

LL MR01

Particulars of a charge created by a Limited Liability
Partnership (LLP)



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

You can use the WebFiling service to file this form.
Please go to www.companieshouse.gov.uk

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

☐ **What this form is NOT for**
You may not use this form to
register a charge where the
instrument Use form LL M



A02 *A36VGY74* #405
30/04/2014
COMPANIES HOUSE

This form must be delivered to the Registrar for registration within
21 days beginning with the day after the date of creation of the charge. If
delivered outside of the 21 days it will be rejected unless it is accompanied by a
court order extending the time for delivery

☒ You must enclose a certified copy of the instrument with this form. This will be
scanned and placed on the public record

1

LLP details

LLP number

O C 3 8 9 4 5 4

LLP name in full

Elephant and Castle LLP

2 For official use

→ **Filing in this form**
Please complete in typescript or in
bold black capitals

All fields are mandatory unless
specified or indicated by *

2

Charge creation date

Charge creation date

d 1 d 1 m 0 m 4 y 2 y 0 y 1 y 4

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

Deutsche Pfandbriefbank AG

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

LL MR01

Particulars of a charge created by a Limited Liability Partnership (LLP)

4

Description

Please give a short description of any land (including buildings), ship, aircraft or intellectual property registered (or required to be registered) in the UK which is subject to this fixed charge or fixed security

Continuation page

Please use a continuation page if you need to enter more details

Description

5

Fixed charge or fixed security

Does the instrument include a fixed charge or fixed security over any tangible or intangible (or in Scotland) corporeal or incorporeal property not described above? Please tick the appropriate box

☒ Yes

☐ No

6

Floating charge

Is the instrument expressed to contain a floating charge? Please tick the appropriate box

☐ Yes Continue

☒ No Go to **Section 7**

Is the floating charge expressed to cover all the property and undertaking of the LLP?

☐ Yes

7

Negative Pledge

Do any of the terms of the charge prohibit or restrict the chargor from creating any further security that will rank equally with or ahead of the charge? Please tick the appropriate box

☒ Yes

☐ No

LL MR01

Particulars of a charge created by a Limited Liability Partnership (LLP)

8

Trustee statement ①

You may tick the box if the LLP 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 LL MR06)

9

Signature

Please sign the form here

Signature

Signature

X Allen & Overy LLP on behalf of the chargee X
27/04/2014

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

LL MR01

Particulars of a charge created by a Limited Liability Partnership (LLP)



Presenter information

We will send the certificate to the address entered below. All details given here will be available on the public record. You do not have to show any details here but, if none are given, we will send the certificate to the LLP's Registered Office address.

Contact name **RAJPREET LACHHAR**

LLP name **ALLEN & OVERY LLP**

Address **ONE BISHOPS SQUARE**

Post town **LONDON**

County/Region

Postcode **E 1 6 A D**

Country **ENGLAND**

DX **75 LONDON/CITY**

Telephone **020 3088 4265**



Certificate

We will send your certificate to the presenter's address if given above or to the LLP'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 LLP name and number match the information held on the public Register
- ☐ 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 LLPs registered in England and Wales:

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

For LLPs 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 LLPs registered in Northern Ireland:

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



Further information

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

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



FILE COPY

CERTIFICATE OF THE REGISTRATION OF A CHARGE

LLP number: OC389454

Charge code: OC38 9454 0002

The Registrar of Companies for England and Wales hereby certifies that a charge dated 11th April 2014 and created by ELEPHANT AND CASTLE LLP was delivered pursuant to Part 25 of the Companies Act 2006 as applied by the Limited Liability Partnerships (Application of Companies Act 2006) Regulations 2009 on 30th April 2014.

A handwritten signature in black ink, consisting of a stylized 'D' followed by a vertical line and a diagonal stroke.

Given at Companies House, Cardiff on 6th May 2014



Companies House



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

SUBORDINATED CREDITOR'S SECURITY AGREEMENT

DATED *11 April* 2014

ELEPHANT AND CASTLE LLP

and

CASTLE PROPERTIES CO. LIMITED

and

DEUTSCHE PFANDBRIEFBANK AG
as Security Agent

relating to

Elephant & Castle Shopping Centre and Hannibal House

*Except for material redacted pursuant to
S8599 of the Companies Act 2006 I certify that
this is a correct copy of the original document.*

Allen & Overy LLP

ALLEN & OVERY LLP
ONE BISHOPS SQUARE
LONDON E1 6AD
www.allenoverly.com

CERTIFIED A TRUE COPY

2

29/04/2014

CONTENTS

| Clause | Page |
|---|--------|
| 1. Interpretation | 3 |
| 2. Creation of security | 5 |
| 3. Representations | 5 |
| 4. Restrictions on dealings | 7 |
| 5. Subordinated Documents | 7 |
| 6. When security becomes enforceable | 7 |
| 7. Enforcement of security | 7 |
| 8. Receiver | 8 |
| 9. Powers of Receiver | 9 |
| 10. Application of proceeds | 10 |
| 11. Expenses and indemnity | 11 |
| 12. Delegation | 11 |
| 13. Further assurances | 11 |
| 14. Power of attorney | 12 |
| 15. Miscellaneous | 12 |
| 16. Release | 15 |
| 17. Governing law | 15 |
| 18. Enforcement | 16 |
| Signatories | 18 |

THIS DEED is dated **11 April** 2014 and is made

BETWEEN

- (1) **ELEPHANT AND CASTLE LLP** (Registered in England and Wales as a limited liability partnership under the Limited Liability Partnerships Act 2000 No OC389454) (the **Chargor**),
- (2) **CASTLE PROPERTIES CO. LIMITED** (Registered number 1785222) (the **Company**); and
- (3) **DEUTSCHE PFANDBRIEFBANK AG** (the **Security Agent**) as agent and trustee for the Finance Parties (as defined in the Credit Agreement defined below).

BACKGROUND

- (A) The Chargor enters into this Deed in connection with the Credit Agreement (as defined below)
- (B) It is intended that this document takes effect as a deed notwithstanding the fact that a party may only execute this document under hand

IT IS AGREED as follows:

1. INTERPRETATION

1.1 Definitions

In this Deed

Act means the Insolvency Act, 2003 of the British Virgin Islands

Credit Agreement means the £40,000,000 credit agreement dated **11 APRIL** 2014 between (among others) Elephant and Castle Properties (BVI) Co Limited and the Security Agent

Liability means any present or future liability (actual or contingent), together with.

- (a) any permitted novation, deferral or extension of that liability,
- (b) any further advance which may be made under any agreement expressed to be supplemental to any document in respect of that liability, together with all related interest, fees and costs;
- (c) any claim for damages or restitution in the event of rescission of that liability or otherwise;
- (d) any claim flowing from any recovery by a payment or discharge in respect of that liability on grounds of preference or otherwise; and
- (e) any amount (such as post-insolvency interest) which would be included in any of the above but for its discharge, non-provability, unenforceability or non-allowability in any insolvency or other proceedings

Obligor means the Chargor or an Obligor (as defined in the Credit Agreement).

Party means a party to this Deed.

Receiver means a receiver and manager or a receiver, in each case, appointed under this Deed

Secured Liabilities means all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or in any other capacity whatsoever) of each Obligor to any Finance Party under each Finance Document

Security Assets means all assets of the Chargor the subject of any security created by this Deed.

Security Period means the period beginning on the date of this Deed and ending on the date on which all the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full

Subordinated Debt means all Liabilities payable or owing by the Company to the Chargor.

Subordinated Document has the meaning given to it in the Subordination Agreement

Subordination Agreement means the Subordination Agreement entered into by, amongst others, the Chargor, the Company and the Security Agent

1.2 Construction

- (a) Capitalised terms defined in the Credit Agreement have, unless expressly defined in this Deed, the same meaning in this Deed.
- (b) The provisions of clause 1.2 (Construction) of the Credit Agreement apply to this Deed as though they were set out in full in this Deed except that references to the Credit Agreement will be construed as references to this Deed
- (c)
 - (i) A Finance Document or other agreement or instrument includes (without prejudice to any prohibition on amendments) any amendment to that Finance Document or other agreement or instrument, including any change in the purpose of, any extension of or any increase in the amount of a facility or any additional facility,
 - (ii) the term this **Security** means any security created by this Deed, and
 - (iii) a reference to any asset includes present and future properties, revenues and rights of every description
- (d) Any covenant of the Chargor under this Deed (other than a payment obligation) remains in force during the Security Period.
- (e) If the Security Agent considers that an amount paid to a Finance Party under a Finance Document is capable of being avoided or otherwise set aside on the liquidation or administration of the payer or otherwise, then that amount will not be considered to have been irrevocably paid for the purposes of this Deed.
- (f) Unless the context otherwise requires, a reference to a Security Asset includes the proceeds of sale of that Security Asset

2. CREATION OF SECURITY

2.1 General

- (a) All the security created under this Deed
 - (i) is created in favour of the Security Agent,
 - (ii) is created over present and future assets of the Chargor;
 - (iii) is security for the payment and satisfaction of all the Secured Liabilities, and
 - (iv) is made with full title guarantee
- (b) The Security Agent holds the benefit of this Deed on trust for the Finance Parties

2.2 Subordinated Debt

The Chargor assigns absolutely all of its rights.

- (a) in respect of the Subordinated Debt; and
- (b) under each Subordinated Document

2.3 Acknowledgement

The Company hereby acknowledges and agrees to the assignment as set out in 2.2 above and the provisions of this Deed

3. REPRESENTATIONS

3.1 Representations

The Chargor makes the representations and warranties set out in this Clause to each Finance Party

3.2 Status

- (a) It is a limited liability partnership duly registered and validly existing under the Limited Liability Partnerships Act 2000 (UK)
- (b) It has the power to own its assets and carry on its business as it is being conducted

3.3 Binding obligations

- (a) Subject to the Legal Reservations this Deed creates legal, valid, binding and enforceable obligations in respect of the Chargor
- (b) This Deed is in the proper form for its enforcement in the jurisdiction of its registration

3.4 Non-conflict

The entry into and performance by it of, and the transactions contemplated by, this Deed do not conflict with

- (a) subject to the Legal Reservations, any law or regulation applicable to it,
- (b) its constitutional documents, or
- (c) any document which is binding upon it or any of its assets to an extent or in a manner which has or is reasonably likely to have a Material Adverse Effect

3.5 Powers and authority

It has the power to enter into and perform, and has taken all necessary action to authorise its entry into and performance of, this Deed and the transactions contemplated by this Deed

3.6 Validity and admissibility in evidence

All Authorisations required

- (a) to enable it lawfully to enter into, exercise its rights and comply with its obligations under this Deed, and

- (b) to make this Deed admissible in evidence in its jurisdiction of registration,

have been obtained or effected and are in full force and effect

3.7 Nature of security

Subject to the Legal Reservations, this Deed creates those Security Interests it purports to create and is not liable to be avoided or otherwise set aside on its liquidation or administration or otherwise

3.8 Subordinated Debt

- (a) The Chargor is the sole legal and beneficial owner of the Subordinated Debt
- (b) The Subordinated Debt is free of any Security Interests (except those created by or under this Deed) and any other rights or interests in favour of third parties
- (c) All payments to it by any other party to a Subordinated Document are not subject to any right of set-off or similar right.
- (d) Each Subordinated Document is its legally binding, valid, and enforceable obligation
- (e) Neither it nor (so far as it is aware) any other party to a Subordinated Document is in default of any of its material obligations under that Subordinated Document.
- (f) There is no prohibition on assignment in respect of any of the Subordinated Debt or its rights under any Subordinated Document

3.9 Times for making representations

- (a) The representations and warranties set out in this Deed are made on the date of this Deed.
- (b) Each representation or warranty under this Deed is deemed to be repeated by the Chargor on the date of each Request, the Utilisation Date and the first day of each Interest Period.

- (c) When a representation or warranty is repeated, it is applied to the circumstances existing at the time of repetition.

4. RESTRICTIONS ON DEALINGS

Save as permitted under the Credit Agreement, the Chargor must not

- (a) create or allow to subsist any Security Interest (other than this Deed) on any Security Asset; or
- (b) sell, transfer, licence, lease or otherwise dispose of any Security Asset

5. SUBORDINATED DOCUMENTS

- (a) The Chargor must.
 - (i) subject to the terms of the Subordination Agreement, duly and promptly perform its obligations under each Subordinated Document, and
 - (ii) supply the Security Agent and any Receiver with copies of each Subordinated Document and any information and documentation relating to any Subordinated Document reasonably requested by the Security Agent or any Receiver.
- (b) After this Security has become enforceable, the Security Agent may exercise, without any further consent or authority on the part of the Chargor and irrespective of any direction given by the Chargor, any of the Chargor's rights under any Subordinated Document

6. WHEN SECURITY BECOMES ENFORCEABLE

6.1 Event of Default

This Security will become immediately enforceable if an Event of Default occurs and is outstanding

6.2 Discretion

After this Security has become enforceable, the Security Agent may in its absolute discretion enforce all or any part of this Security in any manner it sees fit or as the Majority Lenders direct.

6.3 Statutory powers

Any power of sale or other powers conferred by section 40 of the Conveyancing and Law of Property Act 1961 (as amended) (the "CLPA") as amended by this Deed, will be immediately exercisable at any time after this Security has become enforceable

7. ENFORCEMENT OF SECURITY

7.1 General

- (a) For the purposes of all powers implied by statute, the Secured Liabilities are deemed to have become due and payable on the date of this Deed
- (b) The restriction on the consolidation of mortgages imposed by section 35 of CLPA shall not apply to this Deed and the provisions of section 40 of the CLPA shall be

varied and/or extended to the extent that the provisions of this Deed are inconsistent with the provisions of such section.

7.2 No liability as mortgagee in possession

Neither the Security Agent nor any Receiver will be liable, by reason of entering into possession of a Security Asset, to account as mortgagee in possession or for any loss on realisation or for any default or omission for which a mortgagee in possession might be liable.

7.3 Protection of third parties

No person (including a purchaser) dealing with the Security Agent or a Receiver or its or his agents will be concerned to enquire

- (a) whether the Secured Liabilities have become payable;
- (b) whether any power which the Security Agent or a Receiver is purporting to exercise has become exercisable or is being properly exercised,
- (c) whether any money remains due under the Finance Documents; or
- (d) how any money paid to the Security Agent or to that Receiver is to be applied.

7.4 Redemption of prior mortgages

- (a) At any time after this Security has become enforceable, the Security Agent may:
 - (i) redeem any prior Security Interest against any Security Asset; and/or
 - (ii) procure the transfer of that Security Interest to itself, and/or
 - (iii) settle and pass the accounts of the prior mortgagee, chargee or encumbrancer, any accounts so settled and passed will be, in the absence of manifest or proven error, conclusive and binding on the Chargor.
- (b) The Chargor must pay or cause to be paid to the Security Agent, immediately on demand, the costs and expenses incurred by the Security Agent in connection with any such redemption and/or transfer, including the payment of any principal or interest

7.5 Contingencies

If this Security is enforced at a time when no amount is due under the Finance Documents but at a time when amounts are reasonably likely to (as determined by the Security Agent) or will become due, the Security Agent (or the Receiver) may pay the proceeds of any recoveries effected by it into a suspense account.

8. RECEIVER

8.1 Appointment of Receiver

- (a) Except as provided below, the Security Agent may appoint any one or more persons eligible to be appointed as a receiver under the Act as the Security Agent thinks fit to be a Receiver of all or any part of the Security Assets if:
 - (i) this Security has become enforceable, or

- (ii) the Chargor so requests the Security Agent in writing at any time
- (b) Any appointment under paragraph (a) above may be by deed, under seal or in writing under its hand.

8.2 Removal

The Security Agent may by writing under its hand remove any Receiver appointed by it and may, whenever it thinks fit, appoint a new Receiver in the place of any Receiver whose appointment may for any reason have terminated

8.3 Remuneration

The Security Agent may fix the remuneration of any Receiver appointed by it.

8.4 Agent of the Chargor

- (a) A Receiver will be deemed to be the agent of the Chargor for all purposes and accordingly will be deemed to be in the same position as a Receiver duly appointed by a mortgagee under the Act. The Chargor alone is responsible for the contracts, engagements, acts, omissions, defaults and losses of a Receiver and for liabilities incurred by a Receiver
- (b) No Finance Party will incur any liability (either to the Chargor or to any other person) by reason of the appointment of a Receiver or for any other reason

8.5 Relationship with Security Agent

To the fullest extent allowed by law, any right, power or discretion conferred by this Deed (either expressly or impliedly) or by law on a Receiver may after this Security becomes enforceable be exercised by the Security Agent in relation to any Security Asset without first appointing a Receiver and notwithstanding the appointment of a Receiver

9. POWERS OF RECEIVER

9.1 General

- (a) A Receiver has all of the rights, powers and discretions set out below in this Clause in addition to those conferred on it by any law, this includes all the rights, powers and discretions conferred on a receiver under the Act
- (b) If there is more than one Receiver holding office at the same time, each Receiver may (unless the document appointing him states otherwise) exercise all of the powers conferred on a Receiver under this Deed individually and to the exclusion of any other Receiver.

9.2 Possession

A Receiver may take immediate possession of, get in and collect any Security Asset

9.3 Sale of assets

- (a) A Receiver may sell, exchange, convert into money and realise any Security Asset by public auction or private contract and generally in any manner and on any terms which he thinks fit

- (b) The consideration for any such transaction may consist of cash, debentures or other obligations, shares, stock or other valuable consideration and any such consideration may be payable in a lump sum or by instalments spread over any period which he thinks fit

9.4 Compromise

A Receiver may settle, adjust, refer to arbitration, compromise and arrange any claim, account, dispute, question or demand with or by any person who is or claims to be a creditor of the Chargor or relating in any way to any Security Asset

9.5 Legal actions

A Receiver may bring, prosecute, enforce, defend and abandon any action, suit or proceedings in relation to any Security Asset which he thinks fit.

9.6 Receipts

A Receiver may give a valid receipt for any moneys and execute any assurance or thing which may be proper or desirable for realising any Security Asset.

9.7 Delegation

A Receiver may delegate his powers in accordance with this Deed

9.8 Other powers

A Receiver may

- (a) do all other acts and things which he may consider desirable or necessary for realising any Security Asset or incidental or conducive to any of the rights, powers or discretions conferred on a Receiver under or by virtue of this Deed or law,
- (b) exercise in relation to any Security Asset all the powers, authorities and things which he would be capable of exercising if he were the absolute beneficial owner of that Security Asset, and
- (c) use the name of the Chargor for any of the above purposes.

10. APPLICATION OF PROCEEDS

Any moneys received by the Security Agent or any Receiver after this Security has become enforceable must be applied in the following order of priority:

- (a) in or towards payment of or provision for all costs and expenses incurred by the Security Agent or any Receiver under or in connection with this Deed and of all remuneration due to any Receiver under or in connection with this Deed,
- (b) in or towards payment of or provision for the Secured Liabilities, and
- (c) in payment of the surplus (if any) to the Chargor or other person entitled to it

This Clause is subject to the payment of any claims having priority over this Security. This Clause does not prejudice the right of any Finance Party to recover any shortfall from the Chargor.

11. EXPENSES AND INDEMNITY

The Chargor must

- (a) promptly on written demand pay or cause to be paid, without double counting, all costs and expenses (including legal fees) incurred in connection with this Deed by any Finance Party, Receiver, attorney, manager, agent or other person appointed by the Security Agent under this Deed including any arising from any actual or alleged breach by any person of any law or regulation, and
- (b) keep each of them indemnified against any failure or delay in paying those costs or expenses

12. DELEGATION

12.1 Power of Attorney

The Security Agent or any Receiver may delegate by power of attorney or in any other manner to any person any right, power or discretion exercisable by it under this Deed.

12.2 Terms

Any such delegation may be made upon any terms (including power to sub-delegate) which the Security Agent or any Receiver may think fit

12.3 Liability

Neither the Security Agent nor any Receiver will be in any way liable or responsible to the Chargor for any loss or liability arising from any act, default, omission or misconduct on the part of any delegate or sub-delegate

13. FURTHER ASSURANCES

The Chargor must, at its own expense or at the expense of the Obligors, take whatever action the Security Agent or a Receiver may require for

- (a) creating, perfecting or protecting any security intended to be created by this Deed, or
- (b) following this Security becoming enforceable in accordance with Clause 6.1 (Event of Default), or as otherwise agreed between the Parties, facilitating the realisation of any Security Asset, or the exercise of any right, power or discretion exercisable, by the Security Agent or any Receiver or any of its delegates or sub-delegates in respect of any Security Asset

This includes:

- (i) the execution of any transfer, conveyance, assignment or assurance of any property, whether to the Security Agent or to its nominee; or
- (ii) the giving of any notice, order or direction and the making of any registration,

which, in any such case, the Security Agent considers necessary

14. POWER OF ATTORNEY

The Chargor, by way of security, irrevocably and severally appoints the Security Agent, each Receiver and any of its delegates or sub-delegates to be its attorney to take any action which the Chargor is obliged to take under this Deed but has failed to do so. The Chargor ratifies and confirms whatever any attorney does or purports to do under its appointment under this Clause

15. PRESERVATION OF SECURITY

15.1 Continuing security

This Security is a continuing security and will extend to the ultimate balance of the Secured Liabilities regardless of any intermediate payment or discharge in whole or in part

15.2 Reinstatement

If any discharge, release or arrangement (whether in respect of the obligations of any Obligor or any security for those obligations or otherwise) is made 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, the liability of the Chargor under this Deed will continue or be reinstated as if the discharge, release or arrangement had not occurred

15.3 Waiver of defences

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

- (a) any time, waiver or consent granted to, or composition with, any Obligor or other person,
- (b) the release of any other Obligor or any other person under the terms of any composition or arrangement with any creditor;
- (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 Obligor or any other person,
- (d) any non-presentation or non-observance of any formality or other requirement in respect of any instruments or any failure to realise the full value of any security,
- (e) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of an Obligor or any other person,
- (f) any amendment of any Finance Document or any other document or security including without limitation any change in the purpose of, any extension of or any increase in any facility or the addition of any new facility under any Finance Document or other document or security;
- (g) any unenforceability, illegality, invalidity or non-provability of any obligation of any person under any Finance Document or any other document or security, or

- (h) any insolvency or similar proceedings

15.4 Immediate recourse

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

15.5 Appropriations

Each Finance Party (or any trustee or agent on its behalf) may at any time during the Security Period

- (a) refrain from applying or enforcing any other moneys, security or rights held or received by that Finance Party (or any trustee or agent on its behalf) against the Secured Liabilities or apply and enforce them in such manner and order as it sees fit (whether against the Secured Liabilities or otherwise) and the Chargor will not be entitled to the benefit of such moneys, security or rights; and
- (b) hold in an interest bearing suspense account any moneys received from the Chargor or on account of the liability of the Chargor under this Deed until the Security Agent (at its discretion) determines that a sufficient amount is standing to the credit of that account that it is entitled to apply to enable the Senior Debt Discharge Date (as defined in the Subordination Agreement) to occur, at which point it shall be applied against the Senior Debt (as defined in the Subordination Agreement)

15.6 Deferral of Chargor's rights

Unless the Security Period has expired or the Security Agent 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 amount being payable, or liability arising under this Clause

- (a) to be indemnified by an Obligor,
- (b) to claim any contribution from any other guarantor of any Obligor's obligations under the Finance Documents,
- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Finance Parties under the Finance Documents or of any other guarantee or security taken pursuant to, or in connection with, the Finance Documents by any Finance Party,
- (d) to bring legal or other proceedings for an order requiring any Obligor to make any payment, or perform any obligation, in respect of which the Chargor has given a guarantee, undertaking or indemnity under this Clause;
- (e) to exercise any right of set-off against any Obligor; and/or
- (f) to claim or prove as a creditor of any Obligor in competition with any Finance Party

If the Chargor receives any benefit, payment or distribution in relation to such rights it must hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to the Finance Parties by the Obligors under or in connection with the Finance Documents to be repaid in full on trust for the Finance Parties and must promptly pay or transfer them to the Facility Agent or as the Facility Agent may direct for application in accordance with clause 14 (Payments) of the Credit Agreement.

15.7 Additional security

This Security is in addition to and is not in any way prejudiced by any other guarantee or security now or subsequently held by any Finance Party

16. CHANGES TO THE PARTIES

16.1 The Chargor

The Chargor may not assign or transfer any of its rights or obligations under this Deed without the prior consent of the Security Agent.

16.2 The Finance Parties

- (a) Any Finance Party may assign or otherwise dispose of all or any of its rights under this Deed in accordance with the Finance Documents to which it is a party
- (b) References to the Security Agent in this Deed include any successor Security Agent appointed under the Credit Agreement.

17. MISCELLANEOUS

17.1 Covenant to pay

- (a) The Chargor must pay or discharge the Secured Liabilities in the manner provided for in the Finance Documents
- (b) The recourse of the Finance Parties to the Chargor in respect of its obligations under paragraph (a) is limited to the Security Assets

17.2 Tacking

Each Lender must perform its obligations under the Credit Agreement (including any obligation to make available further advances)

17.3 New Accounts

- (a) If any subsequent charge or other interest affects any Security Asset, the Finance Party may open a new account with the Chargor
- (b) If the Finance Party does not open a new account, it will nevertheless be treated as if it had done so at the time when it received or was deemed to have received notice of that charge or other interest.
- (c) As from that time all payments made to the Finance Party will be credited or be treated as having been credited to the new account and will not operate to reduce any Secured Liability

18. RELEASE

At the end of the Security Period, the Finance Parties must, at the request and cost of the Chargor, take whatever action is necessary to release the Security Assets from this Security.

19. NOTICES

19.1 Communications in writing

Any communication in connection with this Deed must be in writing and, unless otherwise stated, may be given in person, by post or fax

19.2 Addresses

- (a) The contact details for the Chargor for any communication to be made or delivered under or in connection with this Deed are:

Address: 6th Floor, Lansdowne House, Berkeley Square, London W1J 6ER, United Kingdom

Fax number: +44 (0)207 448 1449

Attention: Stafford Lancaster/Lesley Chen Davison

- (b) The contact details of the Security Agent for any communication to be made or delivered under or in connection with this Deed are the same as those set out in the Credit Agreement for the Security Agent.
- (c) Any Party may change its contact details by giving five Business Days' notice to the Security Agent or (in the case of the Security Agent) to the other Party.
- (d) Where the Security Agent nominates a particular department or officer to receive a communication, a communication will not be effective if it fails to specify that department or officer.

19.3 Effectiveness

- (a) Except as provided below, any communication in connection with this Deed will be deemed to be given as follows:
- (i) if delivered in person, at the time of delivery;
 - (ii) if posted, five Business Days after being deposited in the post, postage prepaid, in a correctly addressed envelope, and
 - (iii) if by fax, when received in legible form
- (b) A communication given under paragraph (a) above but received on a non-working day or after business hours in the place of receipt will only be deemed to be given on the next working day in that place
- (c) A communication to the Security Agent will only be effective on actual receipt by it

19.4 English language

- (a) Any notice made given in connection with this Deed must be in English
- (b) Any other document provided under or in connection with this Deed must be:
 - (i) in English, or
 - (ii) (unless the Security Agent otherwise agrees) accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a statutory or other official document.

20. PARTIAL INVALIDITY

If, at any time, any term of this Deed is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction that will not affect

- (a) the legality, validity or enforceability in that jurisdiction of any other term of this Deed, or
- (b) the legality, validity or enforceability in other jurisdictions of that or any other term of this Deed

21. REMEDIES AND WAIVERS

No failure to exercise, nor any delay in exercising, on the part of any Finance Party, any right or remedy under this Deed will operate as a waiver, nor will any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Deed are cumulative and not exclusive of any rights or remedies provided by law and may be waived only in writing and specifically

22. COUNTERPARTS

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

23. GOVERNING LAW

This Deed and any non-contractual obligations arising out of or in connection with it are governed by the laws of the British Virgin Islands.

24. ENFORCEMENT

24.1 Jurisdiction

- (a) The courts of the British Virgin Islands have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute relating to existence, validity or termination of this Deed or any non-contractual obligation arising out of or in connection with this Deed) (a **Dispute**)
- (b) The Parties agree that the courts of the British Virgin Islands are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary
- (c) This Clause is for the benefit of the Finance Parties only. As a result, to the extent allowed by law

- (i) no Finance Party will be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction, and
- (ii) the Finance Parties may take concurrent proceedings in any number of jurisdictions

24.2 Service of process

- (a) Without prejudice to any other mode of service allowed under any relevant law, the Chargor
 - (i) irrevocably appoints the Company as its agent under this Deed for service of process in relation to any proceedings before the courts of the British Virgin Islands in connection with this Deed; and
 - (ii) agrees that any failure by a process agent to notify it of the process will not invalidate the proceedings concerned
- (b) The Company irrevocably agrees to act as the Chargor's agent for service of process in the British Virgin Islands for the duration of the Security Period.
- (c) If any person appointed as process agent under this Clause is unable for any reason to so act, the Chargor must immediately (and in any event within five days of the event taking place) appoint another agent on terms acceptable to the Security Agent. Failing this, the Security Agent may appoint another process agent for this purpose

24.3 Waiver of immunity

The Chargor irrevocably and unconditionally:

- (a) agrees not to claim any immunity from proceedings brought by a Finance Party against it in relation to this Deed and to ensure that no such claim is made on its behalf,
- (b) consents generally to the giving of any relief or the issue of any process in connection with those proceedings, and
- (c) waives all rights of immunity in respect of it or its assets

THIS DEED has been entered into as a deed on the date stated at the beginning of this Deed.

SIGNATORIES

Chargor

**EXECUTED as a DEED by
ELEPHANT AND CASTLE LLP**

By: [REDACTED]

Title: [REDACTED]

In the presence of: [REDACTED]

Address: [REDACTED]

Fax: [REDACTED]

Attention: [REDACTED]

Company

**EXECUTED AS A DEED by)
CASTLE)
PROPERTIES CO. LIMITED)
acting by)**

Director

Security Agent

**DEUTSCHE
PFANDBRIEFBANK AG**

By:

SIGNATORIES

Chargor

**EXECUTED as a DEED by
ELEPHANT AND CASTLE LLP**

By:

Title:

In the presence of:

Address:

Fax:

Attention:

Company

**EXECUTED AS A DEED by)
CASTLE)
PROPERTIES CO. LIMITED)
acting by)**



Director

Security Agent

**DEUTSCHE
PFANDBRIEFBANK AG**

By:

SIGNATORIES

Chargor

**EXECUTED as a DEED by
ELEPHANT AND CASTLE LLP**

By:

Title:

In the presence of:

Address:

Fax:

Attention:

Company

**EXECUTED AS A DEED by)
CASTLE)
PROPERTIES CO. LIMITED)
acting by)**

Director

Security Agent

**DEUTSCHE
PFANDBRIEFBANK AG**

By:

