



**Registration of a Charge**

Company name: **WINE IMPORTERS (EDINBURGH) LIMITED**

Company number: **SC057340**



X7DPQA57

Received for Electronic Filing: **03/09/2018**

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**Details of Charge**

Date of creation: **27/08/2018**

Charge code: **SC05 7340 0007**

Persons entitled: **BARCLAYS BANK PLC**

Brief description:

**Contains floating charge(s) (floating charge covers all the property or undertaking of the company).**

**Contains negative pledge.**

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**Authentication of Form**

This form was authorised by: **a person with an interest in the registration of the charge.**

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**Authentication of Instrument**

Certification statement: **I CERTIFY THAT SAVE FOR MATERIAL REDACTED PURSUANT TO S.859G OF THE COMPANIES ACT 2006 THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by:

**BARCLAYS BANK PLC**



## **CERTIFICATE OF THE REGISTRATION OF A CHARGE**

Company number: 57340

Charge code: SC05 7340 0007

The Registrar of Companies for Scotland hereby certifies that a charge dated 27th August 2018 and created by WINE IMPORTERS (EDINBURGH) LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 3rd September 2018 .

Given at Companies House, Edinburgh on 3rd September 2018

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

The company/LLP executing this Floating Charge understands that this document (including any attachments) will be available for inspection by any person upon application to Companies House

## ***Floating Charge***

IMPORTANT – PLEASE READ THIS NOTE BEFORE THIS FLOATING CHARGE IS EXECUTED

- This Floating Charge is an important legal document. The Security Holder strongly recommends that the Company seek the advice of a solicitor or other legal adviser before executing this Floating Charge.
- This is a Floating Charge over the Property referred to in this document.
- The Security Holder will hold this Floating Charge as security for all debts and other liabilities owed to the Secured Parties by the Company, including under the agreement to pay contained in Clause 3 of this document. This includes amounts owed to the Bank under the Agreement.
- The Company's liabilities under this Floating Charge will include any liabilities owed under any guarantee or indemnity which the Company has given to or may give to the Secured Parties in the future.
- If any of the debts or liabilities secured by this Floating Charge are not paid when due, the Security Holder can appoint an administrator and/or a receiver, or take possession of the property and any of the assets charged by this Floating Charge and sell them.
- This Floating Charge is separate from and not limited by any other security or guarantee which the Company may have already given or may give to any member of the Barclays Group in the future.

WE, Wine Importers (Edinburgh) Limited, incorporated under the Companies Acts in Scotland (company number SC057340) and having our registered office at Thistle House, Caputhall Road, Deans Industrial Estate Livingston EH54 8AS (the "Company")

WHEREAS

(A) In this instrument, the following expressions shall have the following meanings:-

"Act" means the Insolvency Act 1986;

"Administrator" has the same meaning as in Schedule B1 to the Act;

"Agreement" means any subsisting form of agreement for the sale and purchase or factoring or discounting of debts made between the Company and Barclays Bank PLC and any extension of, amendment to and replacement for such agreement made from time to time;

"Bank" means Barclays Bank PLC;

"Barclays Group" means Barclays PLC and its Subsidiaries;

"Debts" means each and every obligation due to us under each and every contract between the Company and a third party for the supply of goods or the provision of services or work done and materials supplied or hiring (including any tax or duty payable) whether present, future or contingent and all their Related Rights; a Debt where the context permits, includes part of such obligation or part of such Related Rights;

"Non-Vesting Debts" means all Debts which do not, for any reason vest absolutely and effectively in the Bank from time to time together with the Related Rights to such Debts and the proceeds of Related Rights;

"Obligations" means all monies and liabilities which are now or shall become due, owing or incurred by us to the Secured Parties in any manner actually or contingently, solely or jointly, as principal or surety and whether or not any of the Secured Parties shall have been an original party to the relevant transaction including without limitation under the Agreement together with interest (after as well as before decree or judgment or demand) and all legal administrative and other charges, costs, expenses and payments incurred by the Secured Parties in the preparation, negotiation, entry into or performance of this instrument or in enforcing the security created by us on a full indemnity basis;

**"Other Debts"** means all debts or monetary amounts owing to us now or in the future (including, without limitation, all sums owing by us to the Bank under the Agreement and all overpayments or other sums refundable to us by any person) excluding only Non Vesting Debts, Debts absolutely and effectively purchased by the Bank or held on trust for the Bank or any of the Secured Parties under the Agreement (unless re-assigned or due to be reassigned by the Bank to us) and debts owing to us on fluctuating accounts with our associates (as defined by section 1260(3) of the Companies Act 2006);

**"Property"** means all our undertaking, assets and rights whatsoever and wheresoever, both present and future, including, without limitation, our stock in trade and our uncalled capital;

**"Property Assets"** means heritable, freehold or leasehold property forming part of the Property;

**"Receiver"** means one or more persons appointed by any person or by the court as receiver and/or manager or as administrative receiver to us over any of the Property under the Act or in any other manner of way, including any substitute appointed in place of any previous appointee;

**"Related Rights"** means in relation to any Debts or returned goods – any of the following:

- all our rights at law as an unpaid vendor or under a contract of sale but without any obligation on the Security Holder to complete a contract of sale;
- the benefit of all insurances;
- all negotiable and non-negotiable instruments, all securities, bonds, guarantees and indemnities;
- all our rights to any ledger, computer or electronic data or materials or document recording or evidencing a Debt or its Related Rights; and
- all returned goods being goods relating to or purporting to comply with a contract of sale which any debtor shall for any reason:
  - reject or give notice of rejection; or
  - return or attempt to or wish to return to us or the Security Holder; or
  - which we or the Security Holder recover from a debtor;

**"Subsidiary"** means a subsidiary undertaking as defined in the Companies Act 2006;

**"we", "our", and "us"** refer to the Company; and

**"you" and "your"** refer to the Security Holder or any of the Secured Parties, as appropriate.

(B) In this deed, unless the context otherwise requires:-

- (i) the singular shall include the plural and vice versa and any reference to one gender shall include the other;
- (ii) references to clauses (unless otherwise specified) are references to clauses of this Floating Charge;
- (iii) the meaning of general words introduced by the word "other" shall not be limited by reference to any preceding word or enumeration indicating a particular class of acts matters or things;
- (iv) reference to any statute or legislative provision shall be deemed to include any statutory or legislative modification, re-enactment or substitution of such statute or provision and where applicable any equivalent statute or legislation in another jurisdiction;
- (v) the expression "receiver" shall mean a receiver and manager of a receiver; and
- (vi) references to any of the parties shall be construed so as to include their respective successors and permitted assignees and transferees.

(C) The Company hereby BINDS and OBLIGES itself to pay to the Secured Parties at such time or times as are provided for in clause 3 all the Obligations;

THEREFORE IN SECURITY of the payment, performance and discharge in full by the Company of the Obligations THE COMPANY DOES HEREBY GRANT [in favour of BARCLAYS BANK PLC of 1 Churchill Place, London E14 5HP but

whose address for service is Level 5, One Snowhill, Snow Hill Queensway, Birmingham, B4 6GN (the "Security Holder" and the "Secured Parties")) / [in favour of BARCLAYS SECURITY TRUSTEE LIMITED as security trustee (in such capacity the "Security Holder") for itself and for each of BARCLAYS BANK PLC, BARCLAYS BANK UK PLC and BARCLAYS MERCANTILE BUSINESS FINANCE LIMITED (together with the SecurityHolder, the "Secured Parties", which term shall include all, each or any of them as the context permits) of 1 Churchill Place, London E14 5HP but whose address for service is Level 5, One Snowhill, Snow Hill Queensway, Birmingham, B4 6GN] a Floating Charge over the Property and the Floating Charge hereby created shall be a qualifying Floating Charge and paragraph 14 of Schedule B1 of the Act shall apply to it;

And the Company hereby undertakes and agrees as follows:-

## 1 Ranking

1.1 Except as herein otherwise provided or as may hereafter be otherwise agreed in writing by the Security Holder, the Floating Charge hereby created shall, subject to section 464(2) of the Companies Act 1985, rank in priority to any fixed security as defined in Section 70 of the Act and any other floating charge, being a fixed security or floating charge which shall have been created by us after our execution hereof. Furthermore:-

1.1.1 without the previous consent in writing of the Security Holder we shall not be entitled or at liberty to create or grant any such fixed security or floating charge or any other security, mortgage, standard security or charge affecting the Property or any part thereof, heritable or moveable, or to sell, dispose of or deal with, otherwise than in the ordinary course of our business and for the purpose of carrying on that business, our book or other debts or securities for money (other than to the Secured Parties) or any other part of the Property, heritable or moveable, declaring that the sale or assignation or other disposal of any such debts or securities in connection with the factoring or discounting thereof (other than to the Secured Parties) shall not be deemed to be in the ordinary course of business; and

1.1.2 any such fixed security already subsisting in favour of the Secured Parties or which may at any time hereafter be granted by us in favour of the Secured Parties shall rank in priority to the Floating Charge hereby created.

## 2 Undertakings Regarding Security

2.1 During the subsistence of the Floating Charge hereby created we shall, on being so requested by the Security Holder in writing, forthwith grant in favour of the Security Holder a fixed security or fixed securities in the usual form adopted by the Security Holder over any heritable property or heritable properties which may now or from time to time hereafter belong to us and/or a fixed security or fixed securities in the usual form adopted by the Security Holder over any or all of the Debts, the Non-Vesting Debts, the Other Debts or securities for money, or any other moveable property, corporeal or incorporeal, which may now or from time to time hereafter belong or be owing to us.

2.2 The security created by this instrument shall be a continuing security notwithstanding any settlement of account or other matter or thing whatsoever and in particular (but without prejudice to the generality of the foregoing) shall not be considered satisfied by any intermediate performance, discharge, repayment or satisfaction of part only of the Obligations and shall continue in full force and effect until total and irrevocable payment and satisfaction of such Obligations.

## 3 Undertaking to Pay

Subject and without prejudice to the provisions of Clause 8 hereof, the Obligations shall be repaid, satisfied, performed and discharged by us to the Secured Parties either upon demand (made by notice in writing) or in accordance with any agreement in writing entered into by us with the Security Holder providing for repayment, satisfaction, performance or discharge otherwise than on demand, with interest thereon at the rate or rates charged and computed as may be provided in such agreement or otherwise in accordance with the ordinary practice of the Security Holder from time to time (the Security Holder being entitled,

subject and without prejudice to the provisions of any such agreement, to fix such rates of interest and alter the same from time to time and to accumulate the interest in accordance with the Security Holder's standard practice) and also with all expenses and other charges of every kind and description, extra-judicial as well as judicial, which the Secured Parties may incur in any way in relation to said sums and obligations or under this Floating Charge.

#### 4 The Security Holder's Certificate Conclusive

Any certificate signed by any director or other authorised official of the Security Holder certifying the amount of the Obligations at the date of such certificate shall, in the absence of manifest error, be sufficient and conclusive evidence of such amount and shall be binding on us.

#### 5 The Security Holder's Powers

It shall be in the power of the Security Holder at its own discretion and without consulting us, to transact or compromise with or give time to us or any other person on any obligations without impairing or affecting our liability hereunder and the security created by this instrument shall be in addition to and shall not be in any way prejudiced or affected by any collateral or other security, heritable or moveable, or guarantees held by the Security Holder or any other member of the Barclays Group for any sums and obligations due or to become due by us to the Secured Parties from time to time, it being always in the power of the Security Holder to sell, dispose of, surrender or abandon all or any part of such securities or the shares of property to which they relate or allow these to be sold, disposed of, surrendered or abandoned and to apply the same to any account or item of account or any transaction to which the same may be applicable or to give up, cancel or relinquish any of the said guarantees and the obligations hereby undertaken by us shall remain in full force and effect in the same manner and to the same extent as if no such securities or guarantees had ever existed.

#### 6 Our Obligations

##### 6.1 We agree that we shall:-

6.1.1 pay into a current account or a separate designated account (as the Security Holder may require) all moneys which we may receive in respect of the Other Debts and (subject to any rights of the Security Holder in respect thereof) pay or otherwise deal with such moneys standing in such account only in accordance with any directions from time to time given in writing by the Security Holder;

6.1.2 deal with such Other Debts in accordance with any directions from time to time given in writing by the Security Holder and in default of and subject to any such directions deal with the same only in the ordinary course of getting in and realising the same (but not sell, assign, factor, discount or hold on trust the same in any way);

6.1.3 only deal with Non-Vesting Debts as if they were Debts and their Related Rights purchased by the Bank under the Agreement and in particular not bank or deal with any payments (by whatever method) in respect of the Non-Vesting Debts except by dealing with them in accordance with the Agreement.

##### 6.2 As regards the insurance of our Property and also matters relating to land and buildings comprised in our Property or tenancies or rights of possession or occupancy of land or buildings:-

6.2.1 we shall insure and keep insured those parts of the Property as are of an insurable nature with such insurer and against such risks as the Security Holder shall require to their full insurable value with the Security Holder's interest noted on each policy, produce to the Security Holder the receipts for each current premium on demand and apply any insurance proceeds in making good the relevant loss or damage or, at the Security Holder's option, in or towards discharge of the Obligations;

- 6.2.2 pending the application of any insurance proceeds we receive in accordance with clause 6.2.1, we shall hold the same in trust for the Security Holder;
- 6.2.3 except in the ordinary course of business as currently carried on by us, we shall not dispose of any of the Property or any interest therein;
- 6.2.4 without prejudice to the generality of clause 6.2.3, except in the ordinary course of business as currently carried on by us, we shall not be entitled to grant any interest in, let or grant leases or sub-leases or other rights of occupancy or possession of the Property Assets or any part thereof nor to create or confer any servitudes, easements or wayleaves or other rights against or affecting such Property Assets or any part thereof without having first obtained the consent thereto of the Security Holder in writing. Further, we may not sell, transfer, assign, dispose of or grant any interest in or relating to our goodwill, including diverting or encouraging the diversion of any sales following orders from customers to any of our Subsidiaries or our holding company or any Subsidiary of our holding company or any of our or their associates (as defined in section 435 of the Act).
- 6.3 We shall punctually pay all outgoings relating to the Property and produce receipts therefor to the Security Holder on request and comply with all laws concerning the Property and every notice, order, direction, licence, consent or permission lawfully made or given in respect of it or any part thereof.
- 6.4 We shall not pull down, remove, redevelop or materially alter the whole or any part of the Property Assets and shall keep the Property Assets in good and substantial repair and condition and in good working order and allow the Security Holder free access at all reasonable times to view the state and condition of the Property Assets (though without the Security Holder being deemed thereby to be a creditor in possession).
- 6.5 We shall conduct and carry on our business, and procure that each of our Subsidiaries conducts and carries on its business, so that our (and its) centre of main interest for the purposes of Council Regulation (EC) No 1346/2000 of 29 May 2000 on Insolvency Proceedings, including but not limited to our (or its) headquarter functions, is located at all times within the United Kingdom and not move our (or its) centre of main interest to any other jurisdiction without the prior written consent of the Security Holder at the Security Holder's sole discretion or otherwise reduce in or divert from the United Kingdom the substantive management and control of our (or its) business or any of our (or its) properties.
- 6.6 We shall have, maintain and comply with all permits, licences or other approvals required by all laws, directions and regulations and all codes of practice, circulars and guidance notes issued by any competent authority or agency concerning the protection of the environment (which shall include air, water and land) or human health (each an "Environmental Law") needed for our use or occupation of the Property (or any part thereof) or for the conduct of any business we are engaged in from time to time and shall not do or permit to be done any act or omission which could result in any liability being imposed on the Security Holder under any applicable Environmental Law.
- 6.7 We shall forthwith on demand pay for an environmental audit of such type as the Security Holder shall specify in relation to any of the Property and, in any event, shall permit the Security Holder, its agents, employees, and any firm of environmental consultants engaged by it, to have full access to all our properties, assets, books and records for the purpose of carrying out any such environmental audit.
- 6.8 We hereby warrant that we are not in breach of, and have not incurred or become subject to, any civil or criminal liability under any Environmental Laws or the terms of any Environmental Licence and that we have not done or omitted to do anything which could impose any liability on the Security Holder under any applicable Environmental Law.
- 6.9 If we fail to carry out any of our obligations under clauses 6.1 to 6.7 the Security Holder may do so (though without being deemed thereby to be a creditor in possession) and may recover any



payments made by it relating thereto from us on demand until which time such payments shall form part of the Obligations.

## **7 Representations and Warranties**

We represent and warrant to the Security Holder that:-

- 7.1 we have the power and authority to grant this Floating Charge and to perform our obligations under it;
- 7.2 we have taken all necessary corporate action to authorise the execution and delivery of this Floating Charge and authorise the performance of our obligations under it;
- 7.3 this Floating Charge constitutes our valid, binding and enforceable obligations;
- 7.4 neither the granting of this Floating Charge nor the performance of our obligations under it will contravene any law or regulation or any agreement to which we are party or by which we are bound nor will it cause any limitation of any of our powers however imposed or the right or ability of our directors to exercise any of such powers to be exceeded; and
- 7.5 all authorisations required for the entry into, performance, validity and enforceability of this Floating Charge by us and for the conduct of our business have been obtained and are in full force and effect.

## **8 Payment of Obligations**

The Obligations shall, without any demand being made therefor, also fall to be repaid, satisfied, performed or discharged to the Secured Parties immediately upon the occurrence of any of the following events:-

- 8.1 on an order being made or a resolution being passed for our winding-up or liquidation, compulsory or voluntary or on our entering into any voluntary arrangement with our creditors under Section 1 of the Act or otherwise entering into any compromise or arrangement with our creditors generally or our entering into a trust deed for creditors;
- 8.2 on our stopping payment or ceasing to carry on our business;
- 8.3 on a Receiver, Administrator, trustee, judicial factor, provisional liquidator or other similar official being appointed to us or in respect of the Property or any part thereof;
- 8.4 on application being made for the appointment of an Administrator or a notice of intention to appoint an Administrator being given in relation to us under the Act or otherwise or on our requesting the Security Holder to appoint an Administrator;
- 8.5 if we shall at any time act in breach of any of our agreements with or obligations to the Secured Parties, including without prejudice to the generality, the Obligations arising under the Agreement or this instrument.

## **9 Further assurance**

We shall, on demand, execute any document and do any other act or thing (in either case, at our expense) which the Security Holder may reasonably specify for protecting, preserving, completing or perfecting any security created or intended to be created by this Floating Charge or to vest title to the Property in the Security Holder (or any nominee or any purchaser of the Security Holder) or for facilitating the realisation of the security created by this Floating Charge, or otherwise for enforcing the same or exercising any of the powers, rights and discretions of the Security Holder under this Floating Charge, including the execution of all releases, transfers, assignments or assignments and other documents and the giving of all notices, intimations, orders, instructions, directions and requests for any consents to enable the Property to be charged or otherwise secured which the Security Holder may reasonably request.

## **10 Enforcement**

10.1 As at the date or dates upon which any of the Obligations shall fall to be repaid, satisfied, performed or discharged to the Secured Parties as provided in this instrument, or at any other time and from time to time thereafter:-

10.1.1 it shall be competent for the Security Holder in its option to capitalise the interest, discount, commission and charges then accrued or outstanding and all sums of principal (including any such interest and other sums so capitalised) shall bear interest computed as aforesaid as well after as before any decree or judgment obtained by the Security Holder for the said sums, and

10.1.2 we shall not except as permitted by the Security Holder, withdraw any credit balance representing payments relating to Non Vesting Debts or Other Debts from any of our bank accounts.

10.2 At any time after any of the Obligations shall fall to be repaid, satisfied, performed or discharged to the Secured Parties as aforesaid or after the Security Holder shall have been requested by us in writing so to do, the Security Holder shall have power at its option to appoint any person or persons whether an officer or officers of the Security Holder or not to be an Administrator of us and the whole of the Property or to be a Receiver or Receivers of such part of the Property, not being the whole or substantially the whole of the Property, as the Security Holder may specify (the "Receivership Assets"). The Security Holder may in like manner appoint any person or persons to be a Receiver or Receivers in place of any Receivers removed by the court or otherwise ceasing to act.

## 11 Receiver

### 11.1 Powers of Receiver

11.1.1 Every Receiver appointed by the Security Holder shall be our agent and we shall be solely responsible for his acts or defaults and for his remuneration and for the remuneration of his firm upon the basis of charging from time to time adopted by the Receiver in accordance with his current practice or the current practice of his firm.

11.1.2 Every Receiver so appointed shall have the powers conferred on receivers by the Act and in addition and without prejudice to these powers shall have power to:-

11.1.2.1 implement and exercise all or any of our powers and/or rights and/or obligations under any contract or other agreement forming a part of the Property;

11.1.2.2 make any arrangement or compromise which he may think expedient of or in respect of any claim by or against us;

11.1.2.3 promote or procure the formation of any new company or corporation;

11.1.2.4 subscribe for or acquire for cash any share capital of such new company or corporation in our name and on our behalf and/or in the name(s) of a nominee(s) or trustee(s) for us;

11.1.2.5 sell, feu, assign, transfer, exchange, hire out, grant leases of or otherwise dispose of or realise the Receivership Assets or any part thereof to any such new company or corporation and accept as consideration or part of the consideration therefor in our name and on our behalf and/or in the name(s) of any nominee(s) or trustee(s) for us any shares or further shares in any such company or corporation or allow the payment of the

whole or any part of such consideration to remain deferred or outstanding by way of loan or debt or credit;

- 11.1.2.6 sell, assign, transfer, exchange, hire out, grant leases of or otherwise dispose of or realise on behalf of us any such shares or deferred consideration or part thereof or any rights or benefits attaching thereto;
- 11.1.2.7 convene an extraordinary general meeting of us;
- 11.1.2.8 acquire any property on our behalf;
- 11.1.2.9 in respect of any of the Receivership Assets situated in England and Wales, exercise in addition to the foregoing all the powers conferred by the Act on Receivers appointed in that jurisdiction;
- 11.1.2.10 do all such other acts and things as the Receiver may consider desirable or necessary for protecting or realising the Receivership Assets or any part thereof or incidental or conducive to any of the matters, powers or authorities conferred on a Receiver under or by virtue of or pursuant to this Floating Charge;
- 11.1.2.11 to exercise in relation to the Receivership Assets or any part thereof all such powers and authorities and do all such things as the Receiver would be capable of exercising or doing if it were the absolute beneficial owner of the same,

and to use the name of the Company for all and any of the purposes aforesaid.

In the exercise of the powers hereby conferred, any Receiver may sever and sell plant and machinery or other fixtures separately from the property to which they may be annexed.

## 11.2 Removal

The Security Holder may from time to time by writing remove any Receiver appointed by it subject to the obtaining of any required order of the court in the case of an administrative receiver and may, whenever it may deem it expedient, appoint a new Receiver in the place of any Receiver whose appointment may for any reason have terminated.

## 11.3 Remuneration

- 11.3.1 The Security Holder may from time to time, fix the remuneration of any Receiver appointed by it (which remuneration may be or include a commission calculated by reference to the gross amount of all moneys received or otherwise and may include remuneration in connection with claims, actions or proceedings made or brought against the Receiver by the Company or any other person or the performance or discharge of any obligation imposed upon the Receiver by statute or otherwise) but such remuneration shall be payable by the Company alone.
- 11.3.2 The amount of such remuneration may be debited by the Security Holder to any account of the Company, but shall, in any event, form part of the Obligations and accordingly be secured on the Property under the security contained in this Floating Charge.

## 11.4 Extent of appointment

The exclusion of any Property from the appointment of the Receiver shall not preclude the Security Holder from subsequently extending the Receiver's or Receivers' appointment (or that

of their replacement) to that part or appointing another Receiver over any other part of the Property.

#### **11.5 No liability as creditor in possession**

The Security Holder shall not, nor shall any Receiver appointed as aforesaid, by reason of it or the Receiver entering into possession of the Property or any part of them, be liable to account as creditor in possession or be liable for any loss on realisation or for any default or omission for which a creditor in possession might be liable.

#### **11.6 Agent of Company**

11.6.1 Every Receiver of the Company duly appointed by the Security Holder under the powers in that respect contained in this Floating Charge shall be deemed to be the agent of the Company for all purposes.

11.6.2 The Company alone shall be responsible for the contracts, engagements, acts, omissions, defaults and losses of the Receiver and for liabilities incurred by the Receiver and the Security Holder shall not incur any liability for them by reason of the Security Holder appointing such Receiver or for any other reason whatsoever.

#### **11.7 Security Holder's Powers**

To the fullest extent permitted by law, all or any of the powers, authorities and discretions which are conferred by this Floating Charge (either expressly or impliedly) upon a Receiver of the Property may be exercised after the security created under this Floating Charge becomes enforceable by the Security Holder in relation to the whole of such Property or any part of them without first appointing a Receiver of such property or any part of it or notwithstanding the appointment of a Receiver of such property or any part of it.

#### **11.8 Administrator**

An Administrator appointed by the Security Holder will have all the powers given to him under the Act.

### **12 Preservation of Security**

12.1 No assurance, security, guarantee or payment which may be avoided under any law relating to bankruptcy, insolvency, administration or winding-up (including, without limitation, under Sections 238 to 245 of the Act) and no release, settlement, discharge or arrangement given or made by the Security Holder or any Receiver on the faith of any such assurance, security, guarantee or payment shall prejudice or affect the right of the Security Holder or of any receiver to enforce the security created by this Floating Charge to the full extent of the Obligations.

12.2 The Security Holder or any Receiver may in its or his absolute discretion retain the security created by this instrument for the maximum period after all the Obligations shall have been paid and/or discharged in full within which any assurance, security, guarantee or payment can be avoided or invalidated, notwithstanding any release, settlement, discharge or arrangement given or made by the Security Holder or any receiver on or as a consequence of such payment or discharge.

12.3 If at any time within such maximum period a petition shall be presented to a competent court by any person seeking an order for our bankruptcy, insolvency, administration or winding up or we shall commence to be wound up voluntarily, the Security Holder or any Receiver may, notwithstanding as aforementioned, continue to retain such security or any part thereof for and during such further period as the Security Holder or any Receiver in its or his absolute discretion shall determine and we agree that such security shall be deemed to have been and to have remained held by the Security Holder or any Receiver as and by way of security.

12.4 At any time after any of the Obligations shall fall to be repaid, satisfied, performed or discharged as aforesaid or after any power conferred by any fixed security or floating charge ranking in

priority to the Floating Charge hereby created shall become exerciseable, the Security Holder shall have power in its sole discretion to redeem or procure the transfer to itself of that fixed security or floating charge or any other fixed security or floating charge so ranking in priority and all sums paid by the Security Holder in consideration of such redemption or transfer shall be debited to our account with any member of the Barclays Group and repayable by us as provided for other sums and obligations under the other provisions of this instrument and shall from the date of payment thereof by the Security Holder bear interest at the rate or rates charged and computed as aforesaid.

### 13 Discharge

On irrevocable repayment, satisfaction, performance and discharge to the Secured Parties of the Obligations together with all interest thereon and charges and expenses in connection therewith, the Security Holder shall, subject to the provisions of Clause 13 hereof, on our request and at our expense discharge the security created by this instrument and discharge or release any other security granted by us to the Security Holder in virtue of Clause 2 hereof and held by the Security Holder at the time.

### 14 Power of Attorney

We irrevocably appoint the Security Holder and any Receiver and/or Administrator appointed by the Security Holder, acting in our or, as the case may be, such Receiver's and/or Administrator's own interest, severally to be our Attorney (with full power of substitution and delegation) in our name and on our behalf and as our act and deed to sign or execute all deeds, instruments and documents which may be required by the Security Holder or any Receiver or Administrator for or in connection with the exercise of any of their respective powers under this instrument and to sign or execute all deeds, instruments and documents and to do all such other acts and things which we have failed to sign, execute or do in breach of any obligation owed to the Security Holder under this instrument and hereby ratify and confirm and agree to ratify and confirm whatever any such Attorney shall do or purport to do in the exercise or purported exercise of the power of attorney granted by us under this clause.

### 15 Notice of Subsequent Interests

If any of the Secured Parties receive actual or constructive notice of any subsequent security, charge or interest affecting the Property, the Security Holder may open a new account or accounts for us with any member of the Barclays Group. If the Security Holder does not open a new account it shall nevertheless be treated as if it had done so at the time when it or any of the Secured Parties received notice and as from that time all payments made by us to the Security Holder shall be credited or treated as having been credited to a new account and shall not operate to reduce the amount secured by this instrument when the Security Holder or any of the Secured Parties received such notice.

### 16 Suspense Account and Set-Off

**16.1** The Security Holder may at any time and without prior notice to us forthwith transfer all or any part of any balance standing to the credit of any of our accounts with any member of the Barclays Group to any other of our accounts with any member of the Barclays Group or combine or consolidate our accounts with, and liabilities to, it or set-off any liabilities in or towards satisfaction of any of the Obligations.

**16.2** The Security Holder or any Receiver appointed by it may at its discretion credit all or any monies received by it under or in relation to this Floating Charge to a suspense account and hold such monies on such account for such period as either thinks fit pending its application in or towards discharge of the Obligations.

### 17 Currency Indemnity

The Security Holder or any Receiver may, in their absolute discretion, convert any monies received, recovered or realised under this instrument from their then existing currency into such other currency as the Security Holder or such Receiver may think fit and any such conversion shall be effected at the Security Holder's bankers then prevailing spot selling rate of exchange for such other currency against the existing currency.

## 18 Notices

16.1 A demand or notice under this Floating Charge may be given in writing by any manager or officer of the Security Holder addressed to us and served at any of the following:

- our registered office;
- any of our existing places of business;
- our last known place of business.

Alternatively, a demand or notice may be delivered by facsimile transmission to the facsimile number last known to the Security Holder or by e-mail to the e-mail address last known to the Security Holder or by any other form of electronic communication which may be available.

16.2 A notice or demand shall be deemed to have been served on the Company:

- at noon on the day after the day of posting, if sent by post, even if it is mis-delivered or returned undelivered;
- at the time of transmission, if given or made by facsimile, e-mail or other electronic communication.

## 19 Consent to Registration

19.1 We consent to the registration of this Floating Charge and of the certificate referred to in Clause 4 for preservation and execution.

19.2 We shall not take any proceedings or other steps to reduce or suspend any charge for payment served by the Security Holder following such registration or to prevent the Security Holder from or delay the Security Holder in serving such a charge or to suspend or assist any execution which is levied by the Security Holder following the expiry of any such charge unless prior to the taking of such proceedings or other steps we have paid and discharged the Obligations as certified in the certificate issued by the Security Holder in accordance with Clause 4.

## 20 Miscellaneous Provisions

20.1 The Security Holder may at any time transfer all or any part of its rights under this Floating Charge and the Obligations to any person or otherwise grant an interest in them to any person.

20.2 The Security Holder or any Secured Party may at any time in its entire discretion without notice or other formality combine any two or more accounts held by it in the name of the Company.

20.3 If at any time any one of the provisions of this Floating Charge is or becomes invalid, illegal or unenforceable in any respect under any law, the validity, legality and enforceability of the remaining provisions of this Floating Charge shall not in any way be affected or impaired.

20.4 The consent of any person who is not a party is not required to rescind or vary this Floating Charge or any other agreement entered into under or in connection with it.

20.5 [This Floating Charge does not create any rights to any third party or third parties (whether under the Contract (Third Party Rights)(Scotland) Act 2017 or otherwise) to enforce or otherwise invoke any provisions of this Floating Charge.<sup>1</sup>][Except for the Bank, Barclays Bank UK PLC and Barclays Mercantile Business Finance Limited (the "Identified Third Parties"), this Floating Charge does not create any rights to any third party or third parties to enforce any provisions of this Floating Charge. The parties are entitled (a) at any time, without requiring to obtain the consent of any Identified Third Party or of any other person, to cancel or modify all or any of this Floating Charge; and (b) to make any such cancellation or modification retroactive (otherwise known as retrospective in effect) to any earlier date selected by the parties. The rights of the parties under

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<sup>1</sup> Clause to be used only when Barclays Bank PLC is the Security Holder. For the avoidance of doubt, this clause should be deleted when Barclays Security Trustee Limited is the Security Holder

this clause 20.5 shall not be affected by any Identified Third Party doing or having done, or refraining from doing or having done, something in reliance of this Floating Charge.]<sup>2</sup>

- 20.6 The Company agrees that the Security Holder, any other Secured Party or any other member of the Barclays Group may share any information, obtained at any time, from whatever source relating to it, its Subsidiaries, the Agreement, and any guarantee or security relating to and including this Floating Charge to:
- (i) any member of the Barclays Group;
  - (ii) any credit reference or rating agency;
  - (iii) anyone the Security Holder, the relevant Secured Party or, as the case may be, the relevant member of the Barclays Group considers to be or likely to be involved in an assignation or assignment or transfer or possible assignation or assignment or transfer of all or any of our rights and/or obligations in respect of the Agreement, in whole or in part, including any person or persons (i) in connection with a securitisation of all or any part of the loan assets (including the Agreement) of any member of the Barclays Group from time to time or (ii) who may otherwise enter into contractual relations with any member of the Barclays Group in connection with any part of the loan assets of any member of the Barclays Group, the Agreement, or any guarantee or security relating to and including this Floating Charge;
  - (iv) anyone to whom information is required or requested to be disclosed by any court of competent jurisdiction or governmental, banking, taxation or other regulatory authority or similar body; and
  - (v) anyone to whom information is required or requested to be disclosed in connection with, and for the purposes of, any litigation, arbitration, administrative or other investigations, proceedings or disputes.
- 20.7 The Security Holder will look after the information the Company provides and use it for processing any application and administering the Agreement, for research or analysis, and to prevent and detect fraud. The Security Holder will also share it with fraud prevention agencies for these purposes, and keep it for so long as the law and legitimate business purposes allow.

## 21 Governing Law

This Floating Charge and any non-contractual obligations arising out of or in connection with it shall be governed by and interpreted in accordance with Scots law. The Company submits, for the exclusive benefit of the Secured Parties, to the jurisdiction of the Scottish courts (but without prejudice to the Security Holder's right to commence proceedings against the Company in any other jurisdiction) and irrevocably waives any objection on the ground of venue or inappropriate forum or any similar grounds.

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<sup>2</sup> Clause to be used only when Barclays Security Trustee Limited is the Security Holder. For the avoidance of doubt, this clause should be deleted when Barclays Bank PLC is the Security Holder

IN WITNESS WHEREOF these presents typewritten on this and the 2 preceding pages are subscribed for us and on our behalf at  
 20 by:-

on the day of

\_\_\_\_\_  
 [Redacted Signature] Director

\_\_\_\_\_  
 [Redacted Signature] Director/Secretary

Or

THEY are subscribed for us and on our behalf at  
 20 by:-

on the 27<sup>th</sup> day of AUGUST 2016

\_\_\_\_\_  
 Director

Before this witness:

Witness Signature:

Witness Full Name:

Witness Address:

Witness Occupation:

\_\_\_\_\_

Date of delivery of this Floating Charge to the Security Holder:

[Redacted Date]

\* Where a Witness is required, please ensure that the Witness is not someone who is related to the Company or who resides at the same address as you or is an employee of Barclays Bank PLC, Barclays PLC and/or a subsidiary of Barclays.