

MR01

Particulars of a charge

153782/13

Laserform

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

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✓ **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 for**  
You may not use this form to  
register a charge where the  
instrument Use form MR08



LD2 \*L4CPU9YI\* #198  
30/07/2015  
COMPANIES HOUSE

THURSDAY

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. **Do not send the original**

**1 Company details**

Company number 0 7 6 9 8 5 5 9

Company name in full BRAEBURN ESTATES (GP) LIMITED (ACTING IN ITS CAPACITY AS  
GENERAL PARTNER OF BRAEBURN ESTATES LIMITED PARTNERSHIP)

(2) 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 d 2 d 3 m 0 m 7 y 2 y 0 y 1 y 5

**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 SBP 1 S a . r . l

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

**Brief description**

Please give a short description of any land, ship, aircraft or intellectual property registered or required to be registered in the UK subject to a charge (which is not a floating charge) or fixed security included in the instrument

Brief description

None

Please submit only a short description. If there are a number of plots of land, aircraft and/or ships, you should simply describe some of them in the text field and add a statement along the lines of, "for more details please refer to the instrument"

Please limit the description to the available space

5

**Other charge or fixed security**

Does the instrument include a charge (which is not a floating 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 company from creating further security that will rank equally with or ahead of the charge? Please tick the appropriate box

☒ Yes

☐ No

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 *Berwin Leighton Pinner LLP* X

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

**MR01****Particulars of a charge****Presenter information**

You do not have to give any contact information, but if you do, it will help Companies House if there is a query on the form. The contact information you give will be visible to searchers of the public record.

Contact name WSTE/31663.00050

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: 7698559

Charge code: 0769 8559 0002

The Registrar of Companies for England and Wales hereby certifies that a charge dated 23rd July 2015 and created by BRAEBURN ESTATES (GP) LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 30th July 2015.

Given at Companies House, Cardiff on 4th August 2015



**Companies House**



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



EXECUTION VERSION

## Charge over Milestone Escrow Account

Braeburn Estates Limited Partnership acting through its  
general partner Braeburn Estates (GP) Limited

as Chargor

and

SBP 1 S.à r.l

as Chargee

We certify that save for material redacted pursuant to s 659G  
Companies Act 2006 this copy instrument is a correct copy  
of the original instrument

*Benjamin Leighton Palmer LLP*  
Benjamin Leighton Palmer LLP  
Aberdeen House  
London Bridge  
London EC4R 9HA

23 July

2015

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**THIS DEED** is made on

2015

**BETWEEN:**

- (1) Braeburn Estates Limited Partnership an English limited partnership registered with number LP14539 acting through its general partner Braeburn Estates (GP) Limited a limited liability company registered in England and Wales with company number 07698559 as chargor (the "**Chargor**"); and
- (2) SBP 1 S.à r.l a Luxembourg private limited liability company (*société à responsabilité limitée*), registered with the Luxembourg Register of Commerce and Companies (RCS Luxembourg) under number B188 655 and having share capital of GBP 12,000 as chargee (the "**Chargee**").

**THE PARTIES AGREE AS FOLLOWS:**

**1. DEFINITIONS AND INTERPRETATION**

**1.1 Definitions**

In this deed.

**"Account"** means the bank account listed in schedule 1 (Account) and any replacement account or sub-account of that account;

**"Authorisation"** means an authorisation, consent, approval, direction, resolution, licence, exemption, filing, notarisation or registration;

**"Charged Property"** means the assets mortgaged, charged or assigned to the Chargee by this deed;

**"Delegate"** means any delegate, agent, attorney or co-trustee appointed by the Chargee;

**"Event of Default"** means:

- (a) the occurrence of a Step-In Event (under and as defined in the Property 1 Building Contract), and/or
- (b) the occurrence of an Employer Unwind Event (under and as defined in the Property 1 Building Contract);

**"GAAP"** means generally accepted accounting principles applicable in England and Wales including IFRS;

**"Property 1 Building Contract"** means the building contract relating to land at One Southbank Place, London, SE1 dated on or about the date of this deed between, amongst others, the Chargee, the Chargor and Almacantar S.A.;

**"Receiver"** means a receiver or receiver and manager in each case appointed under this deed,

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

- (a) any monies and proceeds paid or payable in relation to that asset; and
- (b) the benefit of all other rights, powers, claims, consents, contracts, warranties, security, guarantees, indemnities or covenants for title in respect of that asset;

**"Secured Obligations"** means all present and future liabilities and obligations at any time owing or incurred by the Chargor to any Secured Party under:

- (a) the Property 1 Building Contract; and
- (b) this deed,

both actual and contingent and whether incurred solely or jointly and as principal or surety or in any other capacity;

**"Secured Parties"** means the Chargee and any Receiver or Delegate;

**"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, and

**"Tax"** means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same).

## 1.2 Construction

- (a) In this deed, unless a contrary intention appears, a reference to:
  - (i) **"assets"** includes present and future properties, revenues and rights of every description;
  - (ii) the **"Chargor"**, **"Chargee"**, **"Secured Party"** or any other person shall be construed so as to include its successors in title, permitted assignees and transferees;
  - (iii) a reference to the **"Property 1 Building Contract"**, this deed or any other agreement or instrument is a reference to that agreement or instrument as amended, novated, supplemented, extended, restated or replaced;
  - (iv) **"including"** means including without limitation and **"includes"** shall be construed accordingly;
  - (v) **"losses"** includes losses, actions, damages, claims, proceedings, costs, demands, expenses (including fees) and liabilities and **"loss"** shall be construed accordingly;
  - (vi) a **"person"** includes any person, firm, company, corporation, government, state or agency of a state or any association, trust or partnership (whether or not having separate legal personality) or any two or more of the foregoing;
  - (vii) a **"regulation"** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;
  - (viii) a provision of law is a reference to that provision as amended or re-enacted; and
  - (ix) any clause or schedule is a reference to, respectively, a clause of and schedule to this deed and any reference to this deed includes its schedules.
- (b) Section, clause and schedule heading are for ease of reference only.



- (c) The parties intend that this document shall take effect as a deed, notwithstanding the fact that a party may only execute it under hand.

### **1.3 Third Party Rights**

- (a) Any Receiver or Delegate will have the right to enforce the provisions of this deed which are given in its favour however the consent of a Receiver or Delegate is not required for the rescission or variation of this deed.
- (b) Subject to paragraph (a), a person who is not a party to this deed has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any term of this deed.

## **2. COVENANT TO PAY**

The Chargor as primary obligor covenants with the Chargee that it will on demand pay the Secured Obligations when they fall due for payment provided that the covenant of the Chargor to pay the Secured Obligations shall be limited to an amount equal to the proceeds of enforcement of the Charged Property; the Chargor's covenant shall be satisfied only from those proceeds and the Secured Parties shall have no remedy under this deed against the Chargor other than the enforcement of the security granted by this deed.

## **3. CHARGING CLAUSE**

### **3.1 Fixed Charges**

The Chargor, as security for the payment and discharge of the Secured Obligations, charges by way of first fixed charge in favour of the Chargee with full title guarantee all of its right, title and interest in the Account and all Related Rights.

## **4 FURTHER ASSURANCE**

- (a) The Chargor shall promptly (and at its own expense) do all such acts or execute all such documents (including assignments, charges, notices and instructions) as the Chargee may reasonably specify (and in such form as the Chargee may reasonably require in favour of the Chargee or its nominee(s)):
  - (i) to perfect the Security created or intended to be created under or evidenced by this deed or for the exercise of any rights, powers and remedies of the Chargee, any Receiver or the Secured Parties provided by or pursuant to this deed or by law, and/or
  - (ii) to facilitate the realisation of the assets which are, or are intended to be, the subject of the Security created by this deed.
- (b) The Chargor shall take all such action as is available to it (including making all filings and registrations) as may be reasonably necessary for the purpose of the creation, perfection, protection or maintenance of any Security conferred or intended to be conferred on the Chargee or the Secured Parties by or pursuant to this deed.

## **5. REPRESENTATIONS AND WARRANTIES**

The Chargor represents and warrants to the Chargee on the date of this deed and every day until the Secured Obligations have been discharged in full.

- (a) It is the legal and beneficial owner of the Account.

- (b) No Security exists over the Account or Related Rights.

**6. UNDERTAKINGS - GENERAL**

**6.1 Duration of Undertakings**

All of the undertakings given in this deed are given from the date of this deed and for so long as any security constituted by this deed remains in force.

**6.2 Negative Pledge**

The Chargor will not create or agree to create or permit to subsist any Security over all or any part of the Charged Property.

**6.3 Disposal Restrictions**

The Chargor will not 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 all or any part of the Charged Property other than as permitted by the Property 1 Building Contract.

**6.4 Preservation of Charged Property**

- (a) The Chargor will observe and perform all material covenants and stipulations from time to time affecting the Charged Property.
- (b) The Chargor will not vary any contract or other document relevant to its interest in any Charged Property where such variation would have a material adverse effect on the value of the relevant Charged Property or the rights of the Secured Parties.

**6.5 Documents Relating to Charged Property**

- (a) Without prejudice to any specific requirements in this deed for the delivery of documents, the Chargor will promptly deliver to the Chargee all bank mandates relating to the Charged Property
- (b) The Chargee may retain any document delivered to it under this deed for so long as any security constituted by this deed remains in force and, if for any reason it returns any document to the Chargor (or its nominee) before that time, it may by notice to the Chargor require that the relevant document be redelivered to it and the Chargor shall promptly comply (or procure compliance) with that notice.

**7 BANK ACCOUNT**

**7.1 Withdrawals**

The Chargor:

- (a) may not withdraw any monies from time to time standing to the credit of the Account, other than in accordance with the Property 1 Building Contract or otherwise with the prior consent of the Chargee; and
- (b) shall procure that at all times the Account has sole signing rights in favour of the Chargee and the Approved Funder (as defined in the Property 1 Building Contract).

**7.2 Perfection of Bank Account Security**

- (a) The Chargor will, promptly following execution of this deed:

- (i) give notice (substantially in the form set out in schedule 2 (Form of notice to Account Bank)) to the institution with which it holds the Account (the "Account Bank"), of the Security created by this deed over the Account and provide evidence satisfactory to the Chargee (acting reasonably) of the delivery of that notice; and
- (ii) procure that the Account Bank promptly acknowledges that notice by countersigning a copy of it and delivering that copy to the Chargee.

### 7.3 Account bank

- (a) Subject to paragraphs (b) and (c) below, the Account must be held at the Account Bank.
- (b) The Account must be replaced with a bank account at the same or another bank at any time if the Chargee so reasonably requests.
- (c) The replacement of an Account only becomes effective when the relevant bank agrees with the Chargee and the Chargor, in a manner reasonably satisfactory to the Chargee, to fulfil the role of the bank holding that Account.

## 8 ATTORNEY

The Chargor, by way of security, irrevocably and severally appoints the Chargee, each Receiver and any person nominated for the purpose by the Chargee or any Receiver (in writing and signed by an officer of the Chargee or Receiver) as its attorney (with full power of substitution and delegation) in its name and on its behalf and as its act and deed to execute, deliver and perfect any deed, agreement or other instrument and to do any act or thing.

- (a) which the Chargor is required to do by the terms of this deed; and/or
- (b) which is for the purpose of enabling the exercise of any rights or powers conferred on the Chargee or any Receiver by this deed or by law,

and the Chargor covenants with the Chargee and each Receiver to ratify and confirm all such acts or things made, done or executed by that attorney.

## 9. ENFORCEMENT

### 9.1 Exercise of Enforcement Powers

At any time after an Event of Default has occurred.

- (a) the security created by or pursuant to this deed is immediately enforceable;
- (b) the Chargee may enforce all or any part of the security and hold, sell or otherwise dispose and/or deal with all or any part of the Charged Property; and
- (c) the Chargee may exercise all rights and powers conferred by this deed or by statute (as varied or extended by this deed) on the Chargee or on a Receiver, irrespective of whether the Chargee has taken possession or appointed a Receiver of the Charged Property.

### 9.2 Appointment of Receiver

- (a) If
  - (i) an Event of Default has occurred; or

(ii) so requested by the relevant Chargor,

the Chargee may by writing under hand appoint any person (or persons) to be a Receiver of all or any part of the Charged Property.

(b) Section 109(1) of the Law of Property Act 1925 shall not apply to this deed.

9.3 A Receiver may not be appointed solely by reason of the obtaining of a moratorium under section 1A of the Insolvency Act 1986 in relation to a Chargor, or anything done with a view to obtaining such a moratorium.

#### 9.4 Appropriation

(a) In this deed, "**financial collateral**" has the meaning given to that term in the Financial Collateral Arrangements (No. 2) Regulations 2003.

(b) If an Event of Default has occurred the Chargee may appropriate all or part of the financial collateral in or towards satisfaction of the Secured Obligations.

(c) The Chargee must attribute a value to the appropriated financial collateral in a commercially reasonable manner.

(d) Where the Chargee exercises its rights of appropriation and the value of the financial collateral appropriated differs from the amount of the Secured Obligations, as the case may be, either:

(i) the Chargee must account to the Chargor for the amount by which the value of the appropriated financial collateral exceeds the Secured Obligations; or

(ii) the Chargor will remain liable to the Secured Parties for any amount whereby the value of the appropriated financial collateral is less than the Secured Obligations.

### 10. EXTENSION AND VARIATION OF STATUTORY POWERS

#### 10.1 Statutory Powers

The powers conferred on mortgagees, receivers or administrative receivers by statute shall apply to the security created by this deed (to the extent possible), unless they are expressly or impliedly excluded. If there is ambiguity or conflict between the powers conferred by statute and those contained in this deed, those contained in this deed shall prevail.

#### 10.2 Section 101 LPA Powers

The power of sale and other powers conferred by section 101 of the Law of Property Act 1925 shall arise on the date of this deed and for that purpose the Secured Obligations are deemed to have fallen due on the date of this deed.

#### 10.3 Restrictions Disapplied

The restrictions on the consolidation of mortgages and on exercise of the power of sale imposed by sections 93 and 103 respectively of the Law of Property Act 1925 shall not apply to the security constituted by this deed.

## **11. PROTECTION OF THIRD PARTIES**

### **11.1 No Obligation to Enquire**

No purchaser from, or other person dealing with, the Chargee, any Receiver or Delegate shall be obliged or concerned to enquire whether.

- (a) the right of the Chargee or any Receiver to exercise any of the powers conferred by this deed has arisen or become exercisable or as to the propriety or validity of the exercise or purported exercise of any such power; or
- (b) any of the Secured Obligations remain outstanding or be concerned with notice to the contrary and the title and position of such a purchaser or other person shall not be impeachable by reference to any of those matters.

### **11.2 Receipt Conclusive**

The receipt of the Chargee or any Receiver shall be an absolute and a conclusive discharge to a purchaser, and shall relieve him of any obligation to see to the application of any moneys or other consideration paid to or by the direction of the Chargee or any Receiver.

## **12. PROTECTION OF THE CHARGE AND RECEIVER**

### **12.1 Delegation**

The Chargee may delegate by power of attorney or in any other manner all or any of the powers, authorities and discretions which are for the time being exercisable by it under this deed to any person or persons upon such terms and conditions (including the power to sub-delegate) as it may think fit. The Chargee will not be liable or responsible to the Chargor or any other person for any losses arising from any act, default, omission or misconduct on the part of any Delegate.

### **12.2 No Liability**

Neither the Chargee nor any Receiver or Delegate shall be liable in respect of any of the Charged Property or for any loss or damage which arises out of the exercise or the attempted or purported exercise of, or the failure to exercise any of, their respective powers, unless caused by its or his or her gross negligence or wilful default.

### **12.3 Indemnity**

- (a) The Chargor jointly and severally shall promptly indemnify the Chargee and every Receiver and Delegate against any cost, loss or liability incurred by any of them as a result of:
  - (i) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised;
  - (ii) the taking, holding, protection or enforcement of the security constituted by this deed;
  - (iii) the exercise of any of the rights, powers, discretions, authorities and remedies vested in the Chargee and each Receiver and Delegate by this deed or by law;
  - (iv) any default by the Chargor in the performance of any of the obligations expressed to be assumed by it in this deed; or

- (v) acting as Chargee, Receiver or Delegate (otherwise, in each case, than by reason of the relevant Chargee's, Receiver's or Delegate's gross negligence or wilful misconduct).
- (b) The Chargor expressly acknowledges and agrees that the continuation of its indemnity obligations under this clause 12.3 will not be prejudiced by any release of security or disposal of any Charged Property.
- (c) Every Receiver and Delegate may, in priority to any payment to the other Secured Parties, indemnify itself out of the Charged Property in respect of, and pay and retain, all sums necessary to give effect to the indemnity in this clause 12.3.

### **13. APPLICATION OF ENFORCEMENT PROCEEDS**

#### **13.1 Order of Application**

All proceeds of enforcement received or recovered by the Chargee or any Receiver pursuant to this deed shall (subject to the claims of any person having prior rights thereto) be applied in the following order notwithstanding any purported appropriation by the Chargor:

- (a) in discharging the Secured Obligations; and
- (b) in payment of all costs and expenses incurred by any Secured Party in connection with any realisation or enforcement of the security created by this deed taken in accordance with the terms of this deed.

#### **13.2 Suspense Account**

Until the Secured Obligations are paid in full, each Secured Party may place and keep (to the extent possible and for such time as it shall determine) any recoveries or other proceeds of enforcement received pursuant to this deed or otherwise on account of the Chargor's liability in respect of the Secured Obligations in an interest bearing separate suspense account, without having any obligation to apply all or any part of the same in or towards discharge of the Secured Obligations.

### **14. PROTECTION OF SECURITY**

#### **14.1 Continuing Security**

This security is to be a continuing security notwithstanding any intermediate settlement of all or any part of the Secured Obligations or any other matter or thing.

#### **14.2 Other Security**

- (a) This security is to be in addition to and shall neither be merged in nor in any way exclude or prejudice or be affected by any other security or other right which the Chargee or any other Secured Party may now or after the date of this deed hold for any of the Secured Obligations
- (b) This security may be enforced against the Chargor without first having recourse to any other rights of the Chargee or any other Secured Party.

#### **14.3 Cumulative Powers**

- (a) The powers which this deed confers on the Chargee, the other Secured Parties and any Receiver appointed under this deed are cumulative, without prejudice to their respective powers under the general law, and may be exercised as often as the relevant person thinks appropriate.

- (b) The Chargee, the other Secured Parties or the Receiver may, in connection with the exercise of their powers, join or concur with any person in any transaction, scheme or arrangement whatsoever.
- (c) The respective powers of the Chargee, the other Secured Parties and the Receiver will in no circumstances be suspended, waived or otherwise prejudiced by anything other than an express consent or amendment.

#### **14.4 Amounts Avoided**

If any amount paid by the Chargor in respect of the Secured Obligations is avoided or set aside on the liquidation or administration of the Chargor or otherwise, then for the purposes of this deed that amount shall not be considered to have been paid.

#### **14.5 Discharge Conditional**

If any discharge, release or arrangement (whether in respect of the obligations of the Chargor or in respect of any security for those obligations or otherwise) is made by a Secured Party in whole or in part on the basis of any payment, security or other disposition which is avoided or must be restored in insolvency, liquidation, administration or otherwise, without limitation, then the liability of the Chargor under this deed will continue or be reinstated as if the discharge, release or arrangement had not occurred.

#### **14.6 Waiver of Defences**

The obligations of the Chargor under this deed will not be affected by an act, omission, matter or thing which, but for this provision, would reduce, release or prejudice any of its obligations under this deed (without limitation and whether or not known to it or any Secured Party) including:

- (a) any time, waiver or consent granted to, or composition with, any person;
- (b) the release of any person under the terms of any composition or arrangement;
- (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 over assets of, any person;
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any other person;
- (e) any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of a any document or security;
- (f) any unenforceability, illegality or invalidity of any obligation of any person under any document or security; or
- (g) any insolvency or similar proceedings

#### **14.7 Non-competition**

Until all amounts which may be or become payable in respect of the Secured Obligations have been irrevocably paid in full and unless the Chargee otherwise directs, the Chargor will not exercise any rights which it may have by reason of performance by it of its obligations under this deed or by reason of any amounts being payable, or liability arising under this deed:

- (a) to claim any right of indemnity or contribution in respect of any payment made or other satisfaction of that Chargor's liability under this deed;
- (b) to take the benefit (whether by way of subrogation or otherwise) of any rights of any Secured Party; and/or
- (c) to claim or prove as a creditor of any any borrower or co-surety in competition with any Secured Party.

The Chargor shall hold any benefit, payment or distribution received by it contrary to this clause 14.7 (Non-competition) on trust for the Secured Parties and shall promptly pay or transfer the same to the Chargee or as the Chargee may direct for application in accordance with clause 13 (Application of Enforcement Proceeds).

#### **14.8 Subsequent Security - Ruling-off Accounts**

If the Chargee or any other Secured Party receives notice of any subsequent Security or other interest affecting any of the Charged Property it may open a new account for the Chargor in its books. If it does not do so then (unless it gives express notice to the contrary to the Chargor), as from the time it receives that notice, all payments made by the Chargor to it shall (in the absence of any express appropriation to the contrary) be treated as having been credited to a new account of the Chargor and not as having been applied in reduction of the Secured Obligations.

#### **14.9 Redemption of Prior Charges**

The Chargee may, at any time after an Event of Default has occurred, redeem any prior Security on or relating to any of the Charged Property or procure the transfer of that Security to itself, and may settle and pass the accounts of any person entitled to that prior Security. Any account so settled and passed shall (subject to any manifest error) be conclusive and binding on the Chargor. The Chargor will on demand pay to the Chargee all principal monies and interest and all losses incidental to any such redemption or transfer.

### **15 COSTS AND EXPENSES**

#### **15.1 Enforcement Expenses**

The Chargor shall, within three Business Days of demand, pay to each of the Chargee, any Receiver and each other Secured Party the amount of all costs and expenses (including legal fees) incurred by it in connection with the enforcement of or the preservation of any rights under (and any documents referred to in) this deed and any proceedings instituted by or against the Chargee and any Secured Party as a consequence of taking or holding the security created by this deed or enforcing these rights.

#### **15.2 Stamp Duties, etc.**

The Chargor shall pay and, within three Business Days of demand, indemnify each Secured Party against any cost, loss or liability that Secured Party incurs in relation to all stamp duty, registration and other similar Taxes payable in respect of this deed.

#### **15.3 Default Interest**

Any amounts payable by the Chargor under this deed will, if not paid when due, carry interest at a rate equal to the higher of:

- (a) 3.00% above the Bank of England's base rate, per annum; and
- (b) 6.00% per annum for the period;



between the due date for payment under the relevant invoice and the date on which payment is made. Such interest shall accrue from day to day and shall be compounded monthly.

**16. SET-OFF**

- (a) After an Event of Default, any Secured Party may set off any matured obligation due from the Chargor (to the extent beneficially owned by that Secured Party) against any matured obligation owed by that Secured Party to the Chargor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Secured Party may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.
- (b) If the relevant obligation or liability of the Chargor is unliquidated or unascertained, the Secured Party may set-off the amount which it estimates (in good faith) will be the final amount of that obligation or liability once it becomes liquidated or ascertained.

**17. NOTICES**

**17.1 Communications in Writing**

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

**17.2 Addresses**

The address and fax number of each party to this deed for any communication or document to be made or delivered under or in connection with this deed is:

- (a) as shown immediately after its name on the execution pages of this deed (in the case of any person who is a party as at the date of this deed); and
- (b) in the case of any person who becomes a party after the date of this deed, notified in writing to the Chargee on or prior to the date on which it becomes a party,

or any substitute address or fax number as the party may notify to the Chargee by not less than five Business Days' notice.

**17.3 Delivery**

- (a) Any communication or document made or delivered by one person to another under or in connection with this deed will only be effective:
  - (i) if by way of fax, when received in legible form; or
  - (ii) 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), if addressed to that department or officer.

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

#### **17.4 Electronic Communication**

Any communication to be made in connection with this deed, between the parties to this deed may be made by electronic mail or other electronic means:

- (a) to the extent that the parties agree that, unless and until notified to the contrary, this is to be an accepted form of communication and if those two parties:
  - (i) notify each other in writing of their electronic mail address and/or any other information required to enable the sending and receipt of information by that means, and
  - (ii) notify each other of any change to their address or any other such information supplied by them by not less than five Business Days' notice
- (b) Any electronic communication made between the parties will be effective only when actually received in readable form and in the case of any electronic communication made by a party to the Chargee only if it is addressed in such a manner as the Chargee shall specify for this purpose.
- (c) Any electronic communication which becomes effective, in accordance with paragraph (b) above, after 5.00 p.m. in the place of receipt shall be deemed only to become effective on the following day.

#### **18. CHANGES TO PARTIES**

##### **18.1 Assignment by the Chargee**

The Chargee may at any time assign or otherwise transfer all or any part of its rights under this deed.

#### **19. CURRENCY**

##### **19.1 Conversion**

All monies received or held by the Chargee or any Receiver under this deed may be converted into any other currency which the Chargee considers necessary to discharge any obligations and liabilities comprised in the Secured Obligations in that other currency at the Chargee's spot rate of exchange then prevailing for purchasing that other currency with the existing currency.

##### **19.2 No Discharge**

No payment to the Chargee (whether under any judgment or court order or otherwise) shall discharge any obligation or liability in respect of which it was made unless and until the Chargee has received payment in full in the currency in which the obligation or liability is payable or, if the currency of payment is not specified, was incurred. To the extent that the amount of any such payment shall on actual conversion into that currency fall short of that obligation or liability expressed in that currency, the Chargee shall have a further separate cause of action in relation to the shortfall and shall be entitled to enforce the security constituted by this deed to recover that amount.

#### **20. MISCELLANEOUS**

##### **20.1 Invalidity of any Provision**

If any provision of this deed is or becomes invalid, illegal or unenforceable in any respect under any law, the validity, legality and enforceability of the remaining provisions shall not be affected or impaired in any way.

## **20.2 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.

## **20.3 Covenant to Release**

Once all the Secured Obligations have been paid in full, the Chargee and each Secured Party shall, at the request and cost of the Chargor, take any action which is necessary to release the Charged Property from the security constituted by this deed.

## **21. GOVERNING LAW AND JURISDICTION**

### **21.1 Jurisdiction**

- (a) This deed and any dispute, controversy, proceedings or claims of whatever nature arising out of or in any way relating to this deed or its formation (including any non-contractual disputes or claims) shall be governed by and construed in accordance with English law.
- (b) 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) (a "**Dispute**").
- (c) 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.

### **21.2 Service of Process**

Without prejudice to any other mode of service allowed under any relevant law, the Chargee:

- (a) Irrevocably appoints Almacantar Limited, 3 Quebec Mews, London, W1H 7NX, United Kingdom as its agent for service of process in relation to any proceedings before the English courts in connection with any this deed; and
- (b) agrees that failure by a process agent to notify it of the process will not invalidate the proceedings concerned.

**IN WITNESS** whereof this deed has been duly executed and delivered on the above date first above written.

**SCHEDULE 1**

**Account**

Account Bank	Sort Code	Account Number
Barclays PLC	[REDACTED]	[REDACTED]

DP  
UP

## SCHEDULE 2

### Form of notice to Account Bank

To: [●] (the "Account Bank")

Dated: [●] 2015

Dear Sirs

**Re: Braeburn Estates Limited Partnership acting through its general partner Braeburn Estates (GP) Limited (the "Customer") - Security over Bank Account**

1. We notify you that:

- (a) we have charged in favour of SBP 1 S.à r l (the "**Chargee**") for the benefit of itself and certain other parties all our right, title and interest in and to the monies from time to time standing to the credit of the account identified in the schedule to this notice (the "**Charged Account**") and to all interest (if any) accruing on the Charged Account, as security for certain obligations; and
- (b) the Chargee has by a debenture ("**Debenture**") dated on or about the date of this notice 2014 entered into by, amongst others, the Chargee and Security Benefit Corporation as agent and security trustee for the Finance Parties (as defined therein) (the "**Security Agent**"), assigned to the Security Agent, amongst other things, the rights set out in paragraph (a) above.

2. We irrevocably authorise and instruct you:

- (a) to hold all monies from time to time standing to the credit of the Charged Account to the order of the Chargee and to pay all or any part of those monies to the Chargee (or as it may direct) promptly following receipt of written instructions from the Chargee to that effect; and
- (b) to disclose to the Chargee any information relating to the Charged Account which the Chargee may from time to time request you to provide,

until the Security Agent has notified you that an Actionable Event of Default (as defined in the Debenture) has occurred from which time you shall cease to accept or comply with any request, direction or instruction from the Chargee and shall only accept and comply with a request, direction or instruction you receive from the Security Agent.

3. We also advise you that:

- (a) the Chargee will have sole signing rights to the Charged Account and therefore we may not withdraw any monies from the Charged Account without first having obtained the prior written consent of the Chargee, and
- (b) the provisions of this notice may only be revoked or varied with the prior written consent of the Chargee and the Security Agent,

until the Security Agent has notified you that an Actionable Event of Default (as defined in the Debenture) has occurred from which time we may not withdraw any monies from the Charged Account without first having obtained the prior written consent of the Security Agent.

4. Please sign and return the enclosed copy of this notice to the Chargee by way of your confirmation that:

- (a) you agree to act in accordance with the provisions of this notice,
- (b) you have not received notice that the Customer has assigned or charged its rights to the monies standing to the credit of the Charged Account or otherwise granted any security or other interest over those monies in favour of any third party,
- (c) you will not exercise any right to combine accounts or any rights of set-off or lien or any similar rights in relation to the monies standing to the credit of the Charged Account; and
- (d) you have not claimed or exercised, nor do you have outstanding any right to claim or exercise against the Customer, any right of set-off, counter-claim or other right relating to the Charged Account

The provisions of this notice are governed by English law

**Schedule**

**Account Number**

**Sort Code**

[●]

[●]

Yours faithfully,

.....  
**Name:**  
for and on behalf of **BRAEBURN ESTATES  
LIMITED PARTNERSHIP** acting through its  
general partner **BRAEBURN ESTATES (GP) LIMITED**

Counter-signed by

.....  
**Name:**  
for and on behalf of  
**SBP 1 S.À R.L**

To: **SBP 1 S.À R.L**

We acknowledge receipt of the above notice and confirm the matters set out ~~in paragraph (a) to~~  
~~(d)~~ above. BP  
45

.....  
**Name:**  
for and on behalf of  
**[Insert name of Account Bank]**

Dated: [●] 2015

## SIGNATORIES

### Chargor

Executed as a deed by **BRAEBURN  
ESTATES LIMITED PARTNERSHIP**  
acting through its general partner  
**BRAEBURN ESTATES (GP) LIMITED:**

Director

Name: *John Pagano*

Director/Secretary

Name: *Fabien Toscano*

### Notice Details

Address: 30th Floor  
One Canada Square  
Canary Wharf  
London  
E14 5AB

Attention: Company Secretary

### Chargee

Signed for and on behalf of **SBP 1**  
**S.Á R.L:**

By: \_\_\_\_\_  
Name:  
Title: Manager (gérant)

By: \_\_\_\_\_  
Name  
Title: Manager (gérant)

### Notice Details

Address: 8-10 Avenue de la Gare  
L-1610 Luxembourg

Facsimile: 00 352 26 84 54 10  
Attention: Eanna Smyth / Attila Senig



## SIGNATORIES

### Chargor

Executed as a deed by **BRAEBURN** )  
**ESTATES LIMITED PARTNERSHIP** )  
acting through its general partner )  
**BRAEBURN ESTATES (GP) LIMITED:** )

Director  
Name.

Director/Secretary  
Name


### Notice Details

Address. 30th Floor  
One Canada Square  
Canary Wharf  
London  
E14 5AB

Attention. Company Secretary

### Chargee

Signed for and on behalf of **SBP 1** )  
**S.Á R.L** )  
 )  
 )

By:   
Name.  
Title: Manager (gérant)

**Tamas Horvath**  
Manager

By \_\_\_\_\_  
Name.  
Title: Manager (gérant)

### Notice Details

Address 8-10 Avenue de la Gare  
L-1610 Luxembourg

Facsimile. 00 352 26 84 54 10  
Attention. Eanna Smyth / Attila Senig