



**Registration of a Charge**

Company Name: **ARCHER PICCADILLY LIMITED**

Company Number: **SC074783**



Received for filing in Electronic Format on the: **22/12/2022**

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**Details of Charge**

Date of creation: **20/12/2022**

Charge code: **SC07 4783 0018**

Persons entitled: **CBRE LIMITED (AS SECURITY AGENT)**

Brief description:

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

**Contains negative pledge.**

**Authentication of Form**

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

**Authentication of Instrument**

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

Certified by: **ALAN CASSELS**



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

Company number: 74783

Charge code: SC07 4783 0018

The Registrar of Companies for Scotland hereby certifies that a charge dated 20th December 2022 and created by ARCHER PICCADILLY LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 22nd December 2022 .

Given at Companies House, Edinburgh on 22nd December 2022

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**

Certified true copy of original document, save for the  
information redacted pursuant to section 859G of the  
Companies Act 2006

Alan Ceb

 Burness Paul

**ARCHER PICCADILLY LIMITED**

as Chargor

in favour of

**CBRE LIMITED**

as Chargee and Security Agent

**BOND AND FLOATING CHARGE**

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## **BOND AND FLOATING CHARGE**

by

- (1) **ARCHER PICCADILLY LIMITED**, a company incorporated under the Companies Acts with registered number SC074783 and having its registered office at 1 Morrison Street Link, Edinburgh, Scotland, EH3 8DN (the "**Chargor**")

in favour of

- (2) **CBRE LIMITED**, as chargee and as security trustee for the Secured Parties (as defined in the Facility Agreement defined below) (the "**Security Agent**")

### **CONSIDERING THAT:**

- (A) the Lenders have agreed to make a loan facility available under the Facility Agreement (as defined below);
- (B) one of the conditions to the availability of the facility referred to in paragraph (A) above is that the Chargor grants to the Security Agent this bond and floating charge.

**NOW IT IS HEREBY AGREED AND DECLARED** as follows:

## **1 DEFINITIONS AND INTERPRETATION**

### **1.1 In this Instrument:**

"**Administrator**" means any administrator appointed pursuant to this Instrument;

"**Delegate**" means any delegate, agent, nominee, attorney or co-trustee appointed by the Security Agent.

"**Event of Default**" has the meaning given to it in the Facility Agreement;

"**Excluded Property**" means any interest in the property known as The Dilly Hotel, 21-22 Piccadilly, London W1J 0DQ with title number NGL474733;

"**Facility Agreement**" means the facility agreement dated on or about the date of delivery of this Instrument between (among others) the borrower party thereto, the lenders party thereto, the Security Agent and, after its accession thereto from the date of delivery hereof, the Chargor;

"**Ground Lease**" means the ground lease of the property known as The Dilly Hotel, 21-22 Piccadilly, London dated 10 October 1983 made between (1) St Martins Property Corporation Limited and (2) Gleneagles Hotels Public Limited Company (a former name of the Chargor)

and registered under title number NGL474733 together with any document supplemental or collateral thereto;

**"Insurances"** has the same meaning given to that term in the Facility Agreement;

**"Party"** means a party to this Instrument;

**"Receiver"** means any receiver or administrative receiver appointed in respect of the Secured Assets (whether pursuant to this Instrument, pursuant to any statute, by a court or otherwise) and includes joint receivers;

**"Secured Assets"** means the whole of the property (including uncalled capital) which is or may be from time to time while this Instrument is in force comprised in the property and undertaking of the Chargor;

**"Secured Liabilities"** has the same meaning given to that term in the Facility Agreement;

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

## **1.2 Construction**

1.2.1 Capitalised terms defined in the Facility Agreement have, unless expressly defined in this Instrument, the same meaning in this Instrument.

1.2.2 The provisions of clause 1.2 of the Facility Agreement apply to this Instrument as though they were set out in full in this Instrument except that references to the Facility Agreement are to be construed as references to this Instrument.

1.2.3 A Finance Document or other document includes (without prejudice to any prohibition on amendments) all amendments however fundamental to that Finance Document or other document, including any amendment providing for any increase in the amount of a facility or any additional facility.

1.2.4 The term this "Security" means any security created by this Instrument.

1.2.5 Any covenant of the Chargor under this Instrument (other than a payment obligation which has been discharged) remains in force during the Security Period.

1.2.6 A reference to any asset, unless the context otherwise requires, includes any present and future asset.

1.2.7 If the Security Agent considers that an amount paid to a Secured 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 Instrument.

- 1.2.8 Unless the context otherwise requires, a reference to a Secured Asset includes the proceeds of sale of that Secured Asset.
- 1.2.9 For cross-references in this Instrument, where a clause number is referred to, along with the clause heading and there is an inconsistency, the clause heading shall prevail.
- 1.2.10 Nothing in this Instrument constitutes the Security Agent as an agent, trustee or fiduciary of the Chargor.
- 1.2.11 If or to the extent that any of the Secured Assets are prohibited by law or contract the Chargor shall hold the relevant asset on trust for the Security Agent (insofar as not so prohibited) and the validity of any other Secured Asset shall not be affected.

### **1.3 Third party rights**

- 1.3.1 Unless expressly provided to the contrary in a Finance Document, this Instrument does not confer on any person who is not a party to it (other than any Secured Party, Administrator, Receiver, Delegate or any attorney appointed in terms of this Instrument) any right to enforce or otherwise invoke this Instrument or any part of it under the Contract (Third Party Rights) (Scotland) Act 2017.
- 1.3.2 Notwithstanding any term of any Finance Document, the consent of any person who is not a party to this Instrument is not required to rescind or vary this Instrument at any time.

## **2 BOND**

- 2.1 The Chargor undertakes to the Security Agent shall as primary obligor and not only as surety on demand, pay to the Security Agent and discharge the Secured Liabilities when they become due.
- 2.2 The Chargor acknowledges to the Security Agent that the amount secured by this Instrument and in respect of which this Instrument and the security hereby created is enforceable is the full amount of the Secured Liabilities.
- 2.3 Paragraph 14 of Schedule B1 to the Insolvency Act (incorporated by Schedule 16 to the Enterprise Act 2002) shall apply to this Instrument which is accordingly a qualifying floating charge.

### **3 FLOATING CHARGE**

- 3.1 The Chargor as security for the payment and discharge of all the Secured Liabilities hereby grants in favour of the Security Agent a floating charge over the Secured Assets, excluding, for the avoidance of doubt, the Excluded Property and the Ground Lease.
- 3.2 The Security Agent holds the benefit of this Instrument and this Security on trust for the Secured Parties.

### **4 NEGATIVE PLEDGE AND RANKING OF FLOATING CHARGE**

- 4.1 Except as expressly permitted under the Facility Agreement or this Instrument, the Chargor shall not create or permit to subsist any Security over the Secured Assets.
- 4.2 Any fixed security granted by the Chargor in favour of the Security Agent (whether before or after the date of execution of this Instrument) shall rank in priority to this Security.
- 4.3 Subject to section 464(2) of the Companies Act 1985 and to the terms of the other Finance Documents, in the event that the Chargor grants or creates any fixed security or floating charge in breach of the prohibition in Clause 4.1 or with the consent of the Security Agent under Clause 4.1 but with no written agreement of the Security Agent as to the ranking of them, this Instrument shall rank in priority to that fixed security or floating charge.

### **5 ENFORCEMENT**

- 5.1 In addition to any statutory provisions concerning enforceability or attachment this Security shall become enforceable upon and the Security Agent's powers of appointment and other rights and powers shall become exercisable at any time after the occurrence of an Event of Default which is continuing and the Security Agent may then (or as soon thereafter as permitted by law) by instrument in writing appoint any person or persons (if more than one with power to act both jointly and separately) to be an administrator of the Chargor or (subject, if applicable, to Section 72A of the Insolvency Act 1986) a receiver of the Secured Assets. In addition, and without prejudice to the foregoing provisions of this Clause 5.1, in the event that any person appointed to be a Receiver shall be removed by a court or shall otherwise cease to act as such, then the Security Agent shall be entitled so to appoint another person as Receiver in his place.
- 5.2 An Administrator shall have and be entitled to exercise, in addition to and without limiting all the powers of an administrator under the Insolvency Act 1986, all the powers of a receiver under Schedule 2 of the Insolvency Act 1986 and a Receiver shall have and be entitled to exercise, in addition to and without limiting all the powers of a receiver under Schedule 2 of the Insolvency Act 1986, all the powers of an administrative receiver set out in Schedule 1 of the Insolvency Act 1986 together with (in either case) the power to exercise any powers or rights incidental to ownership of the Secured Assets, including (as regards shares and other securities) any voting rights or rights of enforcing the same together with power to:



- 5.2.1 implement and exercise all or any of the Chargor's powers and/or rights and/or obligations under any contract or other agreement forming a part of the Secured Assets;
- 5.2.2 make any arrangement or compromise which he shall think expedient of or in respect of any claim by or against the Chargor;
- 5.2.3 promote or procure the formation of any new company or corporation;
- 5.2.4 subscribe for or acquire for cash or otherwise any share capital of such new company or corporation in the name of the Chargor and on its behalf and/or in the name(s) of a nominee(s) or trustee(s) for it;
- 5.2.5 sell, assign, transfer, exchange, hire out, grant leases of or otherwise dispose of or realise the Secured Assets or any part thereof to any such new company or corporation and accept as consideration or part of the consideration therefor in the name of the Chargor and on its behalf and/or in the name(s) of any nominee(s) or trustee(s) for it, 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;
- 5.2.6 sell, assign, transfer, exchange, hire out, grant leases of or otherwise dispose of or realise on behalf of the Chargor any such shares or deferred consideration or part thereof or any rights or benefits attaching thereto;
- 5.2.7 convene an extraordinary general meeting of the Chargor;
- 5.2.8 acquire any property on behalf of the Chargor;
- 5.2.9 do all such other acts and things as he may consider necessary or desirable for protecting or realising the Secured 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 Instrument and exercise in relation to the Secured Assets, or any part thereof, all such powers and authorities and do all such things as he would be capable of exercising or doing if he were the absolute beneficial owner of the same and use the name of the Chargor for all and any of the purposes aforesaid;

subject always to the rights of the Security Agent as holder of this Security.

- 5.3 To the extent that any of the Secured Assets constitutes "financial collateral" and this Instrument and the obligations of the Chargor hereunder constitute a "security financial collateral arrangement" (in each case as defined in, and for the purposes of, the Financial Collateral Arrangements (No. 2) Regulations 2003 (SI 2003 No. 3226) (the "**Regulations**") the Security Agent shall have the right to appropriate all or any part of such financial collateral in or towards discharge of the Secured Liabilities. Where any financial collateral is

appropriated (a) if it is listed or traded on a recognised exchange, its value will be taken as being the value at which it could have been sold on the exchange on the date of appropriation; or (b) in any other case, its value will be such amount as the Security Agent reasonably determines having taken into account advice obtained by it from an independent commercial property adviser, investment bank or accountancy firm of national standing selected by it, and each Finance Party will give credit for the proportion of the value of the financial collateral appropriated to its use.

5.4 The Security Agent may not appoint a Receiver solely as a result of the obtaining of a moratorium (or as a result of anything done with a view to obtaining a moratorium) under Part A1 of the Insolvency Act 1986 other than in respect of a floating charge referred to in section A52(4) of Part A1 of the Insolvency Act 1986.

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

5.5.1 whether the Secured Liabilities have become payable;

5.5.2 whether any power which the Security Agent or a Receiver is purporting to exercise has become exercisable or is being properly exercised;

5.5.3 whether any money remains due under the Finance Documents; or

5.5.4 how any money paid to the Security Agent or to that Receiver is to be applied.

## **6 OFFICE OF RECEIVER**

6.1 Any Receiver appointed under Clause 5 (Enforcement) shall be the agent of the Chargor for all purposes and (subject to the provisions of the Insolvency Act 1986) the Chargor alone shall be responsible for his contracts, engagements, acts, omissions, defaults and losses and for liabilities incurred by him and for his remuneration and his costs, charges and expenses and the Security Agent shall not incur any liability for those (either to the Chargor or any other person) by reason of the Security Agent making his appointment as such Receiver or for any other reason whatsoever.

6.2 Any Receiver appointed under Clause 5 (Enforcement) shall be entitled to remuneration for his services and the services of his firm appropriate to the responsibilities involved. Subject to Section 58 of the Insolvency Act 1986, the remuneration of the Receiver may be fixed by the Security Agent (and may be or include a commission calculated by reference to the gross amount of all money received or otherwise and may include remuneration in connection with claims, actions or proceedings made or brought against the Receiver by the Chargor or any other person or the performance or discharge of any obligation imposed upon him by statute or otherwise) but such remuneration shall be payable by the Chargor alone and the amount of such remuneration shall form part of the Secured Liabilities and accordingly be secured on the Secured Assets under the floating charge constituted by this Instrument.

## **7 APPLICATION OF ENFORCEMENT PROCEEDS**

All monies received from time to time by the Security Agent or any Receiver under or by virtue of this Instrument or in connection with the realisation or enforcement of the security hereby granted or of any security interest constituted pursuant hereto shall be applied in accordance with the Facility Agreement. This clause 7 is (a) is subject to the payment of any claims having priority over this Security; and (b) does not prejudice the right of any Secured Party to recover any shortfall from the Chargor.

## **8 PROTECTION OF SECURITY**

8.1 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.

8.2 Neither the Security created by this Instrument nor the obligations of the Chargor under this Instrument will be affected by an act, omission, matter or thing which, but for this Clause, would reduce, release or prejudice that Security or any of those obligations (without limitation and whether or not known to the Chargor or the Secured Parties) including:

8.2.1 any time, waiver or consent granted to, or composition with, any Obligor or other person;

8.2.2 the release of any Obligor or any other person under the terms of any composition or arrangement with any creditor of any person;

8.2.3 the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take or enforce, any rights against, or Security over assets of any Obligor or any other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any Security;

8.2.4 any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of, any Obligor or any other person;

8.2.5 any amendment, novation, supplement, extension (whether of maturity or otherwise), restatement (in each case however fundamental and whether or not more onerous) or replacement, assignment, avoidance or termination of any Finance Document or any other document or Security or of the Secured Liabilities, including any change in the purpose of, any extension of or increase in any facility or the addition of any new facility, under any Finance Document or other document or Security;

8.2.6 any unenforceability, illegality or invalidity of any obligation of (or expressed to be of) or any Security created by (or expressed to be created by) any person under any Finance Document or any other document;

- 8.2.7 any insolvency, liquidation, administration or similar procedure; and/or
  - 8.2.8 this Instrument, any legal charge, floating charge, share pledge, debenture or any other Finance Document not being executed by or binding on any other party to it.
- 8.3 Without prejudice to the generality of Clause 8.2, the Chargor expressly confirms that it intends that the Security created under this Instrument shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any of the Finance Documents and/or any facility or amount made available under any of the Finance Documents for the purposes of or in connection with any of the following:
  - 8.3.1 acquisitions of any nature;
  - 8.3.2 increasing working capital;
  - 8.3.3 enabling investor distributions to be made;
  - 8.3.4 carrying out restructurings;
  - 8.3.5 refinancing existing facilities;
  - 8.3.6 refinancing any other indebtedness;
  - 8.3.7 making facilities available to new borrowers;
  - 8.3.8 any other variation or extension of the purposes for which any such facility or amount might be made available from time to time; and
  - 8.3.9 any fees, costs and/or expenses associated with any of the foregoing.
- 8.4 The Chargor waives any right it may have of first requiring any Secured Party (or any trustee or agent thereof) to proceed against or enforce any other rights or Security or claim payment from any person before claiming from the Chargor under this Instrument. This waiver applies irrespective of any law or any provision of a Finance Document to the contrary.
- 8.5 During the Security Period each of the Secured Parties may:
  - 8.5.1 refrain from applying or enforcing any other moneys, Security or rights held or received by it (or any trustee or agent on its behalf) in respect of the Secured Liabilities or, subject to Clause 7 (Application of Enforcement Proceeds), apply and enforce them in such manner and order as it sees fit (whether against the Secured Liabilities or otherwise) and the Chargor shall not be entitled to the benefit of them; and
  - 8.5.2 hold in an interest-bearing suspense account any moneys received from the Chargor or on account of any of the Secured Liabilities.

- 8.6 Each of the provisions in this Instrument shall be severable and distinct from one another and if at any time any one or more of such provisions is or becomes or is declared null and void, invalid, illegal or unenforceable in any respect under any law or otherwise howsoever, the validity, legality and enforceability of the remaining provisions of this Instrument shall not in any way be affected or impaired by that occurrence.
- 8.7 During the Security Period and unless the Security Agent otherwise directs, the Chargor shall not exercise or benefit from any rights referred to in paragraph 8.8 below by reason of:
- 8.7.1 the performance of its obligations under this Instrument or any other Finance Document;
  - 8.7.2 any amount being payable, or liability arising, under any such document; or
  - 8.7.3 the enforcement of the Security created by this Instrument.
- 8.8 The rights referred to in paragraph 8.7 above are the rights:
- 8.8.1 to receive or claim payment from or be indemnified by an Obligor;
  - 8.8.2 to claim any contribution from any guarantor of, or provider of Security in respect of, any Obligor's obligations under any Finance Document;
  - 8.8.3 to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of any of the Secured Parties under any Finance Document or of any other guarantee or Security taken pursuant to, under, or in connection with, any Finance Document by any Secured Party;
  - 8.8.4 to bring legal or other proceedings for an order requiring any Obligor to make any payment, or perform any obligation, in respect of which any Obligor has given a guarantee, undertaking or indemnity under this Instrument, any legal charge, any floating charge, share pledge or debenture or any other Finance Document;
  - 8.8.5 to exercise any right of set-off or similar right against any Obligor; or
  - 8.8.6 to claim or prove as a creditor of any Obligor in competition with any of the Secured Parties.
- 8.9 If the Chargor receives any benefit, payment or distribution in relation to any such rights it shall:
- 8.9.1 hold it on trust for the Security Agent to the extent necessary to enable all amounts that may be or become payable to any of the Secured Parties by the Obligors under or in connection with this Instrument or any other Finance Document to be repaid in full; and

- 8.9.2 promptly pay or transfer it to the Security Agent or as the Security Agent may direct for application in accordance with Clause 7 (Application of enforcement proceeds).

## 9 MISCELLANEOUS

- 9.1 The Security and other right created under this Instrument are in addition to and are not in any way prejudiced by and shall not merge with any guarantee or Security now or in the future held by any of the Secured Parties.
- 9.2 If, at any time, any provision of this Instrument 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 such provision under the law of any other jurisdiction will in any way be affected or impaired.
- 9.3 The Security Agent or any Receiver may, at any time, delegate by power of attorney or otherwise to any person for any period all or any right, power, authority or discretion exercisable by it under this Instrument.
- 9.4 Any such delegation may be made upon any terms and conditions (including the power to sub- delegate) and subject to any restrictions that the Security Agent or that Receiver (as the case may be) may, in its discretion, think fit in the interests of the Secured Parties.
- 9.5 Neither the Security Agent nor any Receiver shall be bound to supervise, or be in any way responsible for any damages, costs or losses incurred by reason of any misconduct, omission or default on the part of, any such delegate or sub-delegate.
- 9.6 Neither the Security Agent nor any Receiver shall be liable in respect of the Secured Assets or for any loss or damage which arises out of the exercise or attempted or purported exercise of, or the failure to exercise any of, their respective powers, unless caused by its respective fraud, gross negligence or wilful default.
- 9.7 The provisions set out in Clause 28 (*Role of the Agent and the Security Agent*) of the Facility Agreement shall govern the rights, duties, benefits and obligations of the Security Agent under this Instrument.
- 9.8 New Accounts
- 9.8.1 If any subsequent charge or other interest affects any Security Asset, a Secured Party may open a new account with the Chargor.
- 9.8.2 If that Secured 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.

- 9.8.3 As from that time all payments made to that Secured Party will be credited or be treated as having been credited to the new account and will not operate to reduce any Secured Liability.

## **9.9 Waiver of defences**

Neither the obligations of the Chargor under, nor the Security created by, this Instrument and the rights, powers and remedies conferred on the Security Agent by this Instrument or by law shall be discharged, impaired or otherwise affected by reason of:

- 9.9.1 the winding-up, dissolution, administration or reorganisation of the Chargor or any other person or any change in the status, function, control or ownership of the Chargor or any other person;
- 9.9.2 any of the Secured Liabilities or any other Security which the Security Agent or any other Secured Party may have in respect of the Secured Liabilities or any of them being or becoming illegal, invalid, unenforceable or ineffective in any respect;
- 9.9.3 any time or other indulgence being granted to or agreed with the Chargor or any other person with regard to the Secured Liabilities or any of them or with regard to any other Security which the Security Agent or any other Secured Party may have in respect of the Secured Liabilities or any of them;
- 9.9.4 any change in the terms or amount of, or any waiver or release of, the Secured Liabilities or any of them or any other Security, guarantee or indemnity which the Security Agent or any other Secured Party may have in respect of the Secured Liabilities or any of them;
- 9.9.5 any total or partial failure to take or perfect any Security which is offered or proposed to be taken in respect of the Secured Liabilities or any of them;
- 9.9.6 any total or partial failure to realise the value of, or any release, discharge, exchange or substitution of, any other Security, guarantee or indemnity which the Security Agent or any other Secured Party may have in respect of the Secured Liabilities or any of them; or
- 9.9.7 any other act, event or omission which might operate to discharge, impair or otherwise affect the obligations of the Chargor under this Charge, the Security created by this Charge or any of the rights, powers and remedies conferred on the Security Agent by this Charge or by law.

## **10 CHARGOR'S FAILURE TO ACT**

If the Chargor fails to comply in any material respect with the requirements of this Instrument, the Security Agent may (but shall not be obliged to) take such action as they consider

necessary or desirable to remedy that failure, without prejudice to their other rights and remedies under this Instrument.

## **11 FURTHER ASSURANCE**

The Chargor shall promptly, at its own expense, execute and do all such assurances, acts and things as the Security Agent or a Receiver may require for creating, perfecting or protecting the security created by or pursuant to this Instrument over the Secured Assets or for facilitating the realisation of such assets and the exercise of all powers, authorities and discretions conferred on the Security Agent or on any Receiver by this Instrument. The action that may be required includes (a) the execution of any mortgage, standard security, charge, transfer, conveyance, assignment, assignation or assurance of any asset, whether to the Security Agent or to its nominees; or (b) the giving of any notice, order or direction and the making of any filing or registration, which, in any such case, the Security Agent may consider necessary or desirable.

## **12 MANDATE AND ATTORNEY**

12.1 The Chargor hereby irrevocably appoints the Security Agent and any Receiver to be its mandatary and attorney for it and on its behalf and in its name or otherwise and as such to create or constitute any deed, or to make any alteration or addition or deletion in or to, any documents which the Security Agent or the Receiver may require for perfecting or protecting the title of the Security Agent or the Receiver to the Secured Assets or for vesting any of the Secured Assets in the Security Agent or the Receiver or its nominees or any purchaser and to re-deliver the same thereafter and otherwise generally to sign, seal and deliver and perfect any fixed security, floating charge, transfer, disposition, assignation, security and/or assurance or any writing, assurance, document or act which may be required or may be deemed proper by the Security Agent or the Receiver on or in connection with any sale, lease, disposition, realisation, getting in or other enforcement by the Security Agent or the Receiver of all or any of the Secured Assets. The Chargor ratifies and confirms whatever any attorney does or purports to do under its appointment under this Clause 12.

12.2 The Security Agent shall only be able to exercise its rights under clause 12.1:

12.2.1 following the occurrence of an Event of Default which is continuing; or

12.2.2 if the Chargor has failed to comply with a further assurance provision or perfection obligation (or any of them) under this Instrument, within five (5) Business Days of being notified of such failure and being requested to comply.

## **13 EXPENSES AND INDEMNITY**

The Chargor must:

13.1 immediately on demand pay to each Secured Party the amount of all costs and expenses (including legal fees) incurred by that Secured Party in connection with the enforcement of,



or the preservation of any rights under, this Instrument and with any proceedings instituted by or against that Secured Party as a consequence of it entering into this Instrument, including any costs and expenses arising from any actual or alleged breach by any person of any law or regulation; and

- 13.2 keep each Secured Party indemnified against any failure or delay in paying those costs or expenses.

#### 14 ASSIGNATION BY THE SECURITY AGENT

The Security Agent may at any time assign or otherwise transfer all of any part of its right under this Instrument in accordance with the terms of the Facility Agreement.

#### 15 NOTICES

All notices, requests, demands and other communications to be given under this Instrument shall be given and/or be deemed to be given in the same manner as notices to be given under the Facility Agreement and the terms of clause 34 (Notices) of the Facility Agreement shall apply *mutatis mutandis* to this Instrument as though that clause were set out in full in this Instrument.

#### 16 COUNTERPARTS AND DELIVERY

- 16.1 This Instrument may be executed in any number of counterparts and by each of the parties on separate counterparts.

- 16.2 Where executed in counterparts:

16.2.1 this Instrument will not take effect until each of the counterparts has been delivered;

16.2.2 where any counterpart is being held as undelivered, delivery will take place on the date of delivery agreed between the parties ("the Agreed Date"). The Agreed Date will be inserted in the testing clause of this Instrument; and

16.2.3 section 2(3) of the Legal Writings (Counterparts and Delivery) (Scotland) Act 2015 is hereby excluded and shall not apply to the execution arrangements in respect of this Instrument.

#### 17 RELEASE

At the end of the Security Period, the Finance Parties must, at the request and at the cost (in each case to the extent permitted by applicable law) of the Chargor, take whatever action is necessary to release its Security Assets from this Instrument.

**18 GOVERNING LAW AND JURISDICTION**

- 18.1 This Instrument and any non-contractual obligations arising out of or in connection with it are governed by Scots law.
- 18.2 The courts of Scotland have exclusive jurisdiction to settle any dispute arising out of or in connection with this Instrument (including a dispute regarding the existence, validity or termination of this Instrument or any non-contractual obligations arising out of or in connection with this Instrument) (a "Dispute") (whether arising in contract, tort, delict or otherwise).
- 18.3 The Parties agree that the courts of Scotland are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.

This Clause 18 is for the benefit of the Secured Parties only. As a result, no Secured Party shall be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Secured Parties may take concurrent proceedings in any number of jurisdictions.

19 **CONSENT TO REGISTRATION**

Any certification or determination by the Security Agent of a rate or amount under this Instrument is, in the absence of manifest error, conclusive evidence of the matters to which it relates. The Chargor hereby consents to the registration of this Instrument and of any such certificate for preservation:

IN WITNESS WHEREOF these presents consisting of this and the preceding 14 pages are executed as follows and DELIVERED on 20 December 2022:

**THE CHARGOR**

SUBSCRIBED for and on behalf of the said **ARCHER PICCADILLY LIMITED**

at Dublin

on 20 December 2022

by

DARREN GUY

Print Full name

before this witness:

BRIAN QUINN

Print Full Name

Address: ROJ LLP, The Exchange,  
Georgie Dock, IFSC,  
Dublin

Director

Witness

**THE SECURITY AGENT**

SUBSCRIBED for and on behalf of the said **CBRE LIMITED**

at London

on 19/12/2022

by

C DIXON

Print Full name



Authorised Signatory

before this witness:

Olga Kapustka

Print Full Name



Witness

Address: Henrietta House

Henrietta Place

W1G 0NB London