Clause 6 enter into a single transaction or a series of transactions (whether related or not) to sell, assign, transfer or otherwise dispose of all or any part of the Charged Property, or agree or purport to do any of the foregoing other than pursuant to the Share Declaration of Trust.

6.4 **Ranking**

It shall ensure that its payment obligations under this Charge at all times rank at least *pari passu* with all its other present and future unsecured payment obligations, except for obligations mandatorily preferred by law applying to companies generally.

7. **SHARES**

7.1 **Before Enforcement**

Prior to the delivery of an Enforcement Notice, the Chargor:

- (a) may receive and retain all dividends, interest, distributions and other income arising from the Shares;
- (b) may exercise all voting and other rights and powers attached to or conferred by the Shares, provided that such exercise:
 - (i) is not inconsistent with any of the Transaction Documents; or
 - (ii) does not adversely affect the validity or enforceability of the Transaction Documents or this Charge.

7.2 **After Enforcement – Voting Rights**

- (a) Subject to Clause 7.3 (*Waiver of voting rights by Security Trustee*) at any time after the delivery of an Enforcement Notice, the Security Trustee may (but without having any obligation to do so) give notice to the Chargor (with a copy to the Agent) that this Clause 7.2 shall apply. With effect from the giving of that notice the Security Trustee may at its discretion (in the name of the Chargor or otherwise and without any further consent or authority from the Chargor) or instruct the Chargor to:
 - (i) transfer the Shares into the name of the Security Trustee (or its nominee) as it shall require;
 - (ii) exercise (or direct the exercise of) or refrain from exercising any and all voting rights attached to or conferred by the Shares; and/or
 - (iii) exercise (or direct the exercise of) or refrain from exercising any other rights and powers conferred on or exercisable by the legal or beneficial owner of the Shares, including the right, in relation to the company in which any Shares are held, to concur or participate in:
 - (A) the reconstruction, amalgamation, sale or other disposal of the company or any of its assets or undertaking (including the exchange, conversion or reissue of any such Shares as a consequence of such reconstruction, amalgamation, sale or other disposal);
 - (B) the release, modification or variation of any rights or liabilities attaching to any such Shares; and

- (C) the exercise, renunciation or assignment of any right to subscribe for any shares or securities,

in each case in such manner and on such terms as the Security Trustee may think fit, and the proceeds of any such action shall form part of the Charged Property.

- (b) For the purposes of paragraph (a) above, the Chargor shall comply (and shall procure that its each of its nominees comply) with any directions of the Security Trustee or any Receiver concerning the exercise of:
 - (i) any voting and other rights and powers attached to or conferred by the Shares charged by it; and/or
 - (ii) any rights and powers conferred on or exercisable by it as the legal or beneficial owner of such Shares,

and shall promptly execute and/or deliver to the Security Trustee or any Receiver such forms of proxy as it or he requires with a view to enabling such person as it or he selects to exercise those rights and/or powers.

7.3 Waiver of voting rights by Security Trustee

- (a) The Security Trustee may, in its absolute discretion and without any consent or authority from the other Secured Creditors or the Chargor, at any time, by notice to the Chargor (which notice shall be irrevocable), with a copy to the Agent, elect to give up the right to exercise (or refrain from exercising) all voting rights and powers in respect of the Charged Property conferred or to be conferred on the Security Trustee pursuant to Clause 7.2 (*After Enforcement – Voting Rights*) and the other Secured Creditors unconditionally waive any rights they may otherwise have to require the Security Trustee not to make such election or to require the Security Trustee to indemnify, compensate or otherwise make them good for any losses, costs or liabilities incurred by any of them in relation to or as a consequence of the Security Trustee making such election.
- (b) Once a notice has been issued by the Security Trustee under paragraph (a) above, on and from the date of such notice the Security Trustee shall cease to have the rights to exercise or refrain from exercising voting rights and powers in respect of the Charged Property conferred or to be conferred on it pursuant to Clause 7.2 (*After Enforcement – Voting Rights*) or any other provision of this Charge and all such rights will be exercisable by the Chargor. The Chargor shall be entitled on and from the date of such notice, to exercise all voting rights and powers in relation to the Charged Portfolio.

7.4 After Enforcement - Dividends

At any time after the delivery of an Enforcement Notice, the Security Trustee may (but without any obligation to do so), at its discretion, (in the name of the Chargor or otherwise and without any further consent or authority from the Chargor) apply all dividends, interest and other monies arising from the Charged Property as though they were the proceeds of sale under this Charge.

7.5 Payment of Calls

The Chargor shall pay when due all calls or other payments which may be or become due from it in respect of any of the Additional Shares and, in any case of default by the Chargor in such payment, the Security Trustee may, if it thinks fit (but without any obligation to do so), make such payment on behalf of the Chargor in which case any sums paid by the Security Trustee shall be reimbursed by the Chargor to the Security Trustee on demand.

7.6 Communications

The Chargor shall promptly deliver to the Security Trustee a copy of each circular, notice, report, set of accounts or other document received by it (or any of its nominees) in connection with any Shares.

7.7 No Restrictions on Transfer

The Chargor shall procure that the Shares are at all times free from any restriction on transfer (whether under any relevant constitutive documents or otherwise) by the Security Trustee (or any of its nominees) for the purpose of perfecting or enforcing the security created or expressed to be created by or pursuant to this Charge.

8. ENFORCEMENT OF SECURITY

8.1 Enforcement

- (a) After delivery of an Enforcement Notice (in accordance with clause 10 (*Security Enforceable*) of the Security Trust Deed), notwithstanding any terms of the Transaction Documents to the contrary, the whole of the security created under this Charge shall become enforceable in accordance with the terms of this Charge and the Security Trustee may, without notice to the Chargor or prior authorisation from any court, in its absolute discretion:
 - (i) enforce all or any part of that security (at the times, in the manner and on the terms it thinks fit);
 - (ii) take possession of and hold or dispose of all or any part of the Charged Property; and
 - (iii) whether or not it has appointed a Receiver, exercise all or any of the powers, authorities and discretions conferred by the Law of Property Act 1925 (as varied or extended by this Charge) on mortgagees and by this Charge on any Receiver or otherwise conferred by law on mortgagees or receivers.

9. APPLICATION OF PROCEEDS

All monies received or recovered and any non-cash recoveries made or received by the Security Trustee or any Receiver pursuant to this Charge or the powers conferred by it shall (subject to the claims of any person having prior rights thereto and by way of variation of the provisions of the Law of Property Act 1925) be applied by the Security

Trustee (notwithstanding any purported appropriation by the Chargor) in accordance with the terms of the Security Trust Deed.

10. APPOINTMENT AND REMOVAL OF RECEIVER OR ADMINISTRATOR

- (a) At any time after the delivery of an Enforcement Notice or if any person who is entitled to do so presents an application for the appointment of an administrator of the Chargor and gives notice of intention to appoint an administrator of the Chargor, respectively, or files such a notice with the court, the Security Trustee may appoint such person or persons (including an officer or officers of the Security Trustee) as it thinks fit to be an administrator, a Receiver or Receivers of the Charged Property or any part thereof to act jointly or jointly and severally as receiver, manager, receiver or manager, administrative receiver, compulsory or interim manager or other similar officer as the Security Trustee shall determine.
- (b) No delay or waiver of the right to exercise the power to appoint a Receiver shall prejudice the future exercise of such power.
- (c) The Security Trustee shall comply with any requirement under the Insolvency Act that the person appointed to be a Receiver be a licensed insolvency practitioner.
- (d) The Security Trustee may (subject to Section 45 of the Insolvency Act) remove any Receiver whether or not appointing another in his place and the Security Trustee may also appoint another receiver if the Receiver resigns.
- (e) The exclusion of any part of the Charged Property from the appointment of any Receiver shall not preclude the Security Trustee from subsequently extending his appointment (or that of the Receiver replacing him) to that part.
- (f) The power of appointing a Receiver shall be in addition to all statutory and other powers of appointment of the Security Trustee under the Law of Property Act 1925 (as extended by this Charge) or otherwise and such powers shall remain exercisable from time to time by the Security Trustee in respect of any of the Charged Property.

11. PROVISIONS RELATING TO RECEIVER

- 11.1 Any Receiver shall, so far as any applicable law and in particular, the laws of England and Wales, permits, be the agent of the Chargor and (subject to applicable law) the Chargor shall be solely responsible for any Receiver's acts and defaults and liable on any contracts or engagements made or entered into by any Receiver and in no circumstances shall the Security Trustee or the Secured Creditors be in any way responsible for any breach of duty by any Receiver.
- 11.2 The remuneration of any Receiver may be fixed by the Security Trustee (and may be or include a commission calculated by reference to the gross amount of all money received or otherwise) but such remuneration shall be payable by the Chargor alone and the amount of such remuneration shall form part of the Secured Amounts, shall be

secured on the Charged Property under this Charge and paid in accordance with the relevant Priority of Payments.

- 11.3 Each Receiver shall, so far as the law permits, in the exercise of his powers, authorities and discretions conform to the regulations and directions from time to time made and given by the Security Trustee.
- 11.4 The Security Trustee may from time to time and at any time require any Receiver to give security for the due performance of his duties as Receiver and may fix the nature and amount of the security to be so given but the Security Trustee shall not be bound in any case to require any such security.
- 11.5 Except as otherwise directed by the Security Trustee or as otherwise required by law, all monies from time to time received by any Receiver shall be paid over to the Security Trustee (or as the Security Trustee may direct) to be applied by it in accordance with the Priority of Payments.
- 11.6 The Security Trustee may pay over to any Receiver any monies constituting part of the Charged Property so that such monies may be applied for the purposes of this Charge by such Receiver and the Security Trustee may from time to time determine what funds any Receiver shall be at liberty to keep in hand with a view to the performance of his duties as Receiver.
- 11.7 Sections 109(6) and (8) of the Law of Property Act 1925 (relating to the application of monies received by a receiver) shall not apply in relation to any Receiver.
- 11.8 None of the restrictions imposed by the Law of Property Act 1925 in relation to appointment of receivers or as to the giving of notice or otherwise shall apply to this Charge.

12. POWERS OF A RECEIVER

- 12.1 In relation to the Charged Property (and any assets of the Chargor which, when got in, would be Charged Property) in respect of which a Receiver is appointed, every Receiver shall (subject to any applicable law and in particular the laws of England and Wales and subject to any restrictions in the instrument appointing him) have and be entitled to exercise, as varied and extended by the provisions of this Charge (in the name of or on behalf of the Chargor or in his own name and, in each case, at the cost of the Chargor):

- (a) all the powers conferred by the Law of Property Act 1925 on:
 - (i) mortgagors;
 - (ii) mortgagees or security holders and on mortgagees or security holders in possession; and
 - (iii) receivers;
- (b) all powers of an administrative receiver set out in Schedules 1 and 2 of the Insolvency Act (whether or not the Receiver is an administrative receiver);

- (c) all powers, authorities and discretions conferred upon the Security Trustee under this Charge, subject to such restrictions as the Security Trustee may think fit;
- (d) all powers and rights of an absolute owner and power to do or omit to do anything which the Chargor could do or omit to do; and
- (e) power to do all things (including bringing or defending proceedings in the name or on behalf of the Chargor) which seem to the Receiver to be incidental or conducive to:
 - (i) any of the functions, powers, authorities or discretions conferred on or vested in him;
 - (ii) the exercise of any or all of his rights under this Charge (including realising all or any part of the Charged Property); or
 - (iii) the collection or getting in of the Charged Property.

12.2 No Receiver shall have any power to take any action in relation to the Charged Property which the Security Trustee is prohibited from taking by the terms of any Finance Document.

13. **VARIATION OF THE LAW OF PROPERTY ACT 1925**

13.1 **Restrictions**

The restrictions contained in Sections 93 and 103 of the Law of Property Act 1925 shall not apply to this Charge or to the exercise by the Security Trustee or any Receiver of its right to consolidate all or any of the security created by or pursuant to this Charge with any other security in existence at any time or to its power of sale, which powers shall be immediately exercisable by the Security Trustee or any Receiver without notice to the Chargor at any time after the security created by or pursuant to this Charge has become enforceable.

13.2 **Privileges**

Each Receiver and the Security Trustee is entitled to all the rights, powers, privileges and immunities conferred by the Law of Property Act 1925 on mortgagees and receivers.

14. **PROTECTION OF THIRD PARTIES**

14.1 Without prejudice to any other provision of this Charge, the Secured Amounts shall become due for the purposes of section 101 of the LPA and the statutory powers of sale and of appointing a receiver which are conferred upon the Security Trustee as varied and extended by this Charge and all other powers shall in favour of any purchaser be deemed to arise and be exercisable immediately after the execution of this Charge.

14.2 No purchaser from, or other person dealing with, the Security Trustee and/or any Receiver shall be concerned to enquire:

- (a) whether any of the powers which they have exercised or purported to exercise has arisen or become exercisable;
- (b) whether the Secured Amounts remain outstanding;
- (c) whether any event has occurred to authorise the Security Trustee and/or any Receiver to act; or
- (d) as to the propriety or validity of the exercise or purported exercise of any such powers,

and the title of such a purchaser and the position of such other person shall not be impeachable by reference to any of those matters.

14.3 The receipt of the Security Trustee or the Receiver shall be an absolute and conclusive discharge to a purchaser or other such person as is referred to in Clause 14.2 above and shall relieve such purchaser or other person of any obligation to see to the application of any monies paid to or by the direction of the Security Trustee or the Receiver.

14.4 In this Clause 14 "**purchaser**" includes any person acquiring in good faith, for money or money's worth, the benefit of any encumbrance over, or any other interest or right whatsoever in relation to, the Charged Property.

14.5 **Statutory powers**

The powers conferred by this Charge on the Security Trustee are in addition to and not in substitution for the powers conferred on mortgagees and mortgagees in possession under the Law of Property Act 1925, the Insolvency Act 1986 or otherwise by law (as extended by this Charge) and such powers shall remain exercisable from time to time by the Security Trustee in respect of any part of the Charged Property. In the case of any conflict between the statutory powers contained in any such Acts and those conferred by this Charge, the terms of this Charge shall prevail.

15. **FURTHER ASSURANCES AND POWER OF ATTORNEY**

15.1 If so requested by the Security Trustee after the giving of an Enforcement Notice, the Chargor shall execute in favour of the Security Trustee such documents in relation to the Charged Property and give or join in giving such notice thereof to the relevant Borrowers, insurers and other persons, and all in such form as the Security Trustee or the Receiver may require at the Chargor's own cost, including (but not limited to):

- (a) to perfect or protect the security created (or intended to be created) by the Chargor pursuant to this Charge (including, without limitation, the execution by the Chargor of a mortgage, charge or other document over all or any of the assets constituting (or intended to constitute) Charged Property) and/or to perfect or protect the priority of such security;
- (b) to facilitate the realisation of the Charged Property; and/or

(c) to exercise the Collateral Rights.

- 15.2 The Chargor further covenants with and undertakes to the Security Trustee from time to time upon demand to execute, at the Chargor's own cost, any document or to do any act or thing which the Security Trustee or the Receiver may properly specify with a view to perfecting or improving any security created or intended to be created by or pursuant to this Charge or facilitating the exercise, or the proposed exercise of any of their powers, provided that this Clause 15.2 shall not extend to matters which are the subject of Clause 15.1 above.
- 15.3 The Chargor shall take all such action as is available to it (including making all filings and registrations and/or giving any notices, orders, directions or instructions) as may be necessary for the purpose of the creation, perfection, protection or maintenance of any security conferred (or intended to be conferred) on the Security Trustee by or pursuant to this Charge and/or the priority of any such security.
- 15.4 The obligations of the Chargor under this Charge shall be in addition to the covenants for title deemed to be included in this Charge by virtue of Part I of the Law of Property (Miscellaneous Provisions) Act 1994.
- 15.5 For good and valuable consideration the Chargor irrevocably and as security for the interests of the Security Trustee and every Receiver hereunder hereby appoints the Security Trustee and every Receiver severally to be its attorney and its agent (with full power to appoint substitutes and to delegate, including power to authorise the person so appointed to make further appointments) on behalf of the Chargor and in its name or otherwise, to, following the service of an Enforcement Notice, execute any document (including any document referred to in Clause 15.1 above and any Chargor Security) with power to date the same and to do any act or thing which the Security Trustee or such Receiver (or such substitute or delegate) may, in its or his absolute discretion, consider appropriate in connection with the exercise of any of the powers of the Security Trustee or the Receiver or which the Chargor is obliged to execute or do whether under this Charge or otherwise; and, without prejudice either to the generality of its power to appoint substitutes and to delegate, the Security Trustee may appoint the Receiver as its substitute or delegate; and any person appointed the substitute or delegate of the Security Trustee shall, in connection with the exercise of the said power of attorney, be the agent of the Chargor.
- 15.6 The Chargor hereby ratifies and confirms and agrees to ratify and confirm whatever any such attorney shall do or purport to do in the exercise or purported exercise in good faith of all or any of the powers, authorities and discretions referred to in this Clause.

16. EFFECTIVENESS OF SECURITY

16.1 Continuance of Security

The security created by or pursuant to this Charge and the covenants, undertakings and provisions contained in this Charge shall remain in force as a continuing security to the Security Trustee (to hold on trust for itself and for the other Secured Creditors), notwithstanding any intermediate payment or satisfaction of any part of the Secured Amounts or any settlement of account, or any other act, event or matter whatsoever, (except only the execution by or on behalf of the Security Trustee under seal of an

absolute and unconditional release or the execution by or on behalf of the Security Trustee of a receipt for all (and not part only) of the Secured Amounts, which receipt the Security Trustee is hereby authorised to execute on behalf of all other persons to whom any of the Secured Amounts are due, owing or payable) and shall secure the ultimate balance of the Secured Amounts.

16.2 Reinstatement of Security

If any payment by the Chargor or any discharge given by a Secured Creditor (whether in respect of the obligations of the Issuer or any security for those obligations or otherwise) is avoided or reduced as a result of insolvency, administration or any similar event:

- (a) the liability of the Chargor and the security created by or pursuant to this Charge shall continue as if the payment, discharge, avoidance or reduction had not occurred; and
- (b) each Secured Creditor shall be entitled to recover the value or amount of that payment or security from the Chargor, as if the payment, discharge, avoidance or reduction had not occurred.

The Security Trustee may concede or compromise any claim that any payment or discharge is liable to be avoided or reduced.

16.3 Waiver of Defences

- (a) Neither the obligations of the Chargor under this Charge, nor the security created by or pursuant to this Charge nor the Collateral Rights will be affected by an act, omission, matter or thing which, but for this Clause, would reduce, release or prejudice any of its obligations under any of the Transaction Documents or any such security or Collateral Rights (without limitation and whether or not known to it or to any Secured Creditor) including:
 - (i) any time, waiver or consent granted to, or composition with, the Chargor, the Issuer or other person;
 - (ii) the release of the Chargor, the Issuer or any other person under the terms of any composition or arrangement with any creditor of the Issuer or other person;
 - (iii) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, the Chargor, the Issuer or other person 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;
 - (iv) any incapacity, or lack of power, authority or legal personality of or dissolution or change in the members or status of the Chargor, the Issuer or any other person;

- (v) any amendment (however fundamental) or replacement of a Transaction Document or any other document or security;
 - (vi) any unenforceability, illegality or invalidity of any obligation of any person under any Transaction Document or any other document or security; or
 - (vii) any insolvency or similar proceedings.
- (b) No Secured Creditor shall be concerned to establish or investigate the powers or authorities of the Issuer or its officers or agents, and monies obtained or Secured Amounts incurred by the Issuer in purported exercise of such powers or authorities (or by any person purporting to be the Issuer) shall be deemed to form part of the Secured Amounts, and "**Secured Amounts**" shall be construed accordingly.

16.4 Immediate Recourse

The Chargor waives any right it may have of first requiring any Secured Creditor (or any agent or trustee on its behalf) to proceed against or enforce any other rights or security or claim payment from any person before enforcing the security created by or pursuant to this Charge or otherwise claiming from the Chargor under this Charge. This waiver applies irrespective of any law or any provision of a Transaction Document to the contrary.

16.5 Appropriations

During the Security Period, following the service of an Enforcement Notice, the Security Trustee may:

- (a) refrain from applying or enforcing any other monies, security or rights held or received by that Secured Creditor (or any trustee or agent on its behalf) in respect of the Secured Amounts, or apply and enforce the same in such manner and order as it sees fit (whether against the Secured Amounts or otherwise) and the Chargor shall not be entitled to the benefit of the same; and
- (b) hold in an interest-bearing suspense account (such interest to accrue at a fair market rate) any monies received from the Chargor or on account of the Chargor's liability under this Charge.

16.6 Deferral of Chargor's Rights

During the Security Period, unless the Security Trustee otherwise directs, the Chargor shall not exercise any rights which it may have by reason of the performance by it of its obligations under the Documents:

- (a) to be indemnified by the Issuer;
- (b) to claim any contribution from the Issuer or any other guarantor of the Issuer's obligations under the Transaction Documents; and/or

- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Secured Creditors under the Transaction Documents or of any other guarantee or security taken pursuant to, or in connection with, the Transaction Documents by any Secured Creditor.

16.7 Additional Security

The security created by or pursuant to this Charge and the Collateral Rights are in addition to and are not in any way prejudiced by any other guarantees or security now or subsequently held by any Secured Creditor.

17. REDEMPTION AND RELEASE

17.1 Upon proof being given to the satisfaction of the Security Trustee as to:

- (a) the full and final payment or irrecoverable discharge of all the Secured Amounts;
- (b) the provision in substitution for this Deed of security or a guarantee for the Secured Amounts; or
- (c) the entitlement of the Chargor pursuant to any provision of the Transaction Documents to have any Charged Property released from the security created by this Charge,

the Security Trustee will at the request and cost of the Chargor release, discharge, re-convey, re-transfer or re-assign (as appropriate and in each case, without recourse, representation or warranty) the Charged Property (or, in the case of (c) above, the relevant Charged Property) to, or to the order of, the Chargor.

- 17.2 If the Security Trustee considers in its sole discretion that an amount paid to the Security Trustee or any Secured Creditor for application in or towards repayment of the Secured Amounts is capable of being avoided or otherwise set aside on the liquidation or administration of the Chargor or otherwise, then such amount shall not be considered to have been irrevocably paid for the purposes of the Transaction Documents.

18. EXPENSES AND INDEMNITIES

18.1 General Indemnity

The Chargor shall, notwithstanding any release or discharge of all or any part of the security created by or pursuant to this Charge, within three Business Days of demand indemnify the Security Trustee and any Receiver against any Liabilities incurred by any of them or by any of their respective officers, employees, agents and attorneys as a result of any breach by the Chargor of the provisions of this Charge or the exercise or purported exercise of any of the rights and powers conferred on any of them by this Charge or otherwise in connection with the Charged Property or the security created by or pursuant to this Charge other than any Liabilities arising from fraud, gross negligence or wilful default of the Security Trustee or any Receiver (as applicable).

18.2 Indemnities Separate

Each indemnity in each Transaction Document shall constitute a separate and independent obligation from the other obligations in that or any other Transaction Document, give rise to a separate and independent cause of action, apply irrespective of any indulgence granted by any Secured Creditor, continue in full force and effect despite any judgment, order, claim, proof for a liquidated amount in respect of any Secured Amounts or any other judgement or order and apply whether or not any claim under it relates to any matter disclosed by the Chargor or otherwise known to any Secured Creditor, and shall survive the termination of this Charge.

19. APPLICATION TO COURT

The Security Trustee may at any time after the giving of an Enforcement Notice apply to the Court for an order that the terms of this Charge or the trusts of this Charge or any of them be carried into execution under the direction of the Court and for the appointment of a Receiver of the Charged Property or any part thereof and for any other order in relation to the administration of the terms of this Charge or the trusts of this Charge or any of them as the Security Trustee shall deem fit and it may assent to or approve any application to the Court made at the instance of any of the Secured Creditors and shall be indemnified by the Chargor against all the costs, charges and expenses incurred by it in relation to any such applications or proceedings.

20. MISCELLANEOUS

- 20.1 No failure on the part of the Security Trustee to exercise, and no delay on its part in exercising, any right or remedy under this Charge will operate as a waiver thereof, nor will any single or partial exercise of any right or remedy preclude any other or further exercise thereof or the exercise of any other right or remedy. Subject as provided herein to the contrary, the rights and remedies provided in this Charge are cumulative and not exclusive of any rights or remedies provided by law.
- 20.2 Any waiver and any consent by the Security Trustee under this Charge must be in writing and shall be given in accordance with the Security Trust Deed. Any waiver or consent shall be effective only in the instance and for the purpose for which it is given.
- 20.3 The Chargor will pay all stamp duties, land registry, Companies House and similar fees, filing and registration fees and other transaction taxes required in relation to or for the purpose of procuring the execution, validity, enforceability or carrying into effect of this Charge and the security created or to be created pursuant to this Charge and keep the Security Trustee and the other Secured Creditors indemnified against any failure or delay in paying the same.
- 20.4 The Security created by this Charge is in addition to, and shall neither be merged in, nor in any way exclude or prejudice or be affected by, any other encumbrance, right of recourse or other right whatsoever which the Security Trustee may now or at any time after the date of this Charge hold or have (or would apart from the provisions of this Charge hold or have) as regards the Chargor, or any other person in respect of the Secured Amounts.

20.5 The obligations of the parties who have executed this Charge shall not be affected by the fact that not all of the parties hereto may have validly executed this Charge, and such obligations shall be binding as between themselves.

20.6 Neither the Security Trustee nor any Receiver will be liable to account as mortgagee or mortgagee in possession in respect of the Charged Property or be liable for any loss upon realisation or for any neglect or default, other than any liabilities arising from fraud, gross negligence or wilful default, being in connection with the Charged Property for which a mortgagee or mortgagee in possession might as such be liable.

21. **RIGHTS, WAIVERS AND DETERMINATIONS**

21.1 **Partial invalidity**

If, at any time, any provision of this Charge is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired and, if any part of the security intended to be created by or pursuant to this Charge is invalid, unenforceable or ineffective for any reason, that shall not affect or impair any other part of such security.

21.2 **Determination**

Any certificate or determination by the Security Trustee, any other Secured Creditor or any Receiver under any Transaction Document is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

22. **ASSIGNMENT**

No party to this Deed (other than the Security Trustee) may assign all or any of its rights or transfer any of its obligations under this Deed except as expressly contemplated by this Deed, the Transaction Documents or as may be required by law.

23. **NOTICES, GOVERNING LAW, ENFORCEMENT ETC.**

The provisions of clauses 31 (*Notices*), 37 (*Counterparts*), 38 (*Governing Law*), 39 (*Enforcement*) and 40 (*Limited Recourse*) of the Senior Loan Note Issuance Facility Agreement shall apply to this Deed as if set out *mutatis mutandis* herein except that references to the Issuer shall be references to the Chorgor.

THIS CHARGE has been executed as a **DEED** by the Chorgor and signed on behalf of the Security Trustee and is delivered on the date specified above.

SCHEDULE 1
DETAILS OF SHARES

Name of Issuer	Description of shares	Number	Certificate number
Hastings Warehouse Borrower Limited	Ordinary shares of £1 each	1	1

EXECUTION

CHARGOR

EXECUTED and delivered as a)
DEED by **WILIMGTON TRUST SP**)
SERVICES (LONDON) LIMITED acting)
by a duly authorised signatory)

Authorised Signatory

Daniel Wynne
Director

In the presence of:

Witness signature:

Witness name:

CRUENTA BERGAMO

Witness address:

~~Third Floor~~
1 King's Arms Yard
~~London~~
EC2R 7AF

Third Floor
1 King's Arms Yard
London
EC2R 7AF

SECURITY TRUSTEE

EXECUTED and delivered as a)
DEED by **CITIBANK, N.A., LONDON**)
BRANCH)
acting by its delegated signatory)

Delegated Signatory

In the presence of:

Witness signature:

Witness name:

Witness address:

EXECUTION

CHARGOR

EXECUTED and delivered as a)
DEED by WILMINGTON TRUST SP)
SERVICES (LONDON) LIMITED acting)
by a duly authorised signatory)

Authorised Signatory

In the presence of:

Witness signature: _____

Witness name: _____

Witness address: _____

SECURITY TRUSTEE

EXECUTED and delivered as a)
DEED by CITIBANK, N.A., LONDON)
BRANCH)
acting by its delegated signatory)

Delegated Signatory

Georgia Mitchell
Vice President

In the presence of:

Witness signature: _____

Witness name: _____

Witness address: _____

Citibank, N.A.
Citigroup Centre
33 Canada Square
Canary Wharf
London E14 6LE