



Registration of a Charge

Company name: **CSAM LIMITED**

Company number: **05775867**



X6M57JUX

Received for Electronic Filing: **27/12/2017**

Details of Charge

Date of creation: **15/12/2017**

Charge code: **0577 5867 0008**

Persons entitled: **COUTTS & COMPANY**

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: **PINSENT MASONS LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 5775867

Charge code: 0577 5867 0008

The Registrar of Companies for England and Wales hereby certifies that a charge dated 15th December 2017 and created by CSAM LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 27th December 2017 .

Given at Companies House, Cardiff on 29th December 2017

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



Companies House



**THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES**

DATED 15 December 2017

(1) CSAM LIMITED
(as Chargor)

(2) COUTTS & COMPANY
(as Bank)

SUBORDINATED CREDITOR'S SECURITY AGREEMENT


Pinsent Masons

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THIS DEED is made on

15 December 2017

BETWEEN:-

- (1) **CSAM LIMITED** a company registered in England and Wales with registered number 05775867 and whose registered office is at Summit House, 13 High Street Wanstead, London, England, E11 2AA (the "**Chargor**"); and
- (2) **COUTTS & COMPANY** incorporated in England (Company Number 00036695) whose registered office is at 440 Strand, London, WC2R 0QS (the "**Bank**").

INTRODUCTION

- (A) The Bank has agreed to make credit facilities available on the terms and conditions set out in the Facility Agreement (as is defined below).
- (B) The Chargor acknowledges that its entry into this Deed is a condition of the Bank making such credit facilities available and has agreed to enter into this Deed to provide Security over the Secured Assets (as is defined below) to the Bank.

IT IS AGREED as follows:-

1. INTERPRETATION

1.1 Definitions

In this Deed:-

"Account"	has the meaning given to that term in the Facility Agreement
"Borrower"	means Valcor Nominees (Dundee) 1 Limited as nominee of and trustee for the members from time to time of the Valcor (Dundee) Regeneration Syndicate
"Default Rate"	means the rate of interest specified in, and calculated in accordance with, Clause 8.5 (<i>Default Interest</i>) of the Facility Agreement
"Event of Default"	has the meaning given to that term in the Facility Agreement
"Expenses"	all expenses (on a full indemnity basis) incurred by the Bank at any time in connection with the Subordinated Documents or the Secured Obligations or in taking or perfecting this Deed or in preserving, defending or enforcing the Security created by this Deed or in exercising any power under this Deed or otherwise with Interest from the date they are incurred
"Facility Agreement"	means the £5,600,000 single currency term facility agreement dated on or around the date of this Deed and made between (1) the Borrower (2) Lower Dens Hotel Services (Dundee) Limited as guarantor and (3) the Bank
"Finance Document"	has the meaning given to that term in the Facility

	Agreement
"Interest"	means interest at the rate(s) charged to the Chargor by the Bank from time to time
"Obligors"	has the meaning given to that term in the Facility Agreement
"Party"	means a party to this Deed
"Receiver"	means any receiver, receiver and manager or, to the extent permitted by law, an administrative receiver of the whole or any part of the Secured Assets
"Regulations"	means the Financial Collateral Arrangements (No2) 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:- <ul style="list-style-type: none"> (a) all rights, benefits, claims, contracts, warranties, remedies, security, or indemnities in respect of the Secured Assets; and (b) any moneys and proceeds or income paid or payable in respect of the Secured Assets
"Secured Assets"	means all the assets and undertaking of the Chargor which from time to time are, or purport to be, the subject of the Security created in favour of the Bank by or pursuant to this Deed
"Secured Liability"	means all of each of the Borrower's liabilities to the Bank of any kind and in any currency (whether present or future actual or contingent and whether incurred alone or jointly with another) together with the Bank's charges and commission Interest and Expenses
"Security Period"	means the period beginning on the date of this Deed and ending on the date on which the Bank is satisfied that all the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full and all facilities which might give rise to Secured Liabilities have terminated
"Security"	means a mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect
"Subordinated Debt"	means all the Borrower's liabilities to the Chargor of any kind (whether present or future actual or contingent and whether incurred alone or jointly with another) including interest charges and commission
"Subordinated Documents"	means:- <ul style="list-style-type: none"> (a) the loan agreement dated 5 April 2016 and

made between the Chargor and the Borrower;
and

- (b) any other agreement evidencing or recording
the terms of the Subordinated Debt

"Tax" has the meaning given to that term in the Facility
Agreement

1.2 Incorporation of terms

Unless the context otherwise requires or unless defined in this Deed, all words and expressions defined or whose interpretation is provided for in the Facility Agreement shall have the same meanings in this Deed.

1.3 Interpretation

In this Deed unless the context requires otherwise:

- 1.3.1 words importing the singular shall include the plural and vice versa;
- 1.3.2 references to this Security or any other document shall be construed as references to this Security or such other document as amended, supplemented, novated, extended or restated from time to time;
- 1.3.3 references to any statute or statutory provision (including any subordinate legislation) shall include any statute or statutory provision for the time being in force which amends, extends, consolidates or replaces the same and shall include any orders, regulations, instruments or other subordinate legislation made under the relevant statute or statutory provision;
- 1.3.4 references to a "**person**" shall include any individual, firm, company, corporation, body, trust or foundation, or any association, partnership or unincorporated body (whether or not having separate legal personality); and
- 1.3.5 any reference to the Bank includes its permitted successors, transferees and assignees.

1.4 Effect as a deed

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

1.5 Third party rights

A person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Deed.

1.6 Continuing Event of Default

An Event of Default is continuing if it has not been waived.

2. COVENANT TO PAY

2.1 Secured Liabilities

The Chargor covenants to discharge the Secured Liabilities when they become due and payable.

2.2 Interest

The Chargor covenants to pay interest at the Default Rate to the Bank on any sum not paid in accordance with Clause 2.1 (*Secured Liabilities*) until payment (both before and after judgment).

3. SECURITY

3.1 Assignment

The Chargor assigns absolutely, subject to a proviso for reassignment on the irrevocable discharge in full of the Secured Liabilities, all its right, title and interest from time to time in:-

- 3.1.1 the Subordinated Debt;
- 3.1.2 the Subordinated Documents; and
- 3.1.3 all Related Rights under or in connection with the Subordinated Debt and the Subordinated Documents.

3.2 Charge

To the extent not effectively assigned under Clause 3.1 (*Assignment*), the Chargor charges by way of first fixed charge:-

- 3.2.1 the Subordinated Debt;
- 3.2.2 the Subordinated Documents; and
- 3.2.3 all Related Rights under or in connection with the Subordinated Debt and the Subordinated Documents.

3.3 Trust

If or to the extent that for any reason the assignment or charging of any Secured Asset is prohibited, the Chargor shall hold it on trust for the Bank.

3.4 Nature of Security created

The Security created under this Deed is created:-

- 3.4.1 as a continuing security to secure the payment and discharge of the Secured Liabilities and shall not be released or discharged by any intermediate payment or settlement of all or any of the Secured Liabilities; and
- 3.4.2 with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994.

4. PERFECTION OF SECURITY

4.1 The Chargor must deliver (or procure delivery of) to the Bank notices of assignment in relation to the Secured Assets on the date of this Deed in the form set out in Schedule 1 (*Form of notice of assignment*).

4.2 The Chargor must:-

- 4.2.1 use all reasonable endeavours to procure that each notice of assignment is acknowledged by the Borrower; and

- 4.2.2 deliver to the Bank a copy of each acknowledgment of a notice of assignment within 5 Business Days of receipt from the Borrower.

5. REPRESENTATIONS AND WARRANTIES

5.1 The Chargor represents and warrants to the Bank that:

- 5.1.1 it is duly incorporated and validly existing under the law of England;
- 5.1.2 it has the power to grant this Deed and perform its obligations hereunder;
- 5.1.3 it has taken all necessary corporate action to authorise the execution and delivery of this Deed and the performance of its obligations hereunder;
- 5.1.4 the grant of this Deed and the performance of its obligations hereunder will not contravene any law, regulation or agreement to which the Chargor is a party or by which it is bound, or cause any limitation on any of the powers of the Chargor however imposed, or the right or ability of its directors to exercise any of such powers, to be exceeded;
- 5.1.5 all authorisations required for the creation, performance, validity and enforceability of this Deed by the Chargor have been obtained and are in full force and effect;
- 5.1.6 it is the legal and beneficial owner of the Secured Assets; and
- 5.1.7 it has not granted or created any other security, charge or encumbrance over or any option, right of pre-emption or other right to acquire the Secured Rights or any interest therein, or agreed, conditionally or unconditionally, to do so.

6. GENERAL UNDERTAKINGS

The undertakings in this Clause 6 (*General Undertakings*) remain in force at all times during the Security Period.

6.1 Further assurance

The Chargor undertakes that it shall promptly do whatever the Bank requires:-

- 6.1.1 to perfect or protect the Security created or expressed to be created by this Deed, or its priority; or
- 6.1.2 facilitate the realisation of the Secured Assets or the exercise of any rights vested in the Bank or any Receiver by this Deed or by law,

including executing any transfer, conveyance, charge, assignment or assurance of the Secured Assets (whether to the Bank or its nominees or otherwise), making any registration and giving any notice, order or direction.

6.2 Negative pledge

The Chargor undertakes that it shall not create or permit to subsist any Security over any Secured Assets.

6.3 Disposals

The Chargor undertakes that it shall not enter into or agree to enter into a single transaction or a series of transactions (whether related or not and whether voluntary or involuntary) to sell, transfer or otherwise dispose of any Secured Assets.

6.4 Payments without deduction

The Chargor shall calculate and make all payments under this Deed without (and free and clear of any deduction for) set-off or counterclaim.

7. UNDERTAKINGS RELATING TO SECURED ASSETS

The covenants in this Clause 7 (*Undertakings relating to Secured Assets*) remain in force from the date of this Deed until the end of the Security Period.

7.1 The Chargor undertakes that it shall:-

7.1.1 duly and promptly perform all its obligations in respect of the Secured Assets;

7.1.2 notify the Bank of any breach of or default under a Subordinated Document by the Borrower and any right that arises entitling the Borrower to rescind, cancel or terminate a Subordinated Document, promptly upon becoming aware of it; and

7.1.3 provide the Bank promptly upon request with any document in its possession, custody or control and provide or assist the Bank in obtaining any document or information which it may reasonably require in relation to a Subordinated Document.

7.2 The Chargor undertakes that it shall not (and shall not agree to), without the prior written consent of the Bank:-

7.2.1 supplement, substitute, rescind or cancel any Subordinated Document or amend any material provision of any Subordinated Document;

7.2.2 release any material obligation under any Subordinated Document, or waive any material breach of any Subordinated Document;

7.2.3 exercise any right to rescind, cancel, terminate or release the Borrower from any obligations in respect of any Secured Assets;

7.2.4 permit any party to any Subordinated Document to assign any of their rights, or transfer any of their obligations, under that Subordinated Document;

7.2.5 assign, transfer, charge or otherwise deal with or dispose of any Secured Assets or any of the Chargor's rights, title, interest and benefits in, to and in respect of any Secured Assets; or

7.2.6 take or omit to take any action, the taking or omission of which might result in any alteration or impairment of any of the rights created by any Subordinated Document or this Deed, nor exercise any right or power conferred on it by any Subordinated Document in any manner adverse to the interests of the Bank.

7.3 Save as expressly restricted pursuant to the terms of the Finance Documents, while no Event of Default is continuing, the Chargor may exercise all its rights in respect of the Secured Assets including receiving and exercising all rights relating to proceeds of the Secured Assets.

8. DEMAND AND ENFORCEMENT

8.1 Enforcement

The Security created by this Deed shall become enforceable upon:-

- 8.1.1 the occurrence of an Event of Default which is continuing;
- 8.1.2 any request being made by the Chargor to the Bank for the appointment of a Receiver or an administrator, or for the Bank to exercise any other power or right available to it.

8.2 Powers on enforcement

At any time after the Security created by this Deed has become enforceable, the Bank may (without prejudice to any other rights and remedies and without notice to the Chargor) do all or any of the following:-

- 8.2.1 exercise the power of sale under section 101 of the LPA together with all other powers and rights conferred on mortgagees by the LPA, as varied and extended by this Deed, without the restrictions contained in sections 103 or 109(1) of the LPA;
- 8.2.2 to the extent that any Secured Asset constitutes "Financial Collateral" and this Deed constitutes a "security financial collateral arrangement" each as defined in the Regulations, appropriate all or any part of the Secured Assets in or towards satisfaction of the Secured Liability (including transferring the title in and to it to the Bank insofar as not already transferred, subject to paragraphs (1) and (2) of Regulation 18), the value of the property so appropriated being the amount standing to the credit of the relevant Account (where the property is the benefit of an Account) or, in any other case, such amount as the Bank shall determine in a commercially reasonable manner; and
- 8.2.3 subject to Clause 9.1 (*Method of appointment or removal*), appoint one or more persons to be a Receiver or Receivers of all or any of the Secured Assets.

8.3 Disposal of the Secured Assets

In exercising the powers referred to in Clause 8.1.1 (*Powers on enforcement*), the Bank or any Receiver may sell or dispose of all or any of the Secured Assets at the times, in the manner and order, on the terms and conditions and for the consideration determined by it.

8.4 Same rights as Receiver

Any rights conferred by this Deed upon a Receiver may be exercised by the Bank after the Security created by this Deed has become enforceable, whether or not the Bank shall have taken possession or appointed a Receiver of the Secured Assets.

8.5 Delegation

The Bank may delegate in any manner to any person any rights exercisable by the Bank under this Deed. Any such delegation may be made upon such terms and conditions (including power to sub-delegate) as the Bank thinks fit.

9. RECEIVERS

9.1 Method of appointment or removal

Every appointment or removal of a Receiver, any delegate or any other person by the Bank under this Deed shall be in writing under the hand of any officer or manager of the Bank (subject to any requirement for a court order in the case of the removal of an administrative receiver).

9.2 Removal

The Bank may (subject to the application of section 45 of the Insolvency Act 1986) remove any person from office in relation to all or any part of the Secured Assets of which he is the Receiver and at any time (before or after any person shall have vacated office or ceased to act as Receiver in respect of any of such Secured Assets) appoint a further or other Receiver or Receivers over all or any part of such Secured Assets.

9.3 Powers

Every Receiver shall have and be entitled to exercise all the powers:-

- 9.3.1 of the Bank under this Deed;
- 9.3.2 conferred by the LPA on receivers appointed under the LPA (as extended by this Deed);
- 9.3.3 of an administrative receiver set out in Schedule 1 to the Insolvency Act 1986, whether or not the Receiver is an administrative receiver;
- 9.3.4 in relation to any Secured Assets, which he would have if he were its only beneficial owner; and
- 9.3.5 to do all things incidental or conducive to any functions, powers, authorities or discretions conferred or vested in the Receiver.

9.4 Receiver as agent

The Receiver shall be the agent of the Chargor (which shall be solely liable for his acts, defaults, remuneration, losses and liabilities) unless and until the Chargor goes into liquidation, from which time he shall act as principal and shall not become the agent of the Chargor.

9.5 Joint or several

If two or more persons are appointed as Receivers of the same assets, they may act jointly and/or severally so that (unless any instrument appointing them specifies to the contrary) each of them may exercise individually all the powers and discretions conferred on Receivers by this Deed.

9.6 Receiver's remuneration

Every Receiver shall be entitled to remuneration for his services at a rate to be fixed by the Bank and the maximum rate specified in section 109(6) of the LPA shall not apply.

10. APPLICATION OF MONEYS

10.1 Application of moneys

All sums received by virtue of this Deed by the Bank or any Receiver shall, subject to the payment of any claim having priority to this Deed, be paid or applied in the following order of priority:-

- 10.1.1 **first**, in or towards payment or satisfaction of all costs and expenses incurred by the Bank or any Receiver under or in connection with this Deed;
- 10.1.2 **secondly**, in or towards payment of the Secured Liabilities in such order as the Bank shall in its absolute discretion decide;

10.1.3 **thirdly**, in the payment of the surplus (if any), to the Chargor or any other person entitled to it,

and section 109(8) of the LPA shall not apply to this Deed.

11. POWER OF ATTORNEY

11.1 Appointment

The Chargor irrevocably and by way of security appoints:-

11.1.1 the Bank (whether or not a Receiver has been appointed);

11.1.2 any delegate or sub delegate of, or other person nominated in writing by, an officer of the Bank; and

11.1.3 (as a separate appointment) each Receiver,

severally as the Chargor's attorney and attorneys with power to do any act, and execute and deliver any deed or other document, on behalf of and in the name of each Assignor which the Chargor could be required to do or execute under any provision of this Deed, or which the Bank in its sole opinion may consider necessary or desirable for perfecting its title to any of the Secured Assets or enabling the Bank or the Receiver to exercise any of its rights or powers under this Deed provided that notwithstanding that the power of attorney shall take effect immediately, it shall only become exercisable after the occurrence of an Event of Default which is continuing

11.2 Ratification

The Chargor ratifies and confirms and agrees to ratify and confirm whatever any attorney appointed pursuant to Clause 11.1 (*Appointment*) does or purports to do in the exercise or purported exercise of all or any of the powers, acts or other matters referred to in Clause 11.1 (*Appointment*).

12. PROTECTION OF THE BANK AND ANY RECEIVER

12.1 No liability

None of the Bank, any Receiver or any of their respective officers, employees or delegates shall be liable in respect of any cost, liability, expense, loss or damage which arises out of the exercise, or attempted or purported exercise of, or the failure to exercise, any of their respective rights under this Deed.

12.2 Not mortgagee in possession

Without prejudice to any other provision of this Deed, entry into possession of any Secured Assets shall not render the Bank, any Receiver or any of their respective officers or employees liable:-

12.2.1 to account as mortgagee in possession;

12.2.2 for any loss on realisation; or

12.2.3 for any default or omission for which a mortgagee in possession might be liable,

and if and whenever the Bank or any Receiver enters into possession of any Secured Assets it shall be entitled at any time it or he thinks fit to relinquish possession.

12.3 Indemnity

The Chargor shall indemnify and keep indemnified the Bank, any Receiver, and their respective officers, employees and delegates, against all claims, costs, expenses and liabilities incurred by them in respect of all or any of the following:-

- 12.3.1 any act or omission by any of them in relation to all or any of the Secured Assets;
- 12.3.2 any payment relating to or in respect of all or any of the Secured Assets which is made at any time by any of them;
- 12.3.3 any stamp, registration or similar Tax or duty which becomes payable in connection with the entry into, or the performance or enforcement of, this Deed;
- 12.3.4 exercising or purporting to exercise or failing to exercise any of the rights, powers and discretions conferred on them or permitted under this Deed; and
- 12.3.5 any breach by the Chargor of any of its covenants or other obligations to the Bank under the Finance Documents,

except in the case of gross negligence or wilful misconduct on the part of that person.

12.4 Interest

The Chargor shall pay interest at the Default Rate on the sums payable under this Clause 12 (*Protection of the Bank and any Receiver*) from the date on which the liability was incurred to the date of actual payment (both before and after judgment).

12.5 Indemnity out of the Secured Assets

The Bank, any Receiver and their respective officers, employees and delegates shall be entitled to be indemnified out of the Secured Assets in respect of the actions, proceedings, demands, claims, costs, expenses and liabilities referred to in Clause 12.3 (*Indemnity*).

12.6 Liability of Chargor related to Secured Assets

Notwithstanding anything contained in this Deed or implied to the contrary, the Chargor remains liable to observe and perform all conditions and obligations assumed by it in relation to the Secured Assets. None of the Bank or any Receiver is under any obligation to perform or fulfil any such condition or obligation or to make any payment in respect of any such condition or obligation.

12.7 Continuing protection

The provisions of this Clause 12 (*Protection of the Bank and any Receiver*) shall continue in full force and effect notwithstanding any release or discharge of this Deed or the discharge of any Receiver from office.

13. PROVISIONS RELATING TO THE BANK

13.1 Powers and discretions

The rights, powers and discretions given to the Bank in this Deed:-

- 13.1.1 may be exercised as often as, and in such manner as, the Bank thinks fit;

13.1.2 are cumulative, and are not exclusive of any of its rights under the general law; and

13.1.3 may only be waived in writing and specifically, and any delay in exercising, or non-exercise of, any right, is not a waiver of it.

13.2 Certificates

A certificate by an officer of the Bank:-

13.2.1 as to any amount for the time being due to the Bank; or

13.2.2 as to any sums payable to the Bank under this Deed,

shall (save in the case of manifest error) be conclusive and binding upon the Chargor for all purposes.

13.3 Trusts

The perpetuity period for any other constituted by this Deed shall be 125 years.

14. PRESERVATION OF SECURITY

14.1 Continuing Security

This Deed shall be a continuing security to the Bank and shall remain in force until expressly discharged in writing by the Bank notwithstanding any intermediate settlement of account or other matter or thing whatsoever.

14.2 Additional Security

This Deed is without prejudice and in addition to, and shall not merge with, any other right, remedy or Security of any kind which the Bank may have now or at any time in the future for or in respect of any of the Secured Liabilities.

14.3 Waiver of Defences

Failure or delay on the part of the Bank in exercising any right, power or discretion under or pursuant to this Deed shall not operate as a waiver thereof, nor will any single or partial exercise of any such right, power or discretion preclude any other or further exercise thereof. The rights, powers and discretions contained in this Deed are in addition to and not substitution for any right of set-off, compensation, retention, combination of accounts, lien or other right or remedy provided by law.

14.4 Immediate recourse

The Chargor waives any right it may have of first requiring the Bank or any other Secured Party (or any trustee or agent on its behalf) to proceed against or enforce any other rights of Security or claim payment from any person before claiming from the Chargor under this Deed. This waiver applies irrespective of any law or any provision of a Finance Document to the contrary.

14.5 Appropriations

During the Security Period the Bank may:-

14.5.1 refrain from applying or enforcing any moneys, Security or rights held or received by it (or any trustee or agent on its behalf) in respect of the Secured Liabilities, or, subject to Clause 10.1 (*Application of moneys*), apply and enforce the same in such manner and order as it sees fit (whether against

the Secured Liabilities or otherwise) and the Chargor shall not be entitled to the same; and

- 14.5.2 hold in an interest-bearing suspense account any moneys received from the Chargor on or account of the Secured Liabilities.

14.6 New accounts

If the Bank receives notice (whether actual or otherwise) of any subsequent Security over or affecting any of the Secured Assets or if a petition is presented or a resolution passed in relation to the winding up of the Chargor, the Bank may close the current account or accounts and/or open a new account or accounts for the Chargor. If the Bank does not open a new account or accounts immediately it shall nevertheless be treated as if it had done so at the time when the relevant event occurred, and as from that time all payments made by the Chargor to the Bank shall be credited or be treated as having been credited to the new account or accounts and shall not operate to reduce the Secured Liabilities.

14.7 Tacking

For the purposes of section 94(1) of the LPA the Bank confirms that it shall make further advances to the Borrower on the terms and subject to the conditions of the Finance Documents.

14.8 Deferral of Chargor's rights

During the Security Period and unless the Bank otherwise directs, no Chargor shall exercise any rights which it may have by reason of performance by its obligations under this Deed or the enforcement of the Security created by this Deed:-

- 14.8.1 to receive or claim payment from, or be indemnified by an Obligor;
- 14.8.2 to claim any contribution from any guarantor of, or provider of Security in respect of, any Obligor's obligations under the Finance Documents;
- 14.8.3 to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Bank under any Finance Document or of any guarantee or Security taken pursuant to, or in connection with, the Finance Documents by the Bank;
- 14.8.4 to exercise any right of set-off against any Obligor; and/or
- 14.8.5 to claim or prove as a creditor of any Obligor in competition with the Bank.

15. RELEASE

15.1 Release

Upon the irrevocable and unconditional payment and discharge in full of the Secured Liabilities and the termination of all facilities which might give rise to Secured Liabilities, the Bank shall, or shall procure that its appointees will, at the request and cost of the Chargor:-

- 15.1.1 release the Secured Assets from this Deed; and
- 15.1.2 re-assign the Secured Assets that has been assigned to the Bank under this Deed.

15.2 Reinstatement

If the Bank considers that any amount paid or credited to it under any Finance Document (whether in respect of the obligations of any Obligor or any Security for those obligations or otherwise) is capable of being avoided, reduced or otherwise set aside:-

15.2.1 that amount shall not be considered to have been paid for the purposes of determining whether the Secured Liabilities have been irrevocably and unconditionally paid and discharged; and

15.2.2 the liability of the Chargor and the Security created by this Deed shall continue as if that amount had not been paid or credited.

16. MISCELLANEOUS PROVISIONS

16.1 Severability

If any provision of this Deed is illegal, invalid or unenforceable in any jurisdiction, that shall not affect:-

16.1.1 the validity or enforceability of any other provision, in any jurisdiction; or

16.1.2 the validity or enforceability of that particular provision, in any other jurisdiction.

16.2 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.

17. NOTICES

17.1 Communications in Writing

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

17.2 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 that identified with its name (in the execution pages) below or any substitute address, fax number, or department or officer as a Party may notify to the other by not less than five Business Days' notice.

17.3 Delivery

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

(a) if by way of fax, when received in legible form; or

(b) if by way of letter, when it has been left at the relevant address or five Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address,

and, if a particular department or officer is specified as part of its address details provided under Clause 17.2 (*Addresses*) of this Deed, if addressed to that department or officer.

- 17.3.2 Any communication or document to be made or delivered to the Bank will be effective only when actually received by the Bank and then only if it is expressly marked for the attention of the department or officer identified with the Bank's signature below (or any substitute department or officer as the Bank shall specify for this purpose).

17.4 English language

- 17.4.1 Any notice given under or in connection with this Deed must be in English.
- 17.4.2 All other documents provided under or in connection with this Deed must be:
- (a) in English; or
 - (b) if not in English, and if so required by the Bank, accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

18. GOVERNING LAW

This Deed and any non-contractual obligations arising out of or in connection with it are governed by English law.

19. ENFORCEMENT

19.1 Jurisdiction of English Courts

- 19.1.1 The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute regarding the existence, validity or termination of this Deed or any non-contractual obligation arising out of or in connection with this Deed) (a "**Dispute**").
- 19.1.2 The Parties to this Deed agree that the courts of England are the most appropriate and convenient courts to settle disputes and accordingly no such Party will argue to the contrary.
- 19.1.3 This Clause 19.1 is for the benefit of the Bank only. As a result, the Bank shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Bank may take concurrent proceedings in any number of jurisdictions.

EXECUTED AND DELIVERED AS A DEED on the date set out at the beginning of this Deed.

SCHEDULE 1

FORM OF NOTICE OF ASSIGNMENT

To be printed on the headed notepaper of the Chargor

To: Valcor Nominees (Dundee)¹ Limited
5 Elstree Gate
Elstree Way
Borehamwood
Hertfordshire
United Kingdom
WD6 1JD

Date: []

Dear Sirs,

**[DESCRIPTION OF SUBORDINATED DEBT] (THE "SUBORDINATED DEBT") AND
[DESCRIPTION OF SUBORDINATED DOCUMENTS] (THE "SUBORDINATED DOCUMENT")**

1. We give you notice that we have entered into a security agreement dated [] in favour of Coutts & Company (the "**Bank**") (the "**Security Agreement**").
2. We give you notice that, pursuant to the terms of the Security Agreement, we have assigned (and, to the extent not validly or effectively assigned, we have charged by way of fixed charge) to the Bank by way of security all of our rights, title and interest from time to time in, and the full benefit of, the Subordinated Debt and the Subordinated Document and all rights, title and interest in any amounts payable to us in respect of the Subordinated Debt and the Subordinated Document.
3. Following the Bank's notification to you that the security created by the Security Agreement has become enforceable:-
 - 3.1 all payments to be made to us under or arising in respect of the Subordinated Debt and under the Subordinated Document should be made to the Bank or to its order as it may specify in writing from time to time;
 - 3.2 all remedies provided for in the Subordinated Document or available at law or in equity are exercisable by the Bank;
 - 3.3 you are authorised and instructed, without further approval from us, to comply with your obligations (including without limitation your payment obligations) in respect of the Subordinated Debt and under the Subordinated Document in accordance with the written instructions of the Bank from time to time (and to hold the money for any such payments to the Bank's order pending receipt of written instructions from the Bank); and
 - 3.4 subject to paragraph 4 below, you shall allow the Bank to perform all the obligations assumed by us in respect of the Subordinated Debt and under the Subordinated Document.
4. We shall remain liable to perform all our obligations in respect of the Subordinated Debt and under the Subordinated Document and the Bank shall be under no

obligation of any kind whatsoever in respect of the Subordinated Debt and the Subordinated Document.

5. By acknowledging this notice, you hereby consent to the assignment contained within the Security Agreement in accordance with Clause 12 (*Assignment*) of the Subordinated Document.
6. This notice, and any dispute or claim arising out of or in connection with it, shall be governed by and construed in accordance with English law.

Please acknowledge receipt of this notice and your acknowledgement of the matters and instructions set out above within 5 days of receipt by signing, dating and returning the enclosed copy of this letter directly to the Bank at Coutts & Company, 440 Strand, London, WC2R 0QS marked for the attention of Roland Stumpf.

Yours faithfully,

for and on behalf of
CSAM Limited

Acknowledgement:

We hereby:

1. acknowledge receipt of the above notice and the matters and instructions set out within; and
2. consent to the assignment contained within the Security Agreement in accordance with Clause 12 (*Assignment*) of the Subordinated Document.

.....
For and on behalf of
Valcor Nominees (Dundee) 1 Limited as nominee of and trustee for the members from time to time of the Valcor (Dundee) Regeneration Syndicate

EXECUTION PAGES

The Chargor

EXECUTED as a Deed
by **CSAM LIMITED**
acting by *Rob Corlett*, a Director,
in the presence of:-

)
)
)
)



Signature of witness:



Director

Name of witness: DAVID BAVERSTOCK
SOLICITOR
Address: FLADGATE LLP
Occupation: 16 GREAT QUEEN STREET
LONDON
WC2B 5DG

Address: FAO Rob Corlett, 26 Cornwall Terrace Mews, London
NW1 5LL

Facsimile number N/A

The Bank

SIGNED for and on behalf of
COUTTS & COMPANY

)
)

Address: FAO Roland Stumpf, Coutts & Company, 440 Strand,
London, WC2R 0QS

Facsimile number N/A

EXECUTION PAGES

The Chargor

EXECUTED as a Deed)
by **CSAM LIMITED**)
acting by , a Director,)
in the presence of:-)

Signature of witness: Director

Name of witness:

Address:

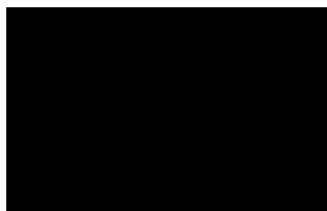
Occupation:

Address: FAO Rob Corlett, 26 Cornwall Terrace Mews, London
NW1 5LL

Facsimile number N/A

The Bank

SIGNED for and on behalf of)
COUTTS & COMPANY)



Address: FAO Roland Stumpf, Coutts & Company, 440 Strand,
London, WC2R 0QS

Facsimile number N/A