



Registration of a Charge

Company name: **SIMON MIDCO LIMITED**

Company number: **09722126**



X9IEI45F

Received for Electronic Filing: **23/11/2020**

Details of Charge

Date of creation: **04/11/2020**

Charge code: **0972 2126 0002**

Persons entitled: **CITIBANK N.A., LONDON BRANCH (AS SECURITY AGENT)**

Brief description: **N/A**

Contains fixed charge(s).

Contains floating 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:

ALLEN & OVERY LLP



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 9722126

Charge code: 0972 2126 0002

The Registrar of Companies for England and Wales hereby certifies that a charge dated 4th November 2020 and created by SIMON MIDCO LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 23rd November 2020 .

Given at Companies House, Cardiff on 24th November 2020

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**

4 November 2020

THE CONFIRMING PARTIES
(as listed in Schedule 1 attached hereto)

and

CITIBANK N.A., LONDON BRANCH
(as Security Agent)

SECURITY CONFIRMATION DEED

This Security Confirmation Deed is subject to and has the benefit of the Intercreditor Agreement (as defined herein)

LATHAM & WATKINS

Latham & Watkins (London) LLP
99 Bishopsgate
London EC2M 3XF
United Kingdom

THIS SECURITY CONFIRMATION DEED (this “Deed”) is made on 4 November 2020.
BETWEEN:

- (1) THE CONFIRMING PARTIES listed in Schedule 1 (*Confirming Parties*) (each a “Confirming Party” and together the “Confirming Parties”); and
- (2) CITIBANK N.A., LONDON BRANCH as security agent for itself and the other Secured Parties pursuant to the Intercreditor Agreement (as defined below) (the “Security Agent”, which expression includes any person which is for the time being the security agent pursuant to the Intercreditor Agreement).

WHEREAS:

- (A) Reference is made to:
 - (a) the revolving credit facility agreement originally dated 29 June 2015 and as amended and or/amended and restated on 18 August 2015, 2 May 2018 and amended further on 17 December 2019, between, amongst others, Garfunkelux Holdco 3 S.A. as Parent, ING Bank N.V. as Facility Agent and Citibank N.A., London Branch as Security Agent (the “Facility Agreement”). The Facility Agreement is further amended and restated pursuant to an amendment and restatement agreement dated on or about the date hereof between, amongst others, Garfunkelux Holdco 3 S.A. as Parent and Obligors’ Agent, ING Bank N.V. as Facility Agent and Citibank N.A., London Branch as Security Agent (the “Amendment and Restatement Agreement”);
 - (b) the intercreditor agreement dated 29 June 2015 between, amongst others, Garfunkelux Holdco 3 S.A. as Parent, Garfunkelux Holdco 2 S.A. as TopCo, Garfunkelux Holdco 1 S.à r.l. as the Original Investor, and Citibank N.A., London Branch as Security Agent (the “Intercreditor Agreement”);
 - (c) the indenture dated on or about the date hereof (the “Indenture”) relating to the €740,000,000 aggregate principal amount of fixed rate senior secured notes of Garfunkelux Holdco 3 S.A. (the “Issuer”) due 2025 (the “Fixed Rate Euro Notes”) and €600,000,000 aggregate principal amount of floating rate senior secured notes of the Issuer due 2026 (the “Floating Rate Euro Notes”, and together with the Fixed Rate Euro Notes, the “Euro Notes”) and the £400,000,000 aggregate principal amount of fixed rate senior secured notes of the Issuer due 2025 (the “Sterling Notes” and together with the Euro Notes, the “Notes”); and
 - (d) the security documents listed in Schedule 2 (*Existing Security Documents*) (the “Existing Security Documents”).
- (B) By executing and delivering this Deed, each Confirming Party confirms that the Security Interest(s) (as defined below) created by it pursuant to each Existing Security Document to which it is a party continue to secure the payment and discharge of the Secured Obligations (as defined in and for the purposes of each such Existing Security Document) and that the obligations and liabilities owed and/or due by it and/or such other Confirming Parties under the Notes and/or the Indenture constitute “Secured Obligations” as defined in and for the purposes of each such Existing Security Document.

IT IS AGREED as follows:

1. DEFINITIONS

1.1 In this Deed:

- (a) “**Charged Property**” means all the assets and undertakings of the Confirming Parties which from time to time are subject of the security created or expressed to be created pursuant to any Existing Security Document;
- (b) “**Debenture**” has the meaning given to such term in Schedule 2 (*Existing Security Documents*);
- (c) “**Security Interest**” 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
- (d) “**Share Charges**” means the share charges listed in Schedule 2 (*Existing Security Documents*).

1.2 Unless this Deed provides otherwise, a term which is defined (or expressed to be subject to a particular construction or interpretation) in the Intercreditor Agreement, the Indenture and/or an Existing Security Document shall have the same meaning (and be subject to the same construction or interpretation) in this Deed. In the event of any conflict between definitions in the Intercreditor Agreement, the Indenture and/or an Existing Security Document, the definitions provided in the Intercreditor Agreement shall prevail.

2. INCORPORATION BY REFERENCE

2.1 The provisions of Clause 1.3 (*Other References*) to Clause 1.5 (*Miscellaneous*) (inclusive) and Clause 9 (*Continuing Security*) to Clause 22 (*Notices*) (inclusive) of the Debenture and the Share Charges shall be deemed incorporated into this Deed with all necessary modifications as if they were set out in full in this Deed and references in such documents to a “Chargor” shall be deemed to be references to the relevant Confirming Party and references to “this Charge” shall be deemed to be references to “this Deed”.

3. CONFIRMATION

3.1 Each Confirming Party hereby acknowledges and agrees to the issuance of the Notes and the entry into the Indenture and the Amendment and Restatement Agreement and the transactions contemplated thereby and hereby confirms:

- (a) all obligations and liabilities incurred by it under the Intercreditor Agreement and each Existing Security Document to which it is a party, whether actual or contingent, whether owed jointly or severally, and whether owed as principal or surety or in any other capacity whatsoever; and
- (b) all undertakings arising under or in connection with the Intercreditor Agreement and each Existing Security Document to which it is a party and the creation of the Security Interest under each Existing Security Document to which it is a party.

3.2 Each Confirming Party hereby agrees that, notwithstanding the effectiveness of the Notes, the Amendment and Restatement Agreement and the Indenture and the consummation of the transactions contemplated thereby, any Security Interest created by it pursuant to each Existing Security Document to which it is a party is and remains in full force and effect and secures, and shall hereafter continue to secure, the “Secured Obligations” (as defined in each Existing Security Document(s) to which it is a party), which for the avoidance of doubt, includes and extends to all liabilities and obligations owed and/or due by the Confirming Parties or any member of the Holdco Group under the Notes and/or the Indenture subject always to any limitation of liability expressly provided for in each Existing Security Document.

4. ACKNOWLEDGMENT

Each of the Confirming Parties acknowledges and agrees that:

- (a) the Indenture is a “*Senior Secured Notes Indenture*” as defined in and for the purposes of the Intercreditor Agreement;
- (b) the Notes are “*Senior Secured Notes*” as defined in and for the purposes of the Intercreditor Agreement; and
- (c) all liabilities and obligations owed and/or due by the Confirming Parties under the Notes and/or the Indenture are “*Secured Obligations*” as defined in and for the purposes of each Existing Security Document to which it is a party.

5. RATIFICATION OF EXISTING SECURITY DOCUMENTS

- 5.1 Each party to each Existing Security Document hereby ratifies and confirms that each Existing Security Document to which it is a party shall continue to apply and remain in full force and effect on its terms.
- 5.2 For the avoidance of doubt, the parties agree that nothing in this Deed is intended or shall be construed as an amendment to any Existing Security Document.
- 5.3 This Deed is a Transaction Security Document.

6. BENEFIT OF DEED

- 6.1 Without prejudice to the express terms of this Deed and the terms of the Transaction Security Documents, the Security Agent has agreed to become a Party only for the purpose of taking the benefit of this Deed for itself and on behalf of the Secured Parties and for the better preservation and enforcement of its rights under the Transaction Security Documents and will assume no obligation or liability whatsoever to any other party by virtue of the provisions of this Deed.
- 6.2 The Security Agent executes this Deed as security trustee in the exercise of the powers and authority conferred upon and vested in it under the Intercreditor Agreement and any other Transaction Security Document for and on behalf of each Secured Party for whom it acts. It will exercise its powers and authority under this Deed in the manner provided for in the Intercreditor Agreement and, in so acting, the Security Agent shall have the protections, immunities, rights, powers, authorisations, indemnities and benefits conferred on it under and by the Intercreditor Agreement and the other Transaction Security Documents. In the event of any inconsistency between this Deed and the Intercreditor Agreement, the Intercreditor Agreement shall prevail.

7. SEVERABILITY

If any one or more of the provisions of this Deed shall, for any reason whatsoever, be held invalid, such provisions shall be deemed severable from the remaining provisions of this Deed and shall in no way affect the validity or enforceability of such other provisions.

8. EFFECT AS A DEED

This document is intended to take effect as a Deed notwithstanding the fact that some of the parties may have executed it under hand only.

9. COUNTERPARTS

This Deed may be executed in any number of counterparts, each of which when executed and delivered shall constitute an original of this Deed, and all of those counterparts taken together will be deemed to constitute one and the same instrument.

10. GOVERNING LAW

This Deed and any non-contractual claims arising out of or in connection with it shall be governed by and construed in accordance with English law.

11. JURISDICTION

- 11.1 Subject to Clause 11.2 below, each Confirming Party and the Security Agent agrees that the courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed, whether contractual or non-contractual (including a dispute regarding the existence, validity or termination of this Deed) (a “**Dispute**”). Each Confirming Party and the Security Agent agrees that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no party to this Deed will argue to the contrary.
- 11.2 Each Confirming Party and the Security Agent agrees that, for the benefit of the Secured Parties only, nothing in this Deed shall limit the right of the Secured Parties to bring legal action against any of the Confirming Parties in any other court of competent jurisdiction.

IN WITNESS WHEREOF this Deed has been executed and delivered as a deed on the date stated at the beginning of this Deed.

SCHEDULE 1

CONFIRMING PARTIES

	Company name	Jurisdiction	Registration number
1.	Simon Holdco Limited	Jersey	119216
2.	Simon Midco Limited	England and Wales	09722126
3.	Simon Bidco Limited	England and Wales	09709443
4.	Hansa Holdco Limited	England and Wales	11104635
5.	Metis Bidco Limited	England and Wales	07652466
6.	Lowell Financial Ltd	England and Wales	04558936
7.	Lowell Portfolio I Ltd	England and Wales	04857418
8.	Fredrickson International Limited	England and Wales	02679522
9.	Lowell Solicitors Limited	England and Wales	08647091
10.	Garfunkelux Holdco 3 S.A. (<i>Société Anonyme</i> , registered office at 488, route de Longwy L - 1940 Luxembourg)	Luxembourg	R.C.S. Luxembourg: B 197.551
11.	Garfunkelux PBA S.à r.l. (<i>société à responsabilité limitée</i> , registered office at 488, route de Longwy L - 1940 Luxembourg)	Luxembourg	R.C.S. Luxembourg: B 200.498

SCHEDULE 2

EXISTING SECURITY DOCUMENTS

1.	English law governed debenture dated 12 October 2015 and made between Simon Bidco Limited (09709443), Simon Midco Limited (09722126) and Simon Holdco Limited (0119216) as chargors and Citibank, N.A., London Branch as Security Agent (the “ Debenture ”)
2.	English law governed share charge dated 9 December 2015 and made between Garfunkelux PBA S.à r.l. (B 200.498) and Citibank, N.A., London Branch as Security Agent (the “ Share Charge ”)
3.	English law governed share charge dated 20 March 2018 and made between Garfunkelux PBA S à r.l. B 200.498) and Citibank, N.A., London Branch as Security Agent
4.	English law governed intragroup receivables charge dated 13 October 2015 between Garfunkelux Holdco 3 S.A. and Citibank N.A., London Branch as Security Agent.
5.	English law governed security accession deed dated 9 December 2015 and made between Metis Bidco Limited (07652466) and Citibank, N.A., London Branch as Security Agent
6.	English law governed security accession deed dated 9 December 2015 and made between the New Chargors listed therein and Citibank, N.A., London Branch as Security Agent
7.	English law governed security accession deed dated 20 March 2018 and made between the Hansa Holdco Limited (11104635) and Citibank, N.A., London Branch Security Agent
8.	Jersey law governed security interest agreement dated 12 October 2015 and made between Garfunkelux Holdco 3 S.A. and Citibank, N.A., London Branch as Security Agent in relation to, amongst other things, the issued share capital of Simon Holdco Limited that may from time to time be beneficially owned by Garfunkelux Holdco 3 S.A.
9.	Jersey law governed security interest agreement dated 9 December 2015 and made between Garfunkelux PBA S.à r.l. and Citibank, N.A., London Branch as Security Agent in relation to, amongst other things, the issued share capital of Simon Holdco Limited that may from time to time be beneficially owned by Garfunkelux PBA S.à r.l.

SIGNATORIES

Executed as a deed by SIMON HOLDCO LIMITED

acting by

David Brückmann

in the presence of:

Name: Isabelle Brückmann

Address:

Occupation: Copywriter

Executed as a deed by SIMON MIDCO LIMITED

acting by

David Brückmann

in the presence of:

Name: Isabelle Brückmann

Address:

Occupation: II

Executed as a deed by SIMON BIDCO LIMITED

acting by

David Brückmann

in the presence of:

Name: Isabelle Brückmann

Address:

Occupation: A

Executed as a deed by **JANSA HOLDCO LIMITED:**

acting by

David Brichmann

in the presence of

Name: Bärbel Steiner

Address:

Occupation: Executive Assistant

Executed as a deed by **METIS BIDCO LIMITED:**

acting by

in the presence of

Name:

Address:

Occupation:

Executed as a deed by **LOWELL SOLICITORS LIMITED:**

acting by

in the presence of

Name:

Address:

Occupation:

Executed as a deed by **HANSA HOLDCO LIMITED:**

acting by _____

in the presence of:

Name:

Address:

Occupation:

Executed as a deed by **METIS BIDCO LIMITED:**

acting by

JOHN PEARCE, UK MANAGING DIRECTOR.

in the presence of:

Name: *J PEARCE*

Address:

Occupation:

Executed as a deed by **LOWELL SOLICITORS LIMITED:**

acting by _____

in the presence of:

Name:

Address:

Occupation:

Executed as a deed by **HANSA HOLDCO LIMITED:**

acting by _____

in the presence of:

Name:

Address:

Occupation:

Executed as a deed by **METIS BIDCO LIMITED:**

acting by _____

in the presence of:

Name:

Address:

Occupation:

Executed as a deed by **LOWELL SOLICITORS LIMITED:**

acting by JAMES RILEY - MANAGING DIRECTOR

in the presence of: _____

Name: N RAMSDEN

Address: _____

Occupation: HEAD OF LEGAL & COMPLIANCE

Executed as a deed by **LOWELL FINANCIAL LTD:**

acting by

JOHN PEARS. UK MANAGING DIRECTOR.

in the presence of:

Name: *JOANNE PEARS*

Address:

Occupation:

Executed as a deed by **LOWELL PORTFOLIO I LTD:**

acting by

JOHN PEARS UK MANAGING DIRECTOR.

in the presence of:

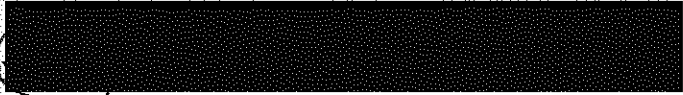
Name: *JOANNE PEARS*

Address:

Occupation:

Executed as a deed by **FREDRICKSON INTERNATIONAL LIMITED:**

acting by


JOHN PEARCE UK MANAGING DIRECTOR

in the presence of:


Name: JOANNE PEARCE

Address:

Occupation:

Executed as a deed by **GARFUNKELUX HOLDCO 3 S.A.**

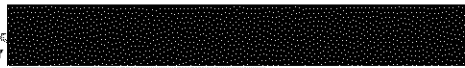
acting by

Cédric PEDONI

title: director and authorised signatory

Executed as a deed by **GARFUNKELUX PBA S.À R.L.**

acting by



Cédric PEDONI

title: Manager and authorised signatory

CITIBANK N.A., LONDON BRANCH

as Security Agent

By

Name:

Karen Phillips

Title:

Director

Citibank Agency & Trust