



Registration of a Charge

Company name: **ROCHESTER HOTEL NOMINEE LIMITED**

Company number: **10756559**



X8FLT7K1

Received for Electronic Filing: **07/10/2019**

Details of Charge

Date of creation: **04/10/2019**

Charge code: **1075 6559 0002**

Persons entitled: **BANK OF LONDON AND THE MIDDLE EAST PLC**

Brief description: **TRAVELODGE HOTEL, STATION SQUARE, ROCHESTER, KENT
REGISTERED AT THE LAND REGISTRY UNDER TITLE NUMBER TT89300.
FOR MORE DETAILS PLEASE REFER TO THE INSTRUMENT.**

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 THE ELECTRONIC COPY INSTRUMENT
DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION
IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by:

CLYDE & CO LLP



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 10756559

Charge code: 1075 6559 0002

The Registrar of Companies for England and Wales hereby certifies that a charge dated 4th October 2019 and created by ROCHESTER HOTEL NOMINEE LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 7th October 2019 .

Given at Companies House, Cardiff on 8th October 2019

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

ROCHESTER HOTEL L.P. acting by its general partner ROCHESTER
HOTEL GENERAL PARTNER LIMITED
Chargor

and

ROCHESTER HOTEL NOMINEE LIMITED
Chargor

and

BANK OF LONDON AND THE MIDDLE EAST PLC
Chargee

DEBENTURE

Execution Version

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DEBENTURE

Dated 04/10/2019

Between

- (1) **ROCHESTER HOTEL L.P.**, a limited partnership established and existing under the laws of England and Wales with registration number LP018019 whose registered office is at 81 Wimpole Street, London, W1G 9RE, England acting by its general partner **ROCHESTER HOTEL GENERAL PARTNER LIMITED**, a limited liability company incorporated and existing under the laws of England and Wales with registration number 10756460 whose registered office is at 81 Wimpole Street, London, W1G 9RE, England (the **Rochester Hotel**);
- (2) **ROCHESTER HOTEL NOMINEE LIMITED**, a limited liability company incorporated and existing under the laws of England and Wales with registration number 10756559 whose registered office is at 81 Wimpole Street, London, W1G 9RE, England (together with Rochester Hotel the **Chargors** and each a **Chargor**); and
- (3) **BANK OF LONDON AND THE MIDDLE EAST PLC**, a public limited liability company incorporated and existing under the laws of England and Wales (registered in England and Wales No. 05897786) whose registered office is at Cannon Place, 78 Cannon Street, London EC4N 6HL (the **Chargee**).

Introduction

- (A) Pursuant to the Murabaha Facility Agreement (defined below), the Chargee granted to the Rochester Hotel a commodity Murabaha facility.
- (B) In order to secure its obligations which may be, from time to time, owed by the Rochester Hotel to the Chargee pursuant to the Finance Documents, the Chargors, by executing this Deed, grant to the Chargee the security in relation to its assets as more particularly described in this Deed.

IT IS AGREED as follows:

1 Definitions and Interpretation

1.1 Definitions

In this Deed:

Administrative Receiver means one or more administrative receivers appointed, or to be appointed, under this Deed.

Administrator means one or more administrators appointed, or to be appointed, under this Deed.

Charged Assets means the Fixed Charge Assets and the Floating Charge Assets.

Chargee Security means the Security created by this Deed and any other existing or future Security granted by a Chargor to the Chargee to secure the payment or discharge of Secured Obligations.

Chargee Security Document means a document creating or evidencing Chargee Security.

Disposal means any transfer or other disposal of an asset or of an interest in an asset, or the creation of any Right over an asset in favour of another person, but not the creation of Security.

Enforcement Time means any time at which:

- (a) any amount owing by a Chargor to the Chargee is payable in respect of the Secured Obligations but has not been paid;
- (b) an Event of Default has occurred and is continuing; or
- (c) any step is being taken by any person to put a Chargor into administration.

Equipment means all plant, machinery, vehicles and other equipment used in a business, except equipment of a type which is disposed of in the ordinary course of trading and all warranties and other Rights relating to them.

Event of Default has the meaning given to it in the Murabaha Facility Agreement.

Financial Collateral has the meaning given to it by the Financial Collateral Arrangements (No2) Regulations 2003.

Finance Documents means:

- (a) the Murabaha Facility Agreement;
- (b) the Murabaha Agency Agreement (as such term is defined in the Murabaha Facility Agreement);
- (c) the Security Documents; and
- (d) any other documents designated as such by the Chargors and the Chargee.

Fixed Charge Assets means those assets which are from time to time the subject of Clauses 3.2, 3.3 and 3.4.

Floating Charge Assets means those assets which are from time to time the subject of Clause 3.5.

Insolvency Event, in relation to a person, means:

- (a) the dissolution, liquidation, provisional liquidation, declaration of *en déshastre*, administration, administrative receivership or receivership of that person or the entering into by that person of a voluntary arrangement or scheme of arrangement with creditors;
- (b) any analogous or similar procedure in any jurisdiction other than England; or
- (c) any other form of procedure relating to insolvency, reorganisation or dissolution in any jurisdiction.

Insolvency Legislation means:

- (a) the Insolvency Act 1986 and secondary legislation made under it; and
- (b) any other primary or secondary legislation in England from time to time relating to insolvency or reorganisation.

Intellectual Property means:

- (a) any intellectual property acquired after the date of this Deed which is designated as Intellectual Property by a Chargor and the Chargee at or about the time of its acquisition; and
- (b) all other copyright (including rights in computer software), patents, trade marks, trade names, service marks, business names (including internet domain names), design rights, database rights, semiconductor topography rights and all other intellectual property or similar proprietary rights (whether registered or not and including applications to register or rights to apply for registration) which, in each case, are of a type which are not disposed of in the ordinary course of trading.

Investment means:

- (a) any shares or loan capital held in a Subsidiary;
- (b) any investment acquired after the date of this Deed which is designated as an Investment by a Chargor and the Chargee at or about the time of its acquisition;
- (c) any other debt or equity security or any warrant or option to acquire or subscribe for any such security (whether it is held directly or through a custodian, clearing house or other person) unless it is of a type which is not held as an investment and is accordingly disposed of in the ordinary course of trading; and
- (d) any accretions to them and other Rights arising in connection with them.

Key Account means:

- (a) any account established after the date of this Deed which is designated as a Key Account by a Chargor and the Chargee at or about the time of its establishment; and
- (b) any other account with a bank or financial institution which cannot be drawn on by the account holder in the ordinary course of its trading without the consent of the Chargee.

Key Contract means:

- (a) a contract described in Schedule 2 (*Key Contracts*);
- (b) any contract that amends or replaces a contract described in Schedule 2 (*Key Contracts*); and
- (c) any contract entered into after the date of this Deed which is designated as a Key Contract by a Chargor and the Chargee at or about the time it was entered into.

Land means:

- (a) all freehold, leasehold (whether registered or unregistered) or commonhold land;
- (b) any estate or interest in, and any Rights attaching or relating to, that land; and
- (c) any buildings, fixtures and fittings (including trade fixtures and fittings) and other equipment attached to, situated on or forming part of that land,

owned by a Chargor.

Material Intellectual Property means any Intellectual Property with a value of £50,000 or more.

Murabaha Facility Agreement means the murabaha facility agreement dated on or about the date of this Deed between Rochester Hotel (as the purchaser) and the Chargee (as the seller).

Obligations, in relation to a person, means all obligations or liabilities of any kind of that person from time to time, whether they are:

- (a) to pay money or to perform (or not to perform) any other act;
- (b) express or implied;
- (c) present, future or contingent;
- (d) joint or several;
- (e) incurred as a principal or surety or in any other manner; or
- (f) originally owing to the person claiming performance or acquired by that person from someone else.

Officer, in relation to a person, means any officer, employee or agent of that person.

Property means Travelodge Hotel, Station Square, Rochester, Kent registered at the Land Registry under title number TT89300.

Receivable means any monetary claim of any kind owing to a Chargor (whether present, future or contingent and whether originally owing to the person entitled to it or acquired by that person from someone else) and all Rights (including Security) connected with it, including but not limited to the Rental Income.

Receiver means a receiver or receiver and manager or administrative receiver of the whole or part of the Charged Assets.

Rental Income means the sums received by a Chargor under the Occupational Lease (as such term is defined in the Murabaha Facility Agreement).

Right means any right, privilege, power or immunity, or any interest or remedy, of any kind, whether it is personal or proprietary.

Secured Obligations means the Obligations undertaken to be paid or discharged in Clause 1.4 (*Payment of Secured Obligations*).

Security means any mortgage, charge (whether fixed or floating, legal or equitable), pledge, encumbrance, right of set-off, lien, assignment by way of security or other security interest securing any obligation of any person, or any other agreement or arrangement having a similar effect in any jurisdiction.

Security Document has the meaning given to such term in the Murabaha Facility Agreement.

Specific Receiver means one or more receivers or managers appointed, or to be appointed, under this Deed who is not an Administrative Receiver.

Subsidiary means:

- (a) a subsidiary within the meaning of section 1159 Companies Act 2006; and
- (b) for the purposes of Clauses 15 (*Information Undertakings*) and 16 (*Financial Covenants*) of the Murabaha Facility Agreement only, a subsidiary undertaking within the meaning of section 1162 Companies Act 2006,

and in interpreting those provisions for the purposes of this Agreement, a company is to be treated as a member of a subsidiary even if its shares are registered in the name of (i) a nominee, or (ii) any party holding security over those shares, or that secured party's nominee.

Third Parties Act means the Contracts (Rights of Third Parties) Act 1999.

VAT means value added tax.

1.2 Interpretation

1.2.1 In this Deed:

- (a) the table of contents, the summary and the headings are inserted for convenience only and do not affect the interpretation of this Deed;
- (b) references to clauses and schedules are to clauses of, and schedules to, this Deed;
- (c) references to the Murabaha Facility Agreement, any Finance Document or any other document are to that document as from time to time amended, restated, novated or replaced, however fundamentally;
- (d) references to a person include an individual, firm, company, corporation, unincorporated body of persons and any government entity;
- (e) references to a person include its successors in title, permitted assignees and permitted transferees;
- (f) words importing the plural include the singular and vice versa; and
- (g) references to any enactment include that enactment as amended or re-enacted; and, if an enactment is amended, any provision of this Deed which refers to that enactment will be amended in such manner as the Chargee, after consultation with the Chargors, determines to be necessary in order to preserve the intended effect of this Deed.

- 1.2.2 Where this Deed imposes an obligation on a Chargor to do something if required or requested by the Chargee, it will do so as soon as practicable after it becomes aware of the requirement or request.
- 1.2.3 It is intended that this document takes effect as a deed even though the Chargee may only execute it under hand.
- 1.2.4 This Deed may be executed in counterparts.
- 1.2.5 The provisions of any other Finance Document relating to:
- (a) any disposition of an interest in land; or
 - (b) any obligation of the Chargee to make further advances,
- are deemed to be incorporated in this Deed.
- 1.2.6 Where a definition of a type of asset in Clause 1.1 (*Definitions*) contains a number of categories, each category will be construed as separate from each other category.

1.3 Parties and Third Parties

- 1.3.1 The Chargors and the Chargee are a party to this Deed.
- 1.3.2 Each Receiver and each Officer of the Chargee or a Receiver are not parties to this Deed. However, the Rights conferred on them under this Deed are enforceable by each of them under the Third Parties Act.
- 1.3.3 No other term of this Deed is enforceable under the Third Parties Act by anyone who is not a party to this Deed.
- 1.3.4 The parties to this Deed may terminate this Deed or vary any of its terms without the consent of any third party. However, they must obtain consent if the termination or variation adversely affects the Rights of a Receiver or of an Officer of the Chargee or a Receiver under this Deed, but only to the extent that it has notified the Chargee that it intends to enforce that clause at the time of the termination or variation.

1.4 Clawback

If the Chargee considers that an amount paid by the Chargors in respect of the Secured Liabilities is capable of being avoided or otherwise set aside on the liquidation or administration of the Chargors, or otherwise, then that amount shall not be considered to have been irrevocably paid for the purposes of this Deed.

2 Payment of Secured Obligations

The Chargors will pay or otherwise discharge all Obligations from time to time owing by it to the Chargee under the Finance Documents when they become due for payment or discharge and all Obligations incurred by it to any other person under or in connection with the Finance Documents.

3 Charges

- 3.1 The charges contained in this Clause 3:
- 3.1.1 are given to the Chargee;

- 3.1.2 secure the payment and discharge of the Secured Obligations; and
- 3.1.3 are given with full title guarantee.
- 3.2 Each Chargor charges, by way of first legal mortgage, the Property and all other Land now owned by it, and any Rights accruing to, derived from or otherwise connected with it (including insurances and proceeds of Disposal of such Property, Land and of insurances).
- 3.3 Each Chargor charges, by way of first fixed charge, all of the Rights which it now has and all of the Rights which it obtains at any time in the future in:
 - 3.3.1 proceed accounts held with the Chargee;
 - 3.3.2 the assignment of all insurances on the Property to the Chargee;
 - 3.3.3 Land, other than that charged under Clause 3.2;
 - 3.3.4 Investments;
 - 3.3.5 Key Contracts; and
 - 3.3.6 Intellectual Property,and in any Rights accruing to, derived from or otherwise connected with them (including insurances and proceeds of Disposal and of insurances).
- 3.4 Each Chargor assigns to the Chargee absolutely (subject to Clause 15.4) all the Chargor's rights, title and interest from time to time in and to the Receivables. Without prejudice to the other provisions of this Deed, if for any reason the assignment of the Receivables referred to in this Clause 3.4 is found to be ineffective or if any sums payable in respect of the Receivables are received by a Chargor, that Chargor shall hold the benefit of such assets or rights and any such sums received by it in trust for the Chargee and shall account to the Chargee for or otherwise apply all such sums as the Chargee may direct and shall otherwise at its own cost take such action and execute such documents as the Chargee may require.
- 3.5 Each Chargor charges, by way of first floating charge, the Key Accounts, its undertaking and any of its present and future assets with an open market value of £50,000 or more other than those effectively charged or assigned under Clauses 3.2, 3.3 or 3.4.
- 3.6 The Chargee may convert all or part of the floating charge created by a Chargor under Clause 3.5 into a fixed charge by giving notice to that effect to the relevant Chargor and specifying the identity of the assets concerned. This may be done on one or more occasion, but only (a) during an Enforcement Time or (b) if the Chargee considers that its security over the assets concerned is in jeopardy and that it is necessary to do so to protect or preserve its security.
- 3.7 Any asset acquired by a Chargor after any crystallisation of the floating charge created under this Deed which, but for such crystallisation, would be subject to a floating charge shall (unless the Chargee confirms in writing to the contrary) be charged to the Chargee by way of first fixed charge.

4 Set-off

- 4.1 The Chargee may set off any matured Secured Obligation due from a Chargor (to the extent beneficially owned by the Chargee) against any matured obligation owed by the Chargee to the relevant Chargor, regardless of the place of payment, booking branch or currency of either obligation.
- 4.2 If the obligations are in different currencies, the Chargee may convert either obligation at a market rate of exchange in its usual course of trading for the purpose of the set-off.
- 4.3 These Rights are in addition to the security conferred on the Chargee under this Deed.

5 Restrictions

- 5.1 Each Chargor will ensure that the restrictions contained in this Clause 5 are complied with unless the Chargee agrees in writing to the contrary.
- 5.2 No Security will exist over, or in relation to, any Charged Asset other than as expressly permitted under the Murabaha Facility Agreement.
- 5.3 There will be no Disposal of any Fixed Charge Asset other than as expressly permitted under the Murabaha Facility Agreement.
- 5.4 There will be no Disposal of any Floating Charge Asset other than as expressly permitted under the Murabaha Facility Agreement.

6 Perfection

6.1 General Action

Each Chargor will, at its own expense, create all such Security, execute all such documents, give all such notices, effect all such registrations (whether at the Companies Registry, an asset registry or otherwise), deposit all such documents and do all such other things as the Chargee may reasonably require from time to time in order to:

- 6.1.1 ensure that it has an effective first-ranking fixed charge (or, in the case of Land then owned by a Chargor, a charge by way of legal mortgage) over the Fixed Charge Assets;
- 6.1.2 ensure that it has an effective first-ranking floating charge over the Floating Charge Assets; and
- 6.1.3 facilitate the enforcement of the Chargee Security, the realisation of the Charged Assets or the exercise of any Rights held by the Chargee or any Receiver or Administrator under or in connection with the Chargee Security.

- 6.2 The scope of Clause 6.1 is not limited by the specific provisions of the rest of this Clause 6 or by any other provision of the Chargee Security Documents.

6.3 Notification

If, after the date of this Deed, a Chargor acquires:

- 6.3.1 Rights in Land;

- 6.3.2 a new Subsidiary;
- 6.3.3 Rights in a Key Contract; or
- 6.3.4 Rights in any other asset in each case with an open market value of £50,000 or more,

it will notify the Chargee as soon as reasonably practicable and will provide it with such information about the acquisition as the Chargee may reasonably require.

6.4 Land

If required to do so by the Chargee, a Chargor will execute a first charge by way of legal mortgage over any Land in England and Wales owned by it at that time which is not already the subject of such a charge in favour of the Chargee, in any form which the Chargee may reasonably require.

- 6.4.1 Each Chargor agrees to the entry of the following restriction in the proprietorship register of the title to any Land in England and Wales which now or in the future is the subject of a charge by way of legal mortgage in favour of the Chargee and which is, or is required to be, registered at the Land Registry:

“No disposition of the registered estate by the proprietor of the registered estate is to be registered without a written consent signed by the proprietor for the time being of the Charge dated 2019 in favour of **Bank of London and The Middle East Plc** of 1 Cannon Place, 78 Cannon Street, London EC4N 6HL referred to in the Charges Register.”

- 6.4.2 If any Land in which a Chargor has Rights now or in the future is required to be registered at the Land Registry, the relevant Chargor will, within the relevant priority period under the Land Charges Act 1972:

- (a) apply to the Land Registry for first registration of the title to that Land and registration of the relevant Chargor as proprietor of that Land and notify the Chargee of its title number; and
- (b) if so required by the Chargee, create a first charge by way of legal mortgage over that Land in favour of the Chargee or, if not so required, procure that this Deed is noted in the charges register of that Land.

- 6.4.3 If any Land in which a Chargor has Rights is already registered when those Rights are acquired, the relevant Chargor will, within the priority period of the relevant Land Registry Official Search:

- (a) apply to the Land Registry for its title to that Land to be registered and give notice of the title number to the Chargee; and
- (b) if so required by the Chargee, create a first charge by way of legal mortgage over that Land in favour of the Chargee or, if not so required, procure that this Deed is noted in the charges register of that Land.

- 6.4.4 If any Land in which a Chargor has Rights now or in the future is not required to be registered at the Land Registry, the relevant Chargor will, within the relevant priority period under the Land Charges Act 1972, apply

to register a Class C Land Charge in respect of this Deed at the Land Charges Registry if the title deeds and documents to that Land are not deposited with the Chargee under Clause 6.4.6.

6.4.5 Each Chargor will procure the entry of a note of the obligation to make further advances under the terms of the Murabaha Facility Agreement on the Charges Register of any registered land forming part of the Land over which it has created a charge by way of legal mortgage in favour of the Chargee.

6.4.6 Each Chargor will deposit with the Chargee all deeds and documents of title and all leases, licences and other ancillary documents received by it or on its behalf in relation to its Land.

6.5 Equipment

If required to do so by the Chargee, each Chargor will create a first legal mortgage over any Equipment owned by it at that time, in any form which the Chargee may reasonably require.

6.6 Shares

If, at any time, a Chargor owns any Investment, it will:

6.6.1 on the date of this Deed (or, if it acquires the Investment later, as soon as practicable after it does so), deposit with the Chargee all certificates or other documents of title to that Investment and transfer forms for it executed in blank by the relevant Chargor;

6.6.2 if required to do so by the Chargee (and to the extent that a Chargor is able to do so) amend its articles of association or procure that the person in which the Investment is held amends their articles of association in the manner required by the Chargee (and procure that such relevant person takes, or omits to take, all such other steps as the Chargee may reasonably require) in order to enable it to enforce its security without restriction; and

6.6.3 if required to do so by the Chargee, procure that the Chargee or its nominee becomes registered as the legal owner of the shares concerned.

6.7 Key Accounts and Key Contracts

If, at any time, a Chargor has a Right in respect of a Key Account or a Key Contract, it will, on the date of this Deed (or, if it acquires the Right later, as soon as practicable after it does so):

6.7.1 deliver a notice of this Deed to the other parties to the relevant Key Account or Key Contract substantially in the form set out in the applicable part of Schedule 3 (*Notice and Acknowledgment of Charge*); and

6.7.2 use its reasonable endeavours to procure that those parties deliver an acknowledgement of the notice to the Chargee substantially in the form set out in the applicable part of Schedule 3 (*Notice and Acknowledgment of Charge*) as soon as reasonably practicable.

6.8 Subsequent Security

If the Chargee receives notice that any Security has been created over Charged Assets which the Finance Documents do not permit to rank in priority to the Chargee Security, the Chargee will be treated as if it had

immediately opened a new account for the relevant Chargor, and all payments received by the Chargee from the relevant Chargor will be treated as if they had been credited to the new account and will not reduce the amount then due from the relevant Chargor to the Chargee.

6.9 Financial Collateral

The parties to this Deed designate those Charged Assets which constitute Financial Collateral to be under the control of the Chargee, whether they are the subject of a fixed charge or of a floating charge under this Deed.

7 Enforcement

7.1 Time for Enforcement

The Chargee may enforce the Chargee Security at any time which is an Enforcement Time or if the Chargor requests it to do so.

7.2 Methods of enforcement

The Chargee may enforce the Chargee Security by:

- 7.2.1 appointing an Administrator of the relevant Chargor;
 - 7.2.2 if permitted to do so by the Insolvency Legislation, appointing an Administrative Receiver of the relevant Chargor;
 - 7.2.3 appointing a Specific Receiver of assets of the relevant Chargor;
 - 7.2.4 going into possession of, receiving the benefit of, or selling assets of the relevant Chargor, giving notice to the relevant Chargor or any other person in relation to any assets of the relevant Chargor, exercising a right of set-off or in any other way it may decide; or
 - 7.2.5 taking any other action it may decide in any jurisdiction other than England.
- 7.3 To the extent that the Chargee Security arises under a security financial collateral arrangement, the Chargee may also enforce it by giving written notice to the Chargors that it is appropriating those Charged Assets which consist of Financial Collateral. On receipt of that notice by the Chargors, the Chargee will automatically become the absolute owner of the Financial Collateral, and the Chargors will have no further interest in it. The value of the Financial Collateral will, as soon as practicable after it has been established, be applied in discharge of the equivalent amount of the Secured Obligations in accordance with Clause 8 (*Application of Proceeds*). For this purpose, the Chargee will value the Financial Collateral as follows:
- 7.3.1 in the case of cash, by reference to its face value received by the Chargee;
 - 7.3.2 in the case of credit claims, by reference to the amount actually recovered by the Chargee; and
 - 7.3.3 in the case of financial instruments, by reference to such public indices, valuations or other matters as the Chargee may reasonably decide.
- Expressions defined in the Financial Collateral Arrangements (No.2) Regulations 2003 will have the same meanings in this clause.
- 7.4 An Administrator must be appointed in accordance with the Insolvency Legislation.

- 7.5 A Receiver must be appointed by an instrument in writing, and otherwise in accordance with the Insolvency Legislation.
- 7.6 The appointment of a Receiver may be made subject to such limitations as are specified by the Chargee in the appointment.
- 7.7 If more than one person is appointed as a Receiver, each person will have power to act independently of any other, except to the extent that the Chargee may specify to the contrary in the appointment.
- 7.8 Subject to the Insolvency Legislation, the Chargee may remove or replace any Receiver.
- 7.9 If required by the Insolvency Legislation, an Administrator or Receiver must be a person qualified to act as such under it.
- 7.10 **Powers on Enforcement**
- An Administrator will have the powers given to him by the Insolvency Legislation.
- 7.11 An Administrative Receiver will have:
- 7.11.1 the powers given to him by the Insolvency Legislation;
- 7.11.2 the powers given to a mortgagee or a receiver by the Law of Property Act 1925, but without the restrictions contained in section 103 of that Act; and
- 7.11.3 the power to do, or omit to do, on behalf of the relevant Chargor, anything which the relevant Chargor itself could have done, or omitted to do, if its assets were not the subject of Security and the relevant Chargor were not in insolvency proceedings.
- 7.12 A Specific Receiver will have the same powers as an Administrative Receiver in respect of the assets over which he is appointed.
- 7.13 The Chargee will, if it enforces the Chargee Security itself, have the same powers as an Administrative Receiver in respect of the assets which are the subject of the enforcement.
- 7.14 Except to the extent provided by law, none of the powers described in this Clause 7 will be affected by an Insolvency Event in relation to the relevant Chargor.
- 7.15 **Status and Remuneration of Receiver**
- 7.15.1 A Receiver will be the agent of the relevant Chargor until the relevant Chargor goes into liquidation. A Receiver will have no authority to act as agent for the Chargee, even in the liquidation of the relevant Chargor.
- 7.15.2 The Chargee may from time to time determine the remuneration of any Receiver.
- 7.16 **Third Parties**
- A person dealing with the Chargee or with a Receiver is entitled to assume, unless it has actual knowledge to the contrary, that:
- 7.16.1 those persons have the power to do those things which they are purporting to do; and

7.16.2 they are exercising their powers properly.

8 Application of Proceeds

All money received by the Chargee or a Receiver under or in connection with the Finance Documents (whether during or before enforcement of the Chargee Security) will, subject to the rights of any persons having priority, be applied in accordance with Clause 13.3 (*Proceeds Account*) of the Murabaha Facility Agreement.

9 Land and Equipment

The Chargors will comply with all obligations imposed on it and undertakings given by it, in respect to Land and Equipment, hereunder and in the Murabaha Facility Agreement.

10 Investments

10.1 During an Enforcement Time (and also once the Chargee Security is being enforced), the Chargee will be entitled to receive all distributions in respect of the relevant Chargor's Investments for application in accordance with Clause 13.3 (*Proceeds Account*) of the Murabaha Facility Agreement. Otherwise, the relevant Chargor will be entitled to receive those distributions.

10.2 During an Enforcement Time (and also once the Chargee Security is being enforced), but only upon written notice to the relevant Chargor, the Chargee will be entitled to exercise all voting and other Rights in respect of the relevant Chargor's Investments. Otherwise, the relevant Chargor will be entitled to exercise those Rights.

10.3 To the extent that the holder of those Investments is not the person entitled to receive those distributions and exercise those Rights, the relevant Chargor shall procure that the holder will pay (to the extent lawfully permissible) the distributions to the person entitled to them and will exercise those Rights in accordance with the requirements of the Chargee in the circumstances referred to in Clauses 10.1 and 10.2.

10.4 The Chargors will promptly pay all calls, instalments or other payments which from time to time become due in respect of any of its Investments, and the Chargee will not in any circumstances incur any liability in respect of them.

11 Key Contracts, Key Accounts and Receivables

The Chargors will comply with all obligations imposed on them and undertakings given by them, in respect to Key Contracts, Key Account and Receivables, in the Murabaha Facility Agreement.

12 Intellectual Property

12.1 The Chargors will promptly notify the Chargee of its acquisition of, or agreement to acquire, Material Intellectual Property and any action taken to register the Material Intellectual Property.

12.2 The Chargors will:

12.2.1 take all necessary action to safeguard and maintain their Rights in connection with Material Intellectual Property, including obtaining all

necessary registrations and paying all applicable renewal fees and licence fees;

- 12.2.2 not allow any Material Intellectual Property to be abandoned or cancelled or to lapse; and
- 12.2.3 protect their Material Intellectual Property against infringement in any material respect and, immediately on becoming aware of any material infringement of, or challenge to, any of their Material Intellectual Property, inform the Chargee.

13 Insurance

13.1 The Chargors will:

- (a) maintain insurances in relation to their business and assets with reputable underwriters or insurance companies of a type, to the extent and in an amount which is usual for companies carrying on similar businesses whose practice it is not to self-insure;
- (b) punctually pay all premia and other money payable under their contracts of insurance and comply with their other provisions; and
- (c) ensure that the Chargee's interest is noted on the relevant Chargor's contracts of insurance,

13.2 Except as provided below, during an Enforcement Time (and also once the Chargee Security has been enforced), all payments in respect of any contract of insurance will be paid to the Chargee for application in accordance with Clause 8 above (*Application of Proceeds*). Otherwise, all such payments will be applied in reinstatement of the assets concerned.

13.3 In the event of any inconsistency between this Clause 13 and the terms and conditions set out in the Murabaha Facility Agreement, the terms of the Murabaha Facility Agreement shall prevail.

13.4 Except where the Chargee is co-insured or loss payee, moneys received under liability policies held by the Chargors (whether during an Enforcement Time or otherwise) which are required by the relevant Chargor to satisfy established liabilities of the relevant Chargor to third parties, must be used to satisfy such liabilities.

14 General Undertakings

14.1 The Chargors will not do anything which may to a material extent depreciate, jeopardise or otherwise prejudice the value or marketability of its Charged Assets.

14.2 The Chargors will notify the Chargee as soon as it becomes aware of any matter which might reasonably be expected to have an adverse effect on the Rights of the Chargee under the Chargee Security. Those matters include a material breach or purported material breach of a Key Contract by any party to it and a material claim by any person to an interest in a Charged Asset.

14.3 The Chargors will provide to the Chargee:

- 14.3.1 such information about the Charged Assets;

14.3.2 such information about the extent to which it has complied with its obligations under this Deed; and

14.3.3 copies of such documents which create, evidence or relate to its Charged Assets,

as the Chargee may from time to time reasonably request.

14.4 If a Chargor does not comply with its obligations under this Deed, the Chargee may do so on the relevant Chargor's behalf on such basis as the Chargee may decide. The Chargors will indemnify the Chargee on demand against the amount certified by the Chargee to be the actual cost, loss or liability suffered by it as a result of doing so.

15 Duration of the Security and Discharge of Security

15.1 The Obligations of the Chargors under the Finance Documents and the security created by the Chargee Security will continue until the Secured Obligations have been irrevocably and unconditionally paid or discharged in full to the full satisfaction of the Chargee, regardless of any intermediate payment or discharge in whole or in part.

15.2 If any payment by a Chargor or any other security provider or any release given by the Chargee (whether in respect of the Secured Obligations or any security for them or otherwise) is avoided or reduced as a result of insolvency or any similar event:

15.2.1 the (joint and several) liability of the Chargors under this Deed will continue as if the payment, release, avoidance or reduction had not occurred; and

15.2.2 the Chargee will be entitled to recover the value or amount of that security or payment from the Chargors, as if the payment, release, avoidance or reduction had not occurred.

15.3 Section 93 of the Law of Property Act 1925 will not apply to the Chargee Security.

15.4 Subject to Clause 15.1 and Clause 15.2, upon the irrevocable and unconditional discharge of the Secured Obligations, the Chargee shall, at the cost of the Chargors, take whatever action is necessary to release the Chargee Security.

16 Expenses, Liability and Indemnity

16.1 The Chargors will, on demand, pay all legal and other actual costs and expenses (including any stamp duty, registration or other similar taxes) incurred by the Chargee or by any Receiver in connection with the Chargee Security. This includes any actual costs and expenses relating to the enforcement or preservation of the Chargee Security or the Charged Assets and to any amendment, waiver, consent or release required in connection with the Chargee Security.

16.2 Neither the Chargee nor a Receiver nor any of their Officers will be in any way liable or responsible to the Chargors for any loss or liability of any kind arising from any act or omission by it of any kind (whether as mortgagee in possession or otherwise) in relation to the Charged Assets or the Chargee Security, except to the extent caused by its own gross negligence, fraud or wilful misconduct.

16.3 The Chargors will, on demand, indemnify each of the Chargee, a Receiver and their Officers in respect of all actual costs, expenses, losses or liabilities of any kind which it incurs or suffers in connection with:

16.3.1 anything done or omitted in the exercise of the powers conferred on it under the Chargee Security, unless it was caused by its gross negligence, fraud or wilful misconduct;

16.3.2 a claim of any kind (whether relating to the environment or otherwise) made against it which would not have arisen if the Chargee Security had not been granted and which was not caused by its gross negligence, fraud or wilful misconduct; or

16.3.3 any breach by the Chargors or its Officers of the Finance Documents.

17 Payments

17.1 All payments by the Chargors under the Chargee Security Documents will be made in full, without any set-off or other deduction.

17.2 If any tax or other sum must be deducted from any amount payable by the Chargors under the Chargee Security Documents, the Chargors will pay such additional amounts as are necessary to ensure that the recipient receives a net amount equal to the full amount it would have received before such deductions.

17.3 All amounts payable by a Chargor under the Chargee Security Documents are exclusive of VAT. The Chargors will, in addition, pay any applicable VAT on those amounts.

17.4 If a Chargor fails to make a payment to the Chargee under the Chargee Security Documents, it will pay late payment amounts to the Chargee on the amount concerned calculated in accordance with Clause 6.1 (*Late Payment Amount*) of the Murabaha Facility Agreement from the date it should have made the payment until the date of payment (after, as well as before, judgment).

17.5 No payment by a Chargor (whether under a court order or otherwise) will discharge the Obligation of a Chargor unless and until the Chargee has received payment in full in the currency in which the Obligation is denominated. If, on conversion into that currency, the amount of the payment falls short of the amount of the Obligation concerned, the Chargee will have a separate cause of action against the Chargors for the shortfall.

17.6 Any certification or determination by the Chargee of an amount payable by the Chargors under this Deed is, in the absence of manifest error, conclusive evidence of that amount.

17.7 In the event of any inconsistency between this Clause 17 and the terms and conditions set out in the Murabaha Facility Agreement, the terms of the Murabaha Facility Agreement shall prevail.

18 Remedies

18.1 The Rights created by this Deed are in addition to any other Rights of the Chargee against the Chargors or any other security provider under any other documentation, the general law or otherwise. They will not merge with or limit those other Rights, and are not limited by them.

18.2 No failure by the Chargee to exercise any Right under this Deed will operate as a waiver of that Right, nor will a single or partial exercise of a Right by the Chargee preclude its further exercise.

18.3 If, at any time, any provision of this Deed is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of that provision in any other respect or under the law of any other jurisdiction will be affected or impaired in any way.

19 Power of Attorney

19.1 Appointment and Powers

Each Chargor, by way of security, irrevocably appoints each of the Chargee and any Receiver severally to be its attorney to do anything:

19.1.1 which the Chargors are obliged to do under the Chargee Security Documents, but which has not been done by the Chargors; and

19.1.2 which the attorney may require to exercise any of the Rights conferred on it by the Chargee Security Documents or by law.

19.2 Ratification of Acts of Attorney

Each Chargor ratifies and confirms, and agrees to ratify and confirm, anything which any of its attorneys may do in the proper and lawful exercise or purported exercise of all or any of the powers, authorities and discretions referred to in Clause 19.1 (*Appointment and Powers*).

20 Notices

Any communication or document to be made or delivered under this Deed shall be made or delivered in accordance with Clause 21.7 (*Notices*) of the Murabaha Facility Agreement.

21 Law and Jurisdiction

21.1 Law

This Deed and any non-contractual obligations connected with it are governed by English law.

21.2 Jurisdiction

21.2.1 The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed or any non-contractual obligations connected with it (including a dispute regarding the existence, validity or termination of this Deed) (a **Dispute**).

21.2.2 The parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and, accordingly, that they will not argue to the contrary.

21.2.3 Clause 21.2.1 is for the benefit of the Chargee only. As a result, the Chargee will not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Chargee may take concurrent proceedings in any number of jurisdictions.

21.2.4 The parties to this Deed recognise and agree that the principle of the payment of interest is repugnant to the *Sharia'a* and accordingly, to the extent that any legal system would (but for the provisions of this clause) impose (whether by contract or by statute) any obligation to pay interest, the parties to this Deed hereby irrevocably and unconditionally expressly waive and reject any entitlement to recover the interest from each other.

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

Schedule 1
Initial Administrative Details of the Parties

Party	Address	Fax number / e-mail address	Attention
Chargor	81 Wimpole Street London W1G 9RE	• trevor.mackney@consortium-im.com	Trevor Mackney
Chargee	Cannon Place 78 Cannon Street London EC4N 6HL	• +44 (0) 20 7618 0001 • Paul.DeCroos@BLME.com	Paul DeCroos

Schedule 2 Key Contracts

- 1 Managing Agent Agreement dated 18 September 2019 made between Orbit Property Management Birmingham Limited and Rochester Hotel General Partner Limited acting as general partner for Rochester Hotel L.P.;
 - 2 Management Agreement dated 27 September 2018 made between Consortium Investment Management LLP Rochester Hotel General Partner Limited acting as general partner for Rochester Hotel L.P.;
 - 3 Lease Agreement dated 27 September 2019 between Travelodge Hotel Limited, Rochester Hotel General Partner Limited acting as general partner for Rochester Hotel L.P. and Rochester Hotel Nominee Limited;
- together with any and all renewals or replacements thereof from time to time.

Schedule 3

Notice and Acknowledgment of Charge

Part A - Key Contracts

To: [Counterparty]

Date: [●]

Dear Sirs

Notice of Charge

- 1 We give you notice that, under a debenture dated [●] 2019 entered into by us in favour of Bank of London and The Middle East Plc (the Chargee), we have charged to the Chargee by way of first fixed charge all of our rights in [insert details of agreement concerned] [all of our rights in and to the insurances under an insurance policy with policy number [●]] (the Agreement).
- 2 We will remain liable for our obligations under the Agreement. The Chargee has no obligations under it.
- 3 We have agreed with the Chargee not to terminate or amend the Agreement or to waive any of its terms without the consent of the Chargee.
- 4 We instruct you:
 - (a) if the Chargee so requests you, to make all payments due to us under the Agreement to the Chargee (whose receipt will be a good discharge to you for such payments) to the account(s) indicated by the Chargee; and
 - (b) to disclose to the Chargee, without further approval or consent from us, such information regarding the Agreement as the Chargee may from time to time request and to send it copies of all notices issued by you under the Agreement.
- 5 This instruction cannot be varied or terminated without the prior written of the Chargee.
- 6 Please sign the enclosed acknowledgement and return it to the Chargee at Bank of London and The Middle East Plc, Cannon Place, 78 Cannon Street, London EC4N 6HL marked for the attention of Paul DeCroos.
- 7 This notice, and any non-contractual obligations connected with it, is governed by English law.

.....
for and on behalf of

[Rochester Hotel L.P. acting by its general partner Rochester Hotel General Partner Limited / [Rochester Hotel Nominee Limited]]

Acknowledgement of Charge

To: Bank of London and The Middle East Plc

- 1 We acknowledge receipt of the notice dated [●] in respect of a debenture dated [●] 2019 granted by [Rochester Hotel General Partner Limited acting as general partner for Rochester Hotel L.P./[Rochester Hotel Nominee Limited]] in favour of you (the Notice). We have not received notice that any other person has an interest in the Agreement.
- 2 We will comply with the instructions in the Notice.
- 3 We agree that no amendment or termination of the Agreement, nor any waiver of its terms, will be effective unless it is approved by you.
- 4 We will not exercise any right of set-off against payments owing by us under the Agreement unless they arise out of the Agreement itself.
- 5 This Acknowledgment, and any non-contractual obligations connected with it, is governed by English law.

.....
for and on behalf of

[●]

Date: [●]

Part B - Key Accounts

To: [Account Bank]

Date:

Dear Sirs

Notice of Charge

- 1 We give you notice that, under a debenture dated [●] 2019 entered into by us in favour of Bank of London and The Middle East Plc (the **Chargee**), we have charged to the Chargee by way of first fixed charge all of our rights in our [●] account with you (no. [●]) (the **Account**).
- 2 We have agreed with the Chargee not to close the Account or to amend or waive any of its terms without the prior written consent of the Chargee.
- 3 We instruct you:
 - (a) to honour withdrawals from the Account if requested by the Chargee;
 - (b) not to honour any withdrawals from the Account if requested by us, unless our instructions are countersigned by the Chargee; and
 - (c) disclose to the Chargee, without further approval or consent from us, such information regarding the Account as the Chargee may from time to time request and to send it copies of all statements and other notices issued by you in connection with the Account.
- 4 These instructions cannot be varied or terminated without the prior written consent of the Chargee.
- 5 Please sign the enclosed acknowledgement and return it to the Chargee at Bank of London and The Middle East Plc, Cannon Place, 78 Cannon Street, London EC4N 6HL marked for the attention of Paul DeCroos.
- 6 This notice and any non-contractual obligations connected with it, is governed by English law.

.....
for and on behalf of

[Rochester Hotel L.P. acting by its general partner Rochester Hotel General Partner Limited / [Rochester Hotel Nominee Limited]]

Acknowledgement of Charge

To: **Bank of London and The Middle East Plc**

- 1 We acknowledge receipt of the notice of charge dated [●] in respect of a debenture dated [●] 2019 granted by [Rochester Hotel General Partner Limited acting as general partner for Rochester Hotel L.P./[Rochester Hotel Nominee Limited]] in favour of you (the Notice). We have not received notice that any other person has an interest in the Account.
- 2 We will comply with the instructions in the Notice.
- 3 We will not, without the Chargee's consent, permit any amount to be withdrawn from the Account.
- 4 We will not, without the Chargee's consent, exercise any right of combination, consolidation or set-off which we may have in respect of the Account.
- 5 This Acknowledgment, and any non-contractual obligations connected with it, is governed by English law.

for and on behalf of

[●]

Date: [●]

Execution Page

DEBENTURE

Rochester Hotel and Chargor

Executed as a Deed for and on behalf)
of ROCHESTER HOTEL L.P.)
acting by its general)
partner of ROCHESTER HOTEL)
GENERAL PARTNER LIMITED)

Signature: 

Print Name: B. HOBBS

Position: DIRECTOR

Signature: 

Print Name: J DAVIES

Position: Director

Chargor

Executed as a Deed for and on behalf)
of ROCHESTER HOTEL NOMINEE)
LIMITED)

Signature: 

Print Name: B. HOBBS

Position: DIRECTOR

Signature: 

Print Name: J DAVIES

Position: Director

The Chargee

Executed as a Deed for and on behalf)
of BANK OF LONDON AND THE)
MIDDLE EAST PLC)

Signature: _____

Print Name: _____

Position: _____

Signature: _____

Print Name: _____

Position: _____

Execution Page

DEBENTURE

Rochester Hotel and Chargor

Executed as a Deed for and on behalf)
of ROCHESTER HOTEL L.P.)
acting by its general)
partner of ROCHESTER HOTEL)
GENERAL PARTNER LIMITED)
)

Signature: _____

Print Name: _____

Position: _____

Signature: _____

Print Name: _____

Position: _____

Chargor

Executed as a Deed for and on behalf)
of ROCHESTER HOTEL NOMINEE)
LIMITED)
)

Signature: _____

Print Name: _____

Position: _____

Signature: _____

Print Name: _____

Position: _____

The Chargee

Executed as a Deed for and on behalf)
of BANK OF LONDON AND THE)
MIDDLE EAST PLC)
)

Signature: _____

Print Name: _____

Position: _____

Signature: _____

Print Name: _____

Position: _____