

MR01

Particulars of a charge

149063/E13



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

You can use the Web  
Please go to www.com

MONDAY



LD5

\*L2MDGIQB\*

02/12/2013

#35

COMPANIES HOUSE

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

✗ **What this form is NO**  
You may not use this form to  
register a charge when the  
instrument Use form I

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

☒ You **must** enclose a certified copy of the instrument with this form. This will be  
scanned and placed on the public record

**1** Company details

Company number

2 6 7 0 2 7 3

Company name in full Berkley Estates London Limited

5

For official use

→ **Filling in this form**

Please complete in typescript or in  
bold black capitals

All fields are mandatory unless  
specified or indicated by \*

**2** Charge creation date

Charge creation date 2 5 1 1 2 0 1 3

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

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

Name Barclays Bank PLC

Name

Name

Name

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

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

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**Description**

Please give a short description of any land (including buildings), ship, aircraft or intellectual property registered (or required to be registered) in the UK which is subject to this fixed charge or fixed security

**Continuation page**

Please use a continuation page if you need to enter more details

Description

5

**Fixed charge or fixed security**

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

☐ Yes

✓ ☒ No

6

**Floating charge**

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

☐ Yes Continue

✓ ☒ No Go to **Section 7**

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

☐ Yes

7

**Negative Pledge**

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

✓ ☒ Yes

☐ No

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**Trustee statement ①**

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

☐

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

9

**Signature**

Please sign the form here

Signature

Signature

X *Berwin Loughton Pausner* *LLP* X

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

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## Particulars of a charge

**Presenter information**

We will send the certificate to the address entered below. All details given here will be available on the public record. You do not have to show any details here but, if none are given, we will send the certificate to the company's Registered Office address.

Contact name FNAT/27690 115/33182664

Company name Berwin Leighton Paisner LLP

Address Adelaide House

London Bridge

Post town London

County/Region

Postcode E C 4 R 9 H A

Country

DX 92 LONDON/CHANCERY LN

Telephone +44 (0)20 3400 1000

**Certificate**

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

**Checklist**

**We may return forms completed incorrectly or with information missing.**

**Please make sure you have remembered the following:**

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

**Important information**

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

**How to pay**

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

Make cheques or postal orders payable to 'Companies House'

**Where to send**

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

**For companies registered in England and Wales:**  
The Registrar of Companies, Companies House,  
Crown Way, Cardiff, Wales, CF14 3UZ  
DX 33050 Cardiff

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

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

**Further information**

For further information, please see the guidance notes on the website at [www.companieshouse.gov.uk](http://www.companieshouse.gov.uk) or email [enquiries@companieshouse.gov.uk](mailto:enquiries@companieshouse.gov.uk)

**This form is available in an alternative format. Please visit the forms page on the website at [www.companieshouse.gov.uk](http://www.companieshouse.gov.uk)**



**FILE COPY**

## **CERTIFICATE OF THE REGISTRATION OF A CHARGE**

Company number: 2670273

Charge code: 0267 0273 0005

The Registrar of Companies for England and Wales hereby certifies that a charge dated 25th November 2013 and created by BERKLEY ESTATES LONDON LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 2nd December 2013.

Given at Companies House, Cardiff on 5th December 2013



**Companies House**



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES

*DX*

DATED 25 November 2013

**BERKLEY ESTATES LONDON LIMITED**  
as Chargor

**BARCLAYS BANK PLC**  
as Security Trustee

**ASSIGNMENT OF SUBORDINATED LOAN AGREEMENTS**

Note: Insert acknowledgement of notice of assignment in subordination agreement.

We certify that, save for material redacted pursuant to s.859G  
Companies Act 2006, this copy instrument is a correct copy  
of the original instrument

*Berwin Leighton Paisner LLP*  
Berwin Leighton Paisner LLP  
Adelaide House  
London Bridge  
London EC4R 9HA



**Berwin Leighton Paisner LLP**  
Adelaide House London Bridge London EC4R 9HA  
Tel +44 (0)20 3400 1000 Fax +44 (0)20 3400 1111

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DATED 25 November 2013

## PARTIES

- (1) **BERKLEY ESTATES LONDON LIMITED** (company number 02670273) whose registered office is at 55 Baker Street, London W1U 7EU (the "**Chargor**")
- (2) **BARCLAYS BANK PLC** as security agent for the Finance Parties (the "**Security Trustee**")

## BACKGROUND

- (A) The Finance Parties have agreed to arrange the advance or to continue to arrange the advance of monies or otherwise arrange credit or afford other financial facilities to the Borrower and/or others on the security created by this Deed.
- (B) The Chargor has agreed to charge certain of its assets as security to the Finance Parties as set out in this Deed.

## OPERATIVE PROVISIONS

### 1 DEFINITIONS AND INTERPRETATION

#### 1.1 Definitions

In this Deed:

"**Act**" means the Law of Property Act 1925.

"**Borrower**" means Topland Finance (No. 2) Limited.

"**Charged Assets**" means each and all of the assets, property, undertaking and other interests from time to time assigned or charged or intended to be assigned or charged by this Deed and the subject matter of each of them.

"**Deed of Subordination**" means the deed of subordination dated on or around the date of this Deed made between, amongst others, the Security Trustee (1), the Borrower (2) and the Chargor (3).

"**Facility Agreement**" means a facility agreement dated on or around the date of this Deed and made between amongst others the Security Trustee (1) and the Borrower (2) and any agreement entered into under or supplemental to it or amending, restating or novating it.

"**Liabilities**" means all monies, obligations and liabilities which shall from time to time (and whether on or at any time after any demand or judgment) be due, owing or incurred from each Obligor to the Finance Parties under the Finance Documents whether actually or contingently and whether solely or jointly with any other person and in whatever style or name and whether as principal or surety.

"**Party**" means a party to this Deed.

"**Receiver**" means any one or more receiver or manager or receiver and manager appointed by the Security Trustee under this Deed (whether sole, joint and/or several and including any substitute)



**"Security Interest"** means any mortgage, pledge, lien, charge, security assignment, hypothecation, security trust, encumbrance or security interest and any other agreement or arrangement entered into to create or confer security over any asset.

**"Subordinated Debt"** has the meaning given to it in the Deed of Subordination Agreement, but in this Deed shall mean the Subordinated Debt in so far as it is an asset of the Chargor.

**"Subordinated Loan Agreement"** means each loan agreement details of which are specified in Schedule 1 (*Subordinated Loan Agreements*) if any, and any other loan agreement between the Chargor and the Borrower.

## 1.2 Construction

1.2.1 Headings and punctuation in this Deed are for convenience only and do not affect its construction or interpretation.

1.2.2 Unless the contrary intention is expressed, defined or interpreted all defined terms in the Facility Agreement shall have the same meaning here.

1.2.3 Unless the contrary intention appears, references in this Deed to:

- (a) any party to this Deed shall be construed so as to include its successors in title, permitted assigns and permitted transferees;
- (b) **"including"** and **"in particular"** shall not limit words and expressions in connection with which it is used;
- (c) **"in connection with"**, **"under"**, **"pursuant to"**, **"by virtue of"** and **"in relation to"** shall include each of the others;
- (d) a **"person"** includes (where the context allows) any person, company, corporation, government, state or agency of a state or any association, trust or partnership (whether or not having separate legal personality);
- (e) **"insolvency"** includes any of the following or any steps in relation to the following:
  - (i) any insolvency, bankruptcy, liquidation, reorganisation, administration or dissolution;
  - (ii) any voluntary arrangement or assignment for the benefit of creditors; or
  - (iii) any similar event;
- (f) an obligation of the Chargor to do something includes an obligation to procure that it is done and an obligation not to do something includes an obligation not to permit, suffer or allow it;
- (g) a provision of law is a reference to that provision as amended or re-enacted and includes subordinate legislation; and
- (h) references to this Deed or any other agreement, deed or document are references to them in force for the time being as amended, varied, novated, supplemented or consolidated from time to time.

## 2 SECURITY

### 2.1 General

All the security created under this Deed is created in favour of the Security Trustee as continuing security for the payment and discharge of the Liabilities (subject always to Clause 11.2 (*Limited Recourse*) with full title guarantee.

### 2.2 Subordinated Debt

The Chargor assigns absolutely subject to the provisions of Clause 9 (*Discharge*) all of its rights and interests including all rights of enforcement of the same:

- (a) In respect of the Subordinated Debt; and
- (b) under each Subordinated Loan Agreement

## 3 PERFECTION OF SECURITY

### Further assurance

The Chargor shall execute and do at its own cost and in such form as is reasonably required by the Security Trustee;

- (a) such further additional mortgages, charges, assignments, transfers and conveyances; and
- (b) such assurances, deeds, documents, acts and things,

as the Security Trustee may reasonably require to perfect or protect the security created or intended to be created by this Deed and/or to facilitate or effect any dealing with the Charged Assets in connection with this Deed.

## 4 REPRESENTATIONS AND WARRANTIES

The Chargor makes the representations and warranties set out in this Clause 4 (*Representations and warranties*) to the Security Trustee.

### 4.1 Status

4.1.1 It is a corporation, duly incorporated and validly existing under the law of its jurisdiction of incorporation.

4.1.2 It has the power to own its assets and carry on the business which it conducts and/or proposes to conduct.

### 4.2 Binding obligations

The obligations expressed to be assumed by It in this Deed are legal, valid, binding and enforceable obligations.

### 4.3 Non-conflict

The entry into and performance by it of, and the transactions contemplated by, this Deed do not and will not conflict with:

- (a) any law or regulatory requirement applicable to it;

- (b) its constitutional documents; or
- (c) any agreement or instrument binding upon it or any of its assets.

#### 4.4 **Power and authority**

It has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, this Deed and the transactions contemplated by this Deed.

#### 4.5 **Validity and admissibility in evidence**

Each authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration required or desirable:

- (a) to enable it lawfully to enter into, exercise its rights and comply with its obligations under this Deed; and
- (b) to make this Deed admissible in evidence in its jurisdiction of incorporation, has been obtained or effected and is in full force and effect.

#### 4.6 **Governing law and enforcement**

- 4.6.1 The choice of English law will be recognised and enforced in its jurisdiction of incorporation.
- 4.6.2 Any judgment obtained in England in relation to a Finance Document will be recognised and enforced in its jurisdiction of incorporation.

#### 4.7 **No proceedings pending or threatened**

No litigation, arbitration or administrative proceedings of or before any court, arbitral body or agency which, if adversely determined, have or are reasonably likely to have a Material Adverse Effect, have (to the best of its knowledge and belief) been started or threatened against it.

#### 4.8 **Solvency**

No step has been taken for its insolvency.

#### 4.9 **Legal and beneficial ownership**

The Chargor is the sole legal and beneficial owners of the Charged Assets free from any encumbrance or Security Interest except as created by this Deed.

#### 4.10 **Subordinated Debt**

- 4.10.1 No payment to it by any other party to a Subordinated Loan Agreement is subject to any right of set-off or similar right.
- 4.10.2 Subject to the Reservations, each Subordinated Loan Agreement to which it is a party is its legally binding, valid, and enforceable obligation.
- 4.10.3 Neither it nor (so far as it is aware) any other party to a Subordinated Loan Agreement is in default of any of its material obligations under that Subordinated Loan Agreement.

- 4.10.4 There is no prohibition on assignment in respect of any of the Subordinated Debt or its rights under any Subordinated Loan Agreement.

#### 4.11 Repetition of representations

The representations and warranties set out in this Clause 4 (*Representations and warranties*) are made by theChargor on the date of this Deed and are deemed to be made by the Chargor by reference to the facts and circumstances then existing on the date of any Utilisation Request and the first day of each Interest Period.

### 5 COVENANTS

The Chargor gives the undertakings in this Clause 5 (*Covenants*) which remain in force from the date of this Deed until this Deed is discharged.

#### 5.1 Information

It shall supply to the Security Trustee (in sufficient copies for all the Finance Parties, if the Security Trustee so requests) such information regarding the Charged Assets or its financial condition, business and operations as any Finance Party (through the Security Trustee) may reasonably request, save that the Chargor shall only be required to supply any information which directly relates to its interests in the Charged Property.

#### 5.2 Negative pledge

It shall not create or permit to subsist any Security Interest over any of the Charged Assets save for the Security Interest created pursuant to this Deed.

#### 5.3 Disposals

It shall not sell, lease, transfer or otherwise dispose of any Charged Asset.

#### 5.4 Subordinated Loan Agreements

- 5.4.1 It shall, subject to the terms of the Deed of Subordination, duly and promptly perform its obligations under each Subordinated Loan Agreement.

- 5.4.2 After the security created by this Deed has become enforceable, the Security Trustee may exercise, without any further consent or authority on the part of the Chargor and irrespective of any direction given by any Chargor, the Chargor's rights under each Subordinated Loan Agreement.

### 6 RIGHTS OF ENFORCEMENT

#### 6.1 Enforcement

- 6.1.1 The Liabilities shall be deemed to have become due for the purposes of section 101 of the Act immediately upon the date of this Deed.

- 6.1.2 The enforcement powers of the Security Trustee in connection with this Deed shall be immediately exercisable upon an Event of Default or, at the Security Trustee's discretion, at the request of the Chargor

- 6.1.3 Clause 6.1.2 shall not apply by reason only of a moratorium being obtained, or anything being done with a view to a moratorium being obtained, under section 1A of the Insolvency Act 1986.

6.1.4 The restrictions imposed by section 103 of the Act shall not apply to the security created by this Deed

6.1.5 In addition to all other protection afforded by statute, every purchaser (as defined by section 205 of the Act) or other party dealing with the Security Trustee or any Receiver shall be entitled to assume without enquiry that an Event of Default has occurred and that the Liabilities are outstanding and have become due.

## 6.2 **Security Trustee's and Receiver's powers and rights**

6.2.1 The Security Trustee shall have the power to appoint a Receiver of the whole or any part of the Charged Assets and (so far as the law allows) to remove and/or substitute any such appointee.

6.2.2 The Security Trustee (without becoming a mortgagee in possession) and/or any Receiver (without personal liability) shall have the power to:

- (a) exercise all statutory and other powers and rights (including the powers conferred upon an administrative receiver by schedule 1 to the Insolvency Act 1986 whether or not the Security Trustee and/or any Receiver is an administrative receiver); and
- (b) the power and rights specified in Schedule 2 (*Security Trustee's and Receiver's powers*),

and may exercise them in the name of the relevant Chargor and in such manner and on such terms as the person exercising them shall in its sole absolute discretion consider appropriate.

## 6.3 **Receiver as agent**

So far as the law allows, a Receiver shall be the agent of the Chargor, who shall be solely liable for his acts, defaults and remuneration, but the Security Trustee shall be entitled to agree the fees and expenses of and the mode of payment to the Receiver

## 6.4 **Further powers**

If the Chargor defaults in the observance and performance of any obligation to the Security Trustee, the Security Trustee or its agents (without any of them becoming a mortgagee in possession) may at any time (but shall not be obliged to) do such things as it considers necessary to remedy the default.

## 6.5 **Power of attorney**

The Chargor by way of security irrevocably appoints the Security Trustee and every Receiver severally its attorney in its name and on its behalf to execute any documents and do or perfect anything which is necessary for perfecting, maintaining, preserving, or enforcing the security created by this Deed and/or value of any of the Charged Assets and/or for the purpose of enforcing the performance of the Chargor's obligations in connection with this Deed.

## 7 APPLICATION OF RECEIPTS

### 7.1 Priority of payment

Subject to sums secured by Security Interests having priority to the Security Interests created by this Deed, all monies received by the Security Trustee and/or any Receiver in the enforcement of this Deed shall (subject as follows) be applied in the following order, in payment:

- (a) **firstly**, of all fees, costs, charges, taxes, liabilities and expenses in relation to any enforcement of this Deed (including in relation to any Receiver whether on its own behalf or on behalf of the Chargor or otherwise);
- (b) **secondly**, (insofar as not contemplated by Clause 7.1(a)) of all fees, costs, charges, taxes, liabilities and expenses and other sums of the Security Trustee (in its capacity as trustee) in relation to the Finance Documents; and
- (c) **thirdly**, to the Agent for distribution in accordance with the Facility Agreement.

### 7.2 Crediting to suspense account

The Security Trustee or any Receiver may credit any monies received from the enforcement of this Deed to any suspense account in any manner and for such period as the Security Trustee or that Receiver thinks fit.

## 8 NOTICES

### 8.1 Communications in writing

Any communication to be made under or in connection with this Deed shall be made in writing and, unless otherwise stated, may be made by fax or letter.

### 8.2 Addresses

The address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with this Deed is:

- (a) in the case of a person which is a Party on the date of this Deed, that identified with its name below; or
- (b) in the case where a person becomes a Party after the date of this Deed, that notified in writing to the Security Trustee on or prior to the date on which that person becomes a Party,

or any substitute address, fax number or department or officer as the party to this Deed may notify the Security Trustee (or the Security Trustee may notify the Chargors if the change is made by the Security Trustee) by not less than five Business Days' notice.

### 8.3 Delivery

- 8.3.1 Any communication or document made or delivered by one person to another person in connection with this Deed will only be effective:

## 11.8 **Rights of third parties**

11.8.1 Unless the right of enforcement is expressly granted, it is not intended that a third party should have the right to enforce a provision of this Deed pursuant to the Contracts (Rights of Third Parties) Act 1999.

11.8.2 The parties may rescind or vary this Deed without the consent of a third party to whom an express right to enforce any of its terms has been provided.

## 11.9 **Partial invalidity**

The illegality, invalidity or unenforceability for whatever reason of any provision of this Deed in any jurisdiction, shall not affect the legality, validity or enforceability of that provision in any other jurisdiction or legality, validity or enforceability of the remaining provisions in any jurisdiction.

## 11.10 **Remedies and waivers**

No failure to exercise, nor any delay in exercising, on the part of any Finance Party, any right or remedy under this Deed shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Deed are cumulative and not exclusive of any right or remedies provided by law.

## 11.11 **Chargors' obligations**

Neither the Security Interest created under this Deed nor the obligations of the Chargor under this Deed will be affected by any act, omission, matter or thing which, but for this Clause 11.11 (*Chargors' obligations*), would reduce, release or prejudice that security or any of its obligations under this Deed (without limitation and whether or not known to it or any Finance Party) including:

- (a) any time, waiver or consent granted to, or composition with, any Obligor or other person;
- (b) the release of any Obligor or any other person under the terms of any composition or arrangement with any creditor of any member of the Group;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or Security Interest over assets of any Obligor 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 Interest;
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any Obligor or any other person;
- (e) any amendment, novation, supplement, extension (whether of maturity or otherwise) or restatement (in each case, however fundamental and whether or not more onerous), or replacement, assignment, avoidance of termination of any Finance Document or any other document or Security Interest including any change in the purpose of, any extension of or any increase in any facility or the addition of any new facility under any Finance Document or other document or Security Interest,

recovery against the Charged Assets and that the liability of the Chargor to the Finance Parties under this Deed shall be limited in aggregate to an amount equal to that recovered as a result of enforcement of the Security Interests created pursuant to this Deed.

### 11.3 **Enforcement**

It shall not be necessary for the Security Trustee before taking any enforcement under this Deed to enforce or seek to enforce any guarantee or other security or other rights whether from or against the Chargor or any other person. This Clause 11.3 (*Enforcement*) applies irrespective of any law or any provision of a Finance Document to the contrary.

### 11.4 **Exercise of powers and liability**

11.4.1 This Deed is in addition to and will not merge in or in any way be prejudiced or affected by the holding or release by the Security Trustee of any other security at any time held by the Security Trustee.

11.4.2 The Security Trustee may, at any time after this Deed has become enforceable, redeem or transfer to itself any prior Security Interest against the Charged Assets and may settle and pass the accounts of the prior chargee (which shall be binding on the Chargor). All principal monies, interest, costs, charges and expenses of and incidental to such redemption or transfer shall be paid by the Chargor to the Security Trustee on demand.

11.4.3 None of the provisions of this Deed shall be deemed to impose on the Finance Parties or imply on their part any obligation or other liability in relation to the Charged Assets.

### 11.5 **Tacking**

Each Lender must perform its obligations under the Facility Agreement (including any obligation to make further advances).

### 11.6 **New accounts**

On receiving notice that the whole or any part of the Charged Assets has been encumbered by any Security Interest or disposed of:

- (a) a Finance Party may close the Chargor's then subsisting account and open a new account with the Chargor, and (unless the relevant Finance Party gives the Chargor written notice otherwise) shall be deemed to have done so;
- (b) all payments made to the relevant Finance Party after that date will be credited (or be treated as having been credited) to the new account; and
- (c) no money credited or treated as credited to the new account shall reduce the Liabilities.

### 11.7 **Consolidation**

The restriction on the right of consolidating mortgage securities contained in section 93 of the Act shall not apply to the security created by this Deed.



## 11.8 **Rights of third parties**

11.8.1 Unless the right of enforcement is expressly granted, it is not intended that a third party should have the right to enforce a provision of this Deed pursuant to the Contracts (Rights of Third Parties) Act 1999.

11.8.2 The parties may rescind or vary this Deed without the consent of a third party to whom an express right to enforce any of its terms has been provided.

## 11.9 **Partial Invalidity**

The illegality, invalidity or unenforceability for whatever reason of any provision of this Deed in any jurisdiction, shall not affect the legality, validity or enforceability of that provision in any other jurisdiction or legality, validity or enforceability of the remaining provisions in any jurisdiction.

## 11.10 **Remedies and waivers**

No failure to exercise, nor any delay in exercising, on the part of any Finance Party, any right or remedy under this Deed shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Deed are cumulative and not exclusive of any right or remedies provided by law.

## 11.11 **Chargors' obligations**

Neither the Security Interest created under this Deed nor the obligations of the Chargor under this Deed will be affected by any act, omission, matter or thing which, but for this Clause 11.11 (*Chargors' obligations*), would reduce, release or prejudice that security or any of its obligations under this Deed (without limitation and whether or not known to it or any Finance Party) including:

- (a) any time, waiver or consent granted to, or composition with, any Obligor or other person;
- (b) the release of any Obligor or any other person under the terms of any composition or arrangement with any creditor of any member of the Group;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or Security Interest over assets of any Obligor 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 Interest;
- (d) any Incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any Obligor or any other person;
- (e) any amendment, novation, supplement, extension (whether of maturity or otherwise) or restatement (in each case, however fundamental and whether or not more onerous), or replacement, assignment, avoidance of termination of any Finance Document or any other document or Security Interest including any change in the purpose of, any extension of or any increase in any facility or the addition of any new facility under any Finance Document or other document or Security Interest;

- (f) any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document or any other document or Security Interest;  
or
- (g) any insolvency or similar proceedings.

#### 11.12 **Chargor intent**

Without prejudice to the generality of Clause 11.11 (*Chargors' obligations*), the Chargor expressly confirms that it intends that the Security Interests created by this Deed shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any of the Finance Documents and/or any facility or amount made available under any of the Finance Documents for the purposes of or in connection with any of the following:

- (a) business acquisitions of any nature;
- (b) Increasing working capital;
- (c) enabling investor distributions to be made;
- (d) carrying out restructurings;
- (e) refinancing existing facilities;
- (f) refinancing any other indebtedness;
- (g) making facilities available to new borrowers;
- (h) any other variation or extension of the purposes for which any such facility or amount might be made available from time to time; and/or
- (i) any fees, costs and/or expenses associated with any of the foregoing.

#### 11.13 **Appropriations**

Until the Liabilities have been irrevocably paid in full, each Finance Party (or trustee or agent on its behalf) may:

- (a) refrain from applying or enforcing the other monies, security or rights held or received by that Finance Party (or any trustee or agent on its behalf) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and no Chargor shall be entitled to the benefit of the same; and
- (b) hold in an interest-bearing suspense account any monies received from each Chargor or on account of the Chargor's liability under this Deed.

#### 11.14 **Deferral of Chargor's rights**

11.14.1 Until the Liabilities have been irrevocably paid in full and unless the Security Trustee otherwise directs, the Chargor will not exercise any rights which it may have by reason of performance by it of its obligations under the Finance Documents or by reason of any amount being payable, or liability arising, under this Deed

- (a) to be indemnified by any Obligor;

- (b) to claim any contribution from any other guarantor of any Obligor's obligations under the Finance Documents;
- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Finance Parties under the Finance Documents or of any other guarantee or security taken pursuant to, or in connection with, the Finance Documents by any Finance Party,
- (d) to bring legal or other proceedings for an order requiring any Obligor to make any payment, or perform any obligation, in respect of which any Chargor has given a guarantee, undertaking or indemnity under this Deed;
- (e) to exercise any right of set-off against any Obligor; and/or
- (f) to claim or prove as a creditor of any Obligor in competition with any Finance Party.

11 14.2 If the Chargor receives any benefit, payment or distribution in relation to any rights referred to in Clause 11.14 1 it shall hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to the Finance Parties by the Obligors under or in connection with the Finance Documents to be repaid in full on trust for the Finance Parties and shall promptly pay or transfer the same to the Security Trustee or as the Security Trustee may direct for application in accordance with Clause 7 (*Application of receipts*).

## 12 COUNTERPARTS

This Deed may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of this Deed.

## 13 LAW AND JURISDICTION

### 13.1 Governing law

This Deed and any non-contractual obligations arising out of or in relation to this Deed shall be governed by English Law.

### 13.2 Jurisdiction of English courts

13 2 1 The courts of England have exclusive jurisdiction to settle any dispute, including, without limitation, disputes relating to any non-contractual obligations arising out of or in connection with this Deed (a "**Dispute**").

13.2 2 The parties to this Deed agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no party will argue to the contrary.

13.2.3 This Clause 13.2 (*Jurisdiction of English courts*) is for the benefit of the Finance Parties only. As a result, no Finance Party shall be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Finance Parties may take concurrent proceedings in any number of jurisdictions.

**This Deed has been executed as a Deed and delivered on the date stated at the beginning of this Deed.**

**Schedule 1**  
**Subordinated Loan Agreements**

None

**Schedule 2**  
**Security Trustee's and Receiver's powers**

**1 Conduct of business**

**(a) Compromise claims**

To compromise any claim relating to the Charged Assets.

**(b) Borrowing and advancing**

To borrow, raise or advance money whether or not in priority to the Liabilities and with or without security.

**(c) Employees**

To employ solicitors, stockbrokers and others.

**2 Dealing with the Chargors' Assets**

**(a) Possession**

To take possession of, get in, use and/or collect any Charged Asset.

**(b) Payments**

To pay any outgoings and payments charged on or otherwise relating to the Charged Assets or their ownership or use.

**(c) Receipts**

To give receipts and releases for any sums received.

**(d) Assumption of rights**

To assume, exercise, cancel and/or vary all or any of the powers and rights conferred on the Chargor under any Charged Asset.

**(e) Insurance**

To effect insurances on such terms as it thinks fit.

**3 Disposals**

To sell or otherwise realise and deal with, and transfer title to, the Charged Assets, in return for such consideration as it thinks fit and whether or not:

- (i) for immediate or deferred consideration;
- (ii) in return for a single payment or instalments; and
- (iii) for consideration wholly or partly in cash, property or securities in whatever form,

and in all cases the terms of which shall bind any subsequent mortgagee.

**4 General**

**(a) General powers**

To do or abstain from doing all such things as it considers necessary or desirable for perfecting, maintaining preserving or enhancing the value of any of the Charged Assets or for or in connection with the enforcement of the Security Interests created by this Deed or the realisation of any of the Charged Assets, including:

- (i) executing, delivering and completing all or any deeds or other documents;
- (ii) using the name of the Chargor in connection with any of the purposes in this Schedule 2 (*Security Trustee's and Receiver's powers*);
- (iii) commencing, carrying out and completing any acts, matters or proceedings in relation to any Charged Asset as if it were the sole and absolute beneficial owner of the Charged Assets; and
- (iv) obtaining, entering into and maintaining any bonds, covenants, commitments, engagements, guarantees and indemnities or other like arrangements.

**(b) General**

All its powers and discretions under this Deed shall be:

- (i) exercisable on such terms and conditions and otherwise as it may think fit; and
- (ii) as if it were the absolute and beneficial owner.

EXECUTION PAGE

**Chargors**

Executed as a deed by **BERKLEY** )  
**ESTATES LONDON LIMITED** )  
acting by:

Director

Director/Secretary

**Security Trustee**

Executed as a deed by )  
**BARCLAYS BANK PLC** )  
acting by Its duly )  
authorised attorney )

.....

In the presence of:

.....

Name: .....

Address:.....

Occupation: .....

EXECUTION PAGE

**Chargors**

Executed as a deed by **BERKLEY** )  
**ESTATES LONDON LIMITED** )  
acting by:

Director

Director/Secretary

**Security Trustee**

Executed as a deed by )  
**BARCLAYS BANK PLC** )  
acting by its duly  
authorised attorney

[REDACTED]  
[REDACTED] Niv Kazimirov

In the presence of:

[REDACTED]

Name: ILZE LINDE

Address:

[REDACTED]

Occupation:

Banker