

MR01

Particulars of a charge

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

You can use the WebF
Please go to www.companieshouse.gov.uk

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

☐ **What this form is NOT**
You may not use this form to
register a charge where
instrument Use form MF01

TUESDAY



LD4 *L27UFGYB* #27
07/05/2013
COMPANIES HOUSE

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 03513344

Company name in full Havana Holdings (UK) Limited (the "Company")

6 For official use

→ **Filing 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 03/05/2013

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

MR01

Particulars of a charge

4

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

Please see the attached Continuation Page

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

MR01

Particulars of a charge

8

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 *Simmons & Simmons LLP*
ROBERT FARRER-BROWN
7.5.2013

X

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

MR01**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 **Theodora James (1226-1156)**

Company name **Simmons & Simmons LLP**

Address **CityPoint**

One Ropemaker Street

Post town **London**

County/Region **England**

Postcode **E C 2 Y 9 S S**

Country **United Kingdom**

DX **DX Box No 12 Chancery Lane London**

Telephone **020 7628 2020**

**Certificate**

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

**Checklist**

We may return forms completed incorrectly or with information missing.

Please make sure you have remembered the following:

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

**Important information**

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

**How to pay**

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

Make cheques or postal orders payable to 'Companies House'

**Where to send**

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

For companies registered in England and Wales:

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

For companies registered in Scotland

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

For companies registered in Northern Ireland:

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

**Further information**

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

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

MR01 - continuation page

Particulars of a charge

4	Description	
Description	<p>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</p> <p>(1) Its interest in any freehold or leasehold property acquired after the date of the instrument, a certified copy of which accompanies this form</p> <p>(2) All easements, licences, and other rights relating to the Property in which it has an interest</p> <p>(3) Its Intellectual Property present and future</p> <p>(4) The Original Headlease registered at the Land Registry under title number NGL55695, with effect from the Variation Date, as varied by the Variation of Headlease</p> <p>(5) The leasehold land owned by Churchill Group Limited and known as The Churchill Hotel, Portman Square, London W1H 7BH held under a lease dated 2 February 1973 made between A Peachey and Company Limited (1) and Loew's (Great Britain) Limited (2) and registered at the Land Registry under title number NGL221828, and</p> <p>(6) The leasehold land owned by the Operator and known as 3 and 4 Berkeley Mews, London W1, held under a lease dated 8 March 2007 between Churchill Group Limited (as Tenant) and The Portman Estate Nominees (Two) Limited (as Landlords) the leasehold land owned by the Operator and known as 3 and 4 Berkeley Mews, London W1, held under a lease dated 8 March 2007 between the Operator (as Tenant) and The Portman Estate Nominees (Two) Limited (as Landlords) and registered at the Land Registry with title number NGL879664</p> <p>(Any defined terms used in this Continuation Page have the meaning given to them by the instrument, a certified copy of which accompanies this form</p>	



FILE COPY

CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 3513344

Charge code: 0351 3344 0006

The Registrar of Companies for England and Wales hereby certifies that a charge dated 30th April 2013 and created by HAVANA HOLDINGS (UK) LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 7th May 2013

DX

Given at Companies House, Cardiff on 13th May 2013



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES

FMBK/001228-01156/SJXK/SJXK
L_LIVE_EMEA1.15103518v6

EXECUTION VERSION

30 April 2013

Debenture

between

Havana Holdings (UK) Limited
as Chargor

Primeairo Limited
as Chargor

International Hoteliers (UK) Limited
as Chargor

Churchill Group Limited
as Chargor

and

Barclays Bank PLC
as Security Trustee
relating to

In respect of the Hyatt Regency – The Churchill Hotel, 30
Portman Square, London

*I certify that, save for
material redacted pursuant to
document s.85B of the
Companies Act 2006 this copy
instrument is a correct copy
of the original instrument.
Robert Jones-Jones 7.5.2013
Solicitor
Simmons & Simmons LLP*

Simmons & Simmons

Simmons & Simmons LLP CityPoint One Ropemaker Street London EC2Y 9SS United Kingdom
T +44 20 7628 2020 F +44 20 7628 2070 DX Box No 12

CONTENTS

1.	Definitions and Interpretation	1
2	Covenant for Payment	4
3.	Security	4
4.	Crystallisation Of Floating Charge	6
5	Perfection Of Security.	6
6.	Investments ..	7
7.	Rights Of Enforcement	8
8	Application Of Receipts	10
9	Notices	11
10.	Discharge . . .	11
11.	General Provisions . ..	11
12.	Law And Junsdiction . . .	14
	SCHEDULE 1 : THE PROPERTY.....	15
	SCHEDULE 2 : SECURITY TRUSTEE'S AND RECEIVER'S POWERS . . .	16
	SCHEDULE 3 - EXECUTION PAGE . . .	19

THIS DEED is dated

30 April 2013

and made

BETWEEN:

- (1) **HAVANA HOLDINGS (UK) LIMITED**, (the "Chargor"), registered in England and Wales as company number 03513344 and having its registered office at 30 Portman Square, London W1A 4ZX,
- (2) **PRIMEAIRO LIMITED**, (the "Chargor"), registered in England and Wales as company number 02199203 and having its registered office at 30 Portman Square, London W1A 4ZX;
- (3) **INTERNATIONAL HOTELIERS (UK) LIMITED**, (the "Chargor"), registered in England and Wales as company number 01698769 and having its registered office at 30 Portman Square, London W1A 4ZX;
- (4) **CHURCHILL GROUP LIMITED**, (the "Chargor"), registered in England and Wales as company number 00922947 and having its registered office at 30 Portman Square, London W1A 4ZX; and
- (5) **BARCLAYS BANK PLC**, (the "Security Trustee"), registered in England and Wales as company number 01026167 and having its registered office at 1 Churchill Place, London E14 5HP

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) Each Chargor has agreed to charge certain of its assets as security to the Security Trustee as set out in this Deed to secure the payment and discharge of the Liabilities.

1 Definitions and Interpretation

1.1 Definitions

In this Deed:

"Act" means the Law of Property Act 1925,

"Borrower" means Havana Holdings (UK) Limited (company number 03513344) whose registered office is at 30 Portman Square, London, W1A 4ZX.

"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,

"Charged Property" means any freehold or leasehold property from time to time charged pursuant to this Deed.

"Charges" means the Security Interests from time to time created or expressed to be created by or pursuant to the terms of this Deed

"Existing Security" means the Security Interests created pursuant to the terms of.

- (A) a debenture dated 6 June 2006 and made between the Chargors and the Security Trustee, and
- (B) a debenture dated 1 June 2011 and made between the Chargors and the Security Trustee.

"Facility Agreement" means a facility agreement dated 01 June 2006 and made between amongst others the Security Trustee (1) and the Chargors (2) as amended and restated on 24 May 2007, as further supplemented by two supplemental agreements each dated 25 November 2008, as further amended and restated on 01 June 2011 and as further amended and restated on or about the date of this Deed and any further agreement entered into under or supplemental to it or amending, restating or novating it.

"Insurance Policy" means any policy of insurance in which each Chargor may from time to time have an interest relating to any Charged Property

"Investments" means the existing or future interest of the relevant person in

- (A) any stocks, shares bonds, units or any form of loan or other capital of or in any legal entity; and
- (B) any warrant or other right to acquire any such investment,

in each case, including any income, offer, right or benefit in respect of any such investment

"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 any Finance Party 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

"Property" means the property details of which are set out in schedule 1 (The Property) including all

- (A) land, cellars, vaults, underground tunnels, eaves, canopies, structures and the like used or enjoyed in connection with it now or in the future,
- (B) buildings, fixtures (including trade fixtures) and fixed plant and machinery and other structures now or in future on it; and
- (C) easements, access-rights, rights of way, wayleaves and rights attaching to it.

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

"Regulations" means the Financial Collateral Arrangements (No 2) Regulations 2003 (S.I. 2003/3226) or equivalent legislation in any applicable jurisdiction bringing into effect Directive 2002/47/EC on financial collateral arrangements.

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

- (A) the proceeds of sale of any part of that asset;
- (B) all rights under any licence, agreement for sale or agreement for lease in respect of that asset,
- (C) all rights, powers, benefits, claims, contracts, warranties, remedies, security, guarantees, indemnities or covenants for title in respect of that asset; and
- (D) all monies and proceeds paid or payable in respect of that asset, (including all rights against any trustee, nominee, fiduciary or clearing system)

"Relevant Contracts" means each and all of the following both present and future

- (A) the Management Agreement,
 - (B) the Management Agreement Guarantee,
 - (C) each contract in respect of any disposal of any Charged Asset;
 - (D) each Occupational Lease,
 - (E) the Licences;
 - (F) any contracts with customers of the Property including corporate contracts, and
 - (G) all other agreements, in which a Chargor has an interest, in respect of the Property,
- in each case, including any guarantees or sureties entered into in respect of them,

1 2 Construction

- (A) Unless the contrary intention is expressed, all defined terms in the Facility Agreement have the same meaning here.
- (B) The construction provisions set out at clause 1.2 (*Construction*) of the Facility Agreement shall apply equally to this Deed
- (C) If any provision of this Deed shall conflict with any term of the Facility Agreement then the relevant term of the Facility Agreement shall prevail

1 3 Disposition of Property

The terms of any other Finance Document and of any side letters between the parties to this Deed are incorporated into each Finance Document to the extent required for the purported disposition of the Property contained in any Finance Document to be a valid disposition in accordance with section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989

1 4 Joint and several Chargers

Where two or more persons purport to create a Security Interest over a Charged Asset under this deed then

- (A) they (or such of them as have the joint interest in the relevant Charged Asset) shall be deemed to have jointly mortgaged, charged and/or assigned, as appropriate, their joint interest in the relevant Charged Asset,
- (B) each person shall be deemed to have mortgaged, charged and/or assigned, as appropriate, its individual interest (if any) in the relevant Charged Asset, and
- (C) each person shall be deemed to have confirmed the Security Interest granted by the others

2. Covenant for Payment

2.1 Covenant to pay

Each Chargor covenants with the Security Trustee that it will pay and discharge each and all of the Liabilities at the time or times when, and in the manner in which, and in the currencies in which, they are expressed to be due and payable under the Finance Documents

2.2 Survival of obligations

The payment obligations of each Chargor under the Finance Documents shall survive the enforcement of the whole or any part of the Charged Assets until discharged by the Security Trustee.

3. Security

3.1 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 with full title guarantee.

3.2 Mortgage

Each Chargor charges by way of legal mortgage its interest in the Property

3.3 Fixed charge

Each Chargor charges by way of fixed charge each of the following including all rights of enforcement of the same:

- (A) its interest in any freehold or leasehold property acquired after the date of this Deed,
- (B) its interest in the Relevant Contracts,
- (C) the Accounts which are held by each Chargor and other accounts of each Chargor and all monies standing to the credit thereof,
- (D) all fixtures, fittings, plant, machinery, manuals and other chattels in respect of the Property and all guarantees and warranties in respect of any of them;

- (E) all easements, licences and other rights relating to the Property in which it has an interest; the Investments;
- (F) its Intellectual Property present and future,
- (G) if applicable its uncalled capital, its goodwill; and
- (H) all Related Rights in respect of the above.

3.4 **Assignment**

Each Chargor assigns absolutely, subject to the right of re-assignment on redemption pursuant to Clause 10 (*Discharge*), each of the following, including all rights of enforcement of the same

- (A) all Rents present and future;
- (B) the Disposal Proceeds;
- (C) all book debts and other debts present and future payable to that Chargor;
- (D) its rights, interests and all monies payable to it under any Insurance Policies,
- (E) the benefit of the copyright and similar rights vested in it from time to time in connection with any Charged Property,
- (F) all causes of action and other rights and remedies in which it has an interest from time to time,
- (G) its rights, interests and all monies payable to it under any Hedging Arrangement present and future,
- (H) all monies payable to it under the Management Agreement and the Management Agreement Guarantee,
- (I) the benefit of any monies paid or payable to it from time to time by way of compensation, endowment, gift, grant or otherwise;
- (J) its interest from time to time in any VAT recoveries; and
- (K) all Related Rights in respect of the above.

3.5 **Floating charge**

Each Chargor charges by way of floating charge all its assets, property and undertaking both present and future.

3.6 **Application of charges**

The charges created under this Deed expressed to be:

- (A) fixed charges, shall only apply to the extent that they create fixed security; and
- (B) floating charges, shall not apply to any Charged Asset which is the subject of any fixed security, mortgage or assignment under this Deed

4. Crystallisation Of Floating Charge

4.1 Crystallisation by notice

The Security Trustee may at any time by notice in writing to the Chargors convert the floating charge created by clause 3.5 (*Floating charge*) with immediate effect into a fixed charge as regards any Charged Assets specified in the notice if

- (A) An Event of Default is continuing, or
- (B) the Security Trustee reasonably considers that any of the Charged Assets may be in jeopardy or in danger of being seized, attached, charged, taken possession of or sold under any form of legal process.

4.2 Automatic crystallisation

Notwithstanding clause 4.1 (*Crystallisation by notice*) and without prejudice to any law which may have a similar effect, the floating charge created by clause 3.5 (*Floating charge*) will convert automatically with immediate effect into a fixed charge as regards all the assets subject to the floating charge if

- (A) any Chargor creates or attempts to create any Security Interest (other than a Permitted Security Interest) over any Charged Assets,
- (B) any steps are taken (including the giving of notice, the presentation of a petition, the passing of a resolution or the making of an application) to appoint a liquidator, provisional liquidator, administrator or receiver in respect of any Chargor over all or any part of its assets, or if such person is appointed;
- (C) any other floating charge over any of the Charged Assets crystallises, or
- (D) in any other circumstances prescribed by law.

5. Perfection Of Security

5.1 Insolvency Act

For the purposes of paragraph 43 of schedule A1 to the Insolvency Act 1986 nothing in this Deed shall provide for

- (A) the obtaining of a moratorium in respect of any Chargor pursuant to section 1A of the Insolvency Act 1986, or
- (B) anything done with a view to obtaining such a moratorium,

to be an event causing the floating charge created by this Deed to crystallise or causing restrictions which would not otherwise apply to being imposed on the disposal of property by that Chargor or a ground for the appointment of a Receiver.

5.2 Further assurance

Each 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 by this Deed and/or to facilitate or effect any dealing with the Charged Assets in connection with this Deed.

5.3 Notices

(A) If the Security Trustee so requests, each Chargor shall

(1) serve a notice of assignment in respect of any Charged Asset, and

(2) affix or indorse (as appropriate) a notice of the security intended by this Deed on any Charged Asset,

in both cases in the form and substance satisfactory to the Security Trustee

5.4 Restriction

(A) Each Chargor authorises the Security Trustee to make an application on Form RX1 or such other form as may be prescribed from time to time) to enter the following restriction against the relevant registered estate:

"No disposition of the registered estate by the proprietor of the registered estate or by the proprietor of any registered Charge, not being a Charge registered before the date of this restriction is to be registered without a written consent signed by the proprietor for the time being of the charge dated [•] in favour of Barclays Bank PLC referred to in the Charges Register (or its conveyancer) "

(B) Each Chargor authorises the Security Trustee to apply to the Land Registry to enter the obligation to make further advances on the charges register of the relevant registered estates.

6 Investments

6.1 Investment title documentation

Except to the extent the same has already been provided to the Security Trustee under the Existing Security, upon execution of this Deed (or immediately upon the acquisition of the relevant Investment if that acquisition follows the date of this Deed) and notwithstanding any other term of the Finance Documents, each Chargor will deposit with the Security Trustee in respect of each Investment:

(A) all certificates, warrants or other documents of title,

(B) duly executed undated blank stock transfer forms; and

(C) forms of waiver of any pre-emption rights and any other documents, consents and monies necessary to enable such transfers to be registered by the Security Trustee.

6.2 Voting prior to an Event of Default

Prior to an Event of Default which is continuing, a Chargor may continue to exercise all voting and other rights (including the right to collect dividends, interest, principal or other payments of money) relating to the Investments provided that such rights are not exercised in a way which (and that Chargor shall not permit anything which):

- (A) jeopardises the security constituted by the Finance Documents;
- (B) varies the rights attaching to the Investments; or
- (C) relates to a participation in a rights issue or to receiving dividends other than in cash or concerns a merger, consolidation, allotment of shares, change to constitutional documents, transfer of ownership (legal or beneficial), insolvency or matters which would otherwise be prohibited by the Finance Documents.

6.3 Voting after an Event of Default

Following an Event of Default which is continuing, the Security Trustee may (without notice to or consent from a Chargor and in that Chargor's name or otherwise) exercise any rights (including the right to collect dividends, interest, principal or other payments of money) in respect of the Investments and may do anything necessary to complete any transfer form in favour of itself or otherwise

6.4 Obligations

Each Chargor shall promptly pay all reasonable calls, costs and/or other payments in respect of the Investments and shall give to the Security Trustee, at the time of issue, copies of all information, offers, notices or other materials supplied to the members of the issuers of the Investments and shall advise the Security Trustee promptly of any material occurrence affecting the Investments or any other part of the security granted to the Security Trustee and shall give to the Security Trustee such information as they may reasonably require relating to the Investments.

7. Rights Of Enforcement

7.1 Enforcement

- (A) 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
- (B) The enforcement powers of the Security Trustee in connection with this Deed shall be immediately exercisable upon:
 - (1) the occurrence of an Event of Default which is continuing, or
 - (2) at the Security Trustee's discretion, at the request of the Chargors
- (C) The restrictions imposed by section 103 of the Act shall not apply to the security created by this Deed.
- (D) 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

7.2 Security Trustee's and Receiver's powers and rights

- (A) At any time after the occurrence of an Event of Default which is continuing, or if so requested by a Chargor, the Security Trustee shall have the power:
 - (1) 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;
 - (2) to appropriate any Charged Assets in accordance with clause 7.3 (*Right of appropriation*); and
 - (3) if this Deed contains a qualifying floating charge for the purposes of the Insolvency Act 1986, to appoint an administrator of any Chargor, and paragraph 14 of schedule B1 of the Insolvency Act 1986 shall apply to this Deed.
- (B) At any time after the occurrence of an Event of Default which is continuing, or if so requested by a Chargor, the Security Trustee (without becoming a mortgagee in possession) and/or any Receiver (without personal liability) shall have the power to exercise:
 - (1) 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
 - (2) the powers 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

7.3 Right of appropriation

To the extent that any of the Charged Assets constitutes "financial collateral" and this Deed and the obligations of the Chargors under it constitute a "security financial collateral arrangement" (in each case as defined in, and for the purposes of, the Regulations), the Security Trustee shall have the right following enforcement of this Deed to appropriate all or any part of it in or towards discharge of the Liabilities and transfer title in and to it to the Security Trustee. For this purpose, the Parties agree that the value of the financial collateral so appropriated shall be:

- (A) in the case of cash, the amount standing to the credit of each account, together with any accrued but unpaid interest, at the time the right of appropriation is exercised, and
- (B) in the case of Investments, the market price of such financial collateral determined by the Security Trustee by reference to a public index or by such other process as the Security Trustee may select, including independent valuation.

In each case, the Parties agree that the method of valuation provided for in this Deed shall constitute a commercially reasonable method of valuation for the purposes of the Regulations

7.4 Receiver as agent

So far as the law allows, a Receiver shall be the agent of a 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.

7.5 Further powers

If a 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, with prior notice to the Chargor, at any time (but shall not be obliged to) do such things as it considers necessary to remedy the default.

7.6 Power of attorney

(A) Each Chargor by way of security irrevocably appoints the Security Trustee and every Receiver jointly and severally to be its attorney (with full power of substitution) in its name and on its behalf to execute and deliver any documents and do or perfect anything which the Security Trustee and/or the Receiver shall consider appropriate for perfecting, maintaining, preserving, enhancing or enforcing the security created by this Deed and/or the value of any of the Charged Assets and/or for the purpose of enforcing the performance of that Chargor's obligations in connection with this Deed

(B) Each Chargor ratifies and confirms all things done and all documents executed by any attorney in the exercise or purported exercise of all or any of its powers

8. Application Of Receipts

8.1 Priority of payment

Subject to sums secured by charges having priority to the charges 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 a Chargor or otherwise),
- (B) secondly, (in so far as not contemplated by clause 8 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,
- (C) thirdly, to the Agent for distribution in accordance with the Facility Agreement, and
- (D) finally, to the persons so entitled, the surplus, (if any)

8.2 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.

9. **Notices**

The provisions as to notices set out in the Facility Agreement will apply to this Deed as if set out in full here and as if each reference to the "Borrower" is a reference to the relevant "Chargor"

10. **Discharge**

- (A) If the Security Trustee is satisfied that the Liabilities have been unconditionally and irrevocably paid, repaid and discharged in full, the Security Trustee will, at the request and cost of the Chargors, take all reasonable steps to release and/or reassign the Charged Assets from the Charges and discharge this Deed
- (B) No discharge will be of any effect if any security or payment given or made in respect of the Liabilities is rescinded, avoided, reduced or invalidated whether in respect of any insolvency or otherwise.

11 **General Provisions**

11.1 **Trust provisions**

The covenants, undertakings and representations made by each Chargor under this Deed are made in favour of the Security Trustee as security trustee for the Finance Parties.

11.2 **Immediate recourse**

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 a Chargor or any other person

11.3 **Exercise of powers and liability**

- (A) 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.
- (B) 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 pay the accounts of the prior chargee (which shall be binding on each Chargor) All principal monies, interest, costs, charges and expenses of and incidental to such redemption or transfer shall be paid by the Chargors to the Security Trustee on demand
- (C) 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

11.4 **Tacking**

Each Finance Party must perform its obligations under the Facility Agreement (including any obligation to make further advances) Each Chargor consents to an application being made to the land Registry to enter the obligation to make further Loans on the charges register at the Land Registry relating to the Property.

11.5 **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 relevant Chargor's then subsisting account and open a new account with that Chargor, and (unless the relevant Finance Party gives that Chargor written notice otherwise) shall be deemed to have done so;
- (B) all payments made to a 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

11.6 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

11.7 Rights of third parties

- (A) 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.
- (B) The Parties and any Receiver may rescind, vary, waive, release, assign, novate or otherwise dispose of all or any of their respective rights or obligations under this Deed without the consent of a third party to whom an express right to enforce any of its terms has been provided

11.8 Effect as a deed

This Deed shall take effect as a deed even if it is signed under hand on behalf of the Security Trustee

11.9 Counterparts

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

11.10 Chargors' obligations

Neither the Security Interest created under this Deed nor the obligations of each Chargor under this Deed will be affected by any act, omission, matter or thing which, but for this clause 11.10 (*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 Chargor 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 Chargor 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 or 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

11.11 Chargor intent

Without prejudice to the generality of clause 11.10 (*Chargors' obligations*), each 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,
- (I) and/or any fees, costs and/or expenses associated with any of the foregoing

11.12 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 any other moneys, 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 any Chargor or on account of any Chargor's liability under this Deed.

11.13 Deferral of Chargor's rights

- (A) Until the Liabilities have been irrevocably paid in full and unless the Security Trustee otherwise directs, no Chargor will 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
 - (1) to be indemnified by any Obligor;
 - (2) to claim any contribution from any other guarantor of any Obligor's obligations under the Finance Documents;
 - (3) 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;
 - (4) 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,
 - (5) to exercise any right of set-off against any Obligor; and/or
 - (6) to claim or prove as a creditor of any Obligor in competition with any Finance Party.
- (B) If any Chargor receives any benefit, payment or distribution in relation to any rights referred to in clause 11.13(A) 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 8 (Application of receipts).

12 Law And Jurisdiction

12.1 Governing law

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

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

SCHEDULE 1 : THE PROPERTY

1. The Original Headlease registered at the Land Registry under title number NGL55695, with effect from the Variation Date, as varied by the Variation of Headlease
2. The leasehold land owned by Churchill Group Limited and known as The Churchill Hotel, Portman Square, London W1H 7BH held under a lease dated 2 February 1973 made between A Peachey and Company Limited (1) and Loew's (Great Britain) Limited (2) and registered at the Land Registry under title number NGL221828, and
3. The leasehold land owned by the Operator and known as 3 and 4 Berkeley Mews, London W1, held under a lease dated 8 March 2007 between Churchill Group Limited (as Tenant) and The Portman Estate Nominees (Two) Limited (as Landlords) the leasehold land owned by the Operator and known as 3 and 4 Berkeley Mews, London W1, held under a lease dated 8 March 2007 between the Operator (as Tenant) and The Portman Estate Nominees (Two) Limited (as Landlords) and registered at the Land Registry with title number NGL879664

SCHEDULE 2 : SECURITY TRUSTEE'S AND RECEIVER'S POWERS

1. Conduct of business

(A) Carry on business

To carry on, manage, develop, reconstruct, amalgamate, diversify and/or conduct the business of a Chargor in all respects and for such purpose to

- (1) enter upon and take possession, get in, collect or otherwise assume control in respect of all or any of the Charged Assets; and/or
- (2) acquire any property, chattels, plant, machinery and materials.

(B) Formation of companies

To promote the formation of companies with a view to the same purchasing, leasing, licensing or otherwise acquiring any of the Charged Assets and to arrange for such companies to trade or cease to trade in all cases

(C) Compromise claims

To compromise any claim relating to the Charged Assets

(D) Borrowing and advancing

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

(E) VAT

To assume and exercise all or any of the power and rights conferred on a Chargor in respect of its value added tax status, liabilities, advantages or arrangements.

(F) Employees

To

- (1) enter into, adopt and/or terminate any contract of employment, and
- (2) employ solicitors, architects, surveyors, quantity surveyors, estate agents, contractors, builders, workmen, stockbrokers and others

2. Dealing with a Chargor's assets

(A) Possession

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

(B) Payments

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

(C) Receipts

To give receipts and releases for any sums received

(D) Carry on works

To undertake any works, demolition, building, reconstruction, improvement, repair or decoration in respect of any of the Charged Assets which consist of property, buildings, structures, plant, machinery or equipment as it thinks fit and whether or not in accordance with any obligations imposed by the Facility Agreement

(E) Assumption of rights

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

(F) Insurance

To effect insurances on such terms as it thinks fit

(G) Planning permissions and consents

To obtain all necessary planning permissions, building regulation approvals and other permissions, consents or licences in relation to any development or use of the Charged Assets

(H) Acquisition of property

To acquire any adjoining property and/or easements, interests or estates in property and to grant easements and rights

(I) Negotiation

To negotiate and conclude reviews of rent and otherwise deal in relation to the Occupational Leases and the tenants' and guarantors' respective obligations under them.

3 Disposals

(A) Selling

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:

- (1) for immediate or deferred consideration; in return for a single payment or instalments, and
- (2) 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

(B) Leasing

To grant, create or surrender any lease, tenancy, licence or other agreement relating to the disposal of or other dealing with the Charged Assets on such terms as it thinks fit and

(C) with or without any rent, review of rent, fine or premium, and

(D) whether absolutely or for a term,

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 charges created by this Deed or the realisation of any of the Charged Assets, whether or not in accordance with the Facility Agreement, including:

- (1) executing, delivering and completing all or any deeds or other documents;
- (2) using the name of a Chargor in connection with any of the purposes in this Schedule 3 (Security Trustee's and Receiver's powers),
- (3) commencing, carrying out and completing any acts, matters, proceedings in relation to any Charged Asset as if it were the sole and absolute beneficial owner of the Charged Assets; and
- (4) 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

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

SCHEDULE 3 - EXECUTION PAGE

Chargors


Executed as a deed by)
HAVANA HOLDINGS (UK))
LIMITED acting by)



Michael Calms
(name of director)

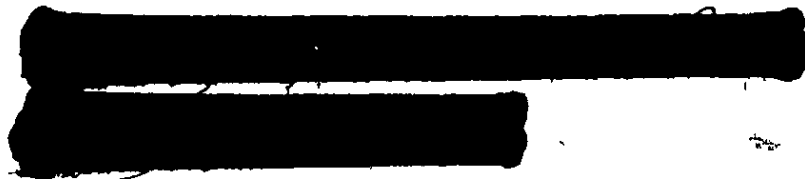
Director

in the presence of.


(signature of witness)

Omar Nasar
(name of witness)


Address of witness:




Occupation of witness

Solicitor

Executed as a deed by)
PRIMEAIRO LIMITED)
acting by)
Michael Cairns
(name of director)

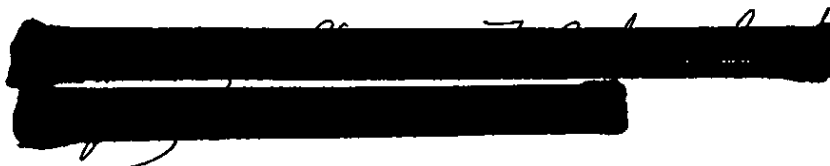

Director

in the presence of


(signature of witness)

Omar Nasar
(name of witness)

Address of witness



Occupation of witness.

Solicitor

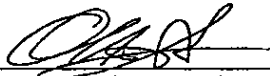
Executed as a deed by)
INTERNATIONAL)
HOTELIERS (UK) LIMITED)
acting by)



Michael Cairns
(name of director)

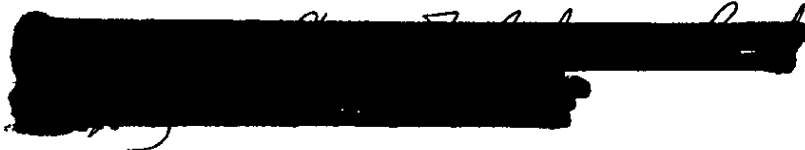
Director

in the presence of


(signature of witness)

Omar Nesar
(name of witness)

Address of witness



Occupation of witness

Solicitor

Executed as a deed by)
CHURCHILL GROUP)
LIMITED acting by)
Michael Cairns
(name of director)

M.A. Cairns

Director

in the presence of

[Signature]
(signature of witness)

Omar Nasar
(name of witness)

Address of witness

[Redacted Address]

Occupation of witness: Solicitor

Security Trustee

Executed and delivered as a deed by

Bob Silk
(name)

[Signature]
(signature)

as attorney for **BARCLAYS BANK PLC**
in the presence of

Theodora James
(witness signature)

Theodora James
(witness name)