



Registration of a Charge

Company name: **WILDERNESS SCOTLAND LIMITED**

Company number: **SC211011**

Received for Electronic Filing: **09/11/2020**



Details of Charge

Date of creation: **16/10/2020**

Charge code: **SC21 1011 0003**

Persons entitled: **MOBEUS EQUITY PARTNERS LLP (AS TRUSTEE)**

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:

RICARDO MATTEO, SOLICITOR, HARPER MACLEOD LLP



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 211011

Charge code: SC21 1011 0003

The Registrar of Companies for Scotland hereby certifies that a charge dated 16th October 2020 and created by WILDERNESS SCOTLAND LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 9th November 2020 .

Given at Companies House, Edinburgh on 9th November 2020

The above information was communicated by electronic means and authenticated by the Registrar of Companies under section 1115 of the Companies Act 2006



Companies House



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

Floating Charge

by

Wilderness Scotland Limited

in favour of

Mobeus Equity Partners LLP (as trustee)

Ref: 553763

HARPER MACLEOD LLP IS ONLY ADVISING WILDERNESS SCOTLAND LIMITED AND NO OTHER PARTY IN RESPECT OF THIS DOCUMENT. EACH OTHER PARTY TO THIS DOCUMENT SHOULD TAKE THEIR OWN INDEPENDENT LEGAL ADVICE BEFORE ENTERING INTO THIS DOCUMENT AS THE EXECUTION OF THIS DOCUMENT WILL HAVE LEGAL EFFECT AND IMPLICATIONS.

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Floating charge

by

Wilderness Scotland Limited, a company incorporated and registered in Scotland (Company Number: SC211011) and having its registered office at Wilderness Scotland, Dalfaber Drive, Aviemore, Highland, Scotland, PH22 1ST (the "**Company**")

in favour of

Mobeus Equity Partners LLP, a limited liability partnership incorporated and registered in England and Wales (Registered Number: OC320577) and having its registered office at 30 Haymarket, London, England, SW1Y 4EX as trustee for the Secured Parties (as defined below) (the "**Security Trustee**", which expression includes any person which is for the time being a trustee (or co-trustee) for the Secured Parties (as defined below))

It is agreed as follows:

1 Interpretation

1.1 Definitions

In this deed the following terms have the meanings given to them in this Clause:

"A Loan Note Instrument" has the meaning given to it in the Junior Intercreditor Agreement (subject to any particular construction which it is expressed to be subject to under the Junior Intercreditor Agreement);

"Default Rate" means the rate specified in clause 4.6 of the A Loan Note Instrument (provided that, in the event that the A Loan Note Instrument is terminated, the rate shall be that specified in clause 4.6 of the A Loan Note Instrument immediately prior to such termination);

"Event of Default" means an Event of Default under and as defined in a Loan Note Instrument;

"Guarantee Documents" means:

- (a) the composite guarantee and debenture dated 31 August 2017 between (1) Active Travel Group Limited (previously Hamsard 3435 Limited), Active Travel Group Midco Limited (previously Hamsard 3437 Limited) and Active Travel Group Bidco Limited (previously Hamsard 3434 Limited) and (2) the Security Trustee, which the Company acceded to pursuant to an accession deed dated 7 September 2018 between the Company, Active Travel Group Limited and the Security Trustee; and
- (b) the guarantee dated on or around the date of this deed between the Company and the Security Trustee;

"Junior Intercreditor Agreement" means the intercreditor agreement dated 7 September 2018 and made between, among others, (1) the A loan note holders listed therein, (2) the B loan note holders listed therein, (3) the C loan note holders listed therein, (4) the D loan note holders listed therein, (5) Active Travel Group Limited and (6) the Security Trustee (as amended, restated, replaced and extended from time to time);

"Land" means any interest in heritable, freehold or leasehold land;

"Liability" means any present or future obligation or liability for the payment of money, whether in respect of principal, interest or otherwise, whether actual or contingent, whether owed jointly or severally and whether as principal or surety or in any other capacity and including any amount which would constitute such a liability but for any discharge, non-provability, unenforceability or non-allowability of the same in any insolvency or other proceedings;

"Loan Note Instruments" has the meaning given to it in the Junior Intercreditor Agreement (subject to any particular construction which it is expressed to be subject to under the Junior Intercreditor Agreement);

"Property" means the property charged by Clause 3;

"Receiver" means a receiver and manager or any other receiver (whether appointed pursuant to this deed or any statute, by a court or otherwise) of all or any of the Secured Assets and shall, where permitted by law, include an administrative receiver;

"Secured Assets" means all of the assets, rights, title, interests and benefits of the Company from time to time subject to the Security;

"Secured Obligations" means all present and future Liabilities of the Company to the Secured Parties (or any of them) whatsoever, including but not limited to, under or in relation to either one or both of the Guarantee Documents (including, without limitation, all Liabilities arising out of any extension, variation, modification, restatement or novation of such Guarantee Documents whatsoever) provided that no Liability shall be included in the definition of "Secured Obligations" to the extent that, if it were so included, the Security (or any part thereof) or any other provision of this deed would be unlawful or prohibited by any applicable law;

"Secured Parties" has the meaning given to it in the Junior Intercreditor Agreement (subject to any particular construction which it is expressed to be subject to under the Junior Intercreditor Agreement);

"Security" means the security created or intended to be created by this deed;

"Senior Documents" means:

- (a) the Senior Intercreditor Agreement;
- (b) the ranking agreement dated on or around the date of this deed between (1) National Westminster Bank Public Limited Company, (2) the Company and (3) the Security Trustee;
- (c) the floating charge dated 14 October 2020 by the Company in favour of National Westminster Bank Public Limited Company;
- (d) the standard security dated 14 October 2020 by the Company in favour of National Westminster Bank Public Limited Company over the Property;
- (e) the Senior Debt Documents (as such term is defined in the Senior Intercreditor Agreement); and
- (f) the Senior Security Documents (as such term is defined in the Senior Intercreditor Agreement);

"Senior Discharge Date" has the meaning given to it in the Senior Intercreditor Agreement;

"Senior Intercreditor Agreement" means the intercreditor agreement dated on or around the date of this deed between (1) National Westminster Bank Public Limited Company, (2) the investors listed in schedule 1 thereto as A loan note holders, (3) the investors listed in schedule 1 thereto as B loan note holders, (4) the investors listed in schedule 1 thereto as C loan note holders, (5) the investors listed in schedule 1 thereto as D loan note holders, (6) Active Travel Group Limited, (7) the Company and the other companies listed in schedule 1 thereto as intra-group lenders, (8) the Company and the other companies listed in schedule 1 thereto as debtors and (9) the Security Trustee; and

"Senior Lender" has the meaning given to it in the Senior Intercreditor Agreement.

1.2 Construction

In this deed:

- 1.2.1 each reference to the singular includes the plural and vice versa, as the context permits or requires; and
- 1.2.2 unless a contrary indication appears, any reference to any agreement or instrument is a reference to that agreement or instrument as amended, novated, supplemented, extended or restated (as permitted by the Junior Intercreditor Agreement (as appropriate)).

1.3 Defined terms

Unless this deed provides otherwise or the context otherwise requires, a term which is defined (or expressed to be subject to a particular construction) in the Junior Intercreditor Agreement shall have the same meaning (or be subject to the same construction) in this deed, provided that in the event that the Loan Note Instruments are terminated, all such defined terms contained in the Loan Note Instruments immediately prior to such termination shall be deemed to be included in this deed as set forth herein.

1.4 Junior Intercreditor Agreement

This deed should be read and construed subject to the terms of the Junior Intercreditor Agreement. In the event of any inconsistency between the terms of this deed and the Junior Intercreditor Agreement, the terms of the Junior Intercreditor Agreement shall prevail.

1.5 Deemed Compliance

The parties to this deed agree that, notwithstanding any provision of this deed:

- 1.5.1 where under any of the provisions of Senior Documents the Company is required to deposit with the Senior Lender any deeds or documents of title, insurance policies, registration certificates, share certificates, stock transfer forms or other documents of whatever nature, such reciprocal requirement under this deed shall, until the Senior Discharge Date be fully satisfied under this deed if the same are deposited with the Senior Lender; and
- 1.5.2 where under the provisions of the Senior Documents the Company is obliged to deal with or otherwise account for any assets (including but not limited to shares or securities and insurance policy proceeds) upon the direction or instruction of the Senior Lender, the Company shall until the Senior Discharge Date deal with or otherwise account for such assets in accordance with directions or instructions from the Senior Lender and such compliance shall not be deemed a breach of this deed.

2 Company's Obligations

- 2.1 The Company agrees that it will pay and discharge the Secured Obligations as and when they fall due or, if no time for payment is specified in respect of the same, promptly on demand of the Security Trustee.
- 2.2 Any Secured Obligation which is owed by the Company under this deed and is not paid when due shall bear interest at the Default Rate from the due date until the date on which such Secured Obligation is unconditionally and irrevocably paid in full and such interest shall accrue from day to day (after as well as before judgement) and be payable by the Company on demand of the Security Trustee.
- 3 Floating Charge
- 3.1 The Company, as a continuing security for the payment on demand of the Secured Obligations, gives to the Security Trustee a floating charge over all its property, undertaking, assets (including uncalled capital) and rights owned now or in the future.
- 3.2 Any fixed charge given by the Company to the Security Trustee will rank in priority to the floating charge.
- 3.3 The floating charge will rank in priority to any fixed charge and any other floating charge granted by the Company after completion of this deed, unless the Security Trustee agrees otherwise.
- 4 Restrictions
- The Company will not, without the Security Trustee's consent:
- 4.1 permit or create any fixed security, floating charge or lien on the Property, whether ranking before or after this deed, except in favour of the Security Trustee;
- 4.2 dispose of any of its Land;
- 4.3 grant, or accept a surrender of, any lease or licence of any of its Land or consent to a tenant assigning or sub-letting;
- 4.4 dispose of any other property, assets or rights, other than in the ordinary course of business;
- 4.5 deal with its book and other debts, except by collecting them in the ordinary course of business. In particular, the Company will not realise its book and other debts by means of invoice discounting or factoring arrangements; nor
- 4.6 call on, or accept payment of, any uncalled capital.
- 5 Property Undertakings
- The Company will:
- 5.1 permit the Security Trustee at any time to inspect the Property;
- 5.2 keep all Property of an insurable nature comprehensively insured (including if requested by the Security Trustee, terrorism cover) to the Security Trustee's reasonable satisfaction for its full reinstatement cost. In default, the Security Trustee may arrange insurance at the Company's expense;
- 5.3 hold on trust for the Security Trustee all proceeds of any insurance of the Property. At the Security Trustee's option, the Company will apply the proceeds in making good the relevant loss or damage, or to reduce the Secured Obligations;

5.4 where required by the Security Trustee, deposit with the Security Trustee all insurance policies (or copies where the Security Trustee agrees), and all deeds and documents of title relating to the Property;

5.5 keep the Property in good condition; and

5.6 not, without the Security Trustee's consent, carry out any development on or make any alterations to any Land which require planning permission or approval under building regulations.

6 Enforcement

In addition to the Security Trustee's statutory rights, the floating charge will become immediately enforceable and the Security Trustee may appoint an administrator or receiver:

6.1 if an Event of Default has occurred and is continuing;

6.2 after a proposal has been made for a voluntary arrangement (save where any moratorium under the Insolvency Act 2000 is applied for or is in force, when no demand shall be made until any application is rejected or upon the expiry of such moratorium) in respect of the Company;

6.3 if the Company requests the Security Trustee to appoint an administrator pursuant to Schedule B1 of the Insolvency Act 1986 or a Receiver;

6.4 if so requested by the Company; or

6.5 any corporate action or other steps are taken or legal proceedings are started by or in respect of in respect of the Company with a view to the appointment of an administrator pursuant to Schedule B1 of the Insolvency Act 1986.

7 Certificate of Company's Obligations and Consent to Registration

A certificate signed by a Secured Party as to the amount of the Secured Obligations will be binding on the Company, except if there is an obvious error. The Company consents to the registration of this deed and the certificate for preservation and execution.

8 Appointment of Receiver or Administrator

The Security Trustee may appoint or remove a receiver or receivers of the Property, or appoint an administrator of the Company. If the Security Trustee appoints a receiver, the Security Trustee may fix and pay the receiver's fees and expenses. The receiver will be the Company's agent and the Company (and not the Security Trustee) will be responsible for the acts, defaults and remuneration of the receiver.

9 Powers of the Security Trustee and receivers

9.1 The Security Trustee or any receiver may:

9.1.1 carry on the Company's business;

9.1.2 enter, take possession of, and/or generally manage the Property;

9.1.3 complete any unfinished works or carry out any new works of building, reconstruction, maintenance or repair on any Land;

9.1.4 purchase any Land or other property and purchase, grant or release any interest in or right over Land or the benefit of any covenants affecting that Land. References

to Land or Property include land or property that is purchased by the Security Trustee or a receiver under this power;

- 9.1.5 sell, lease, surrender or accept surrenders of leases, charge or deal with the Property without restriction, including disposing of any fixtures separately from the Land;
- 9.1.6 complete any transactions by executing any deeds or documents in the name of the Company;
- 9.1.7 take, continue or defend any proceedings and enter into any arrangement or compromise;
- 9.1.8 insure the Property and any works, arrange indemnity and other similar insurance, and obtain bonds and give counter-indemnities and other security in connection with this;
- 9.1.9 call up any uncalled capital with all the powers conferred by the Company's articles of association;
- 9.1.10 employ advisers, consultants, managers, agents, workmen and others;
- 9.1.11 purchase or acquire materials, tools, equipment, furnishing, goods or supplies; or
- 9.1.12 do any acts which the Security Trustee or a receiver considers to be incidental or beneficial to the exercise of their powers.
- 9.2 A receiver may borrow and secure the repayment of any money, in priority to the Secured Obligations.
- 9.3 Joint receivers may exercise their powers jointly and separately.
- 9.4 A receiver will first apply any money received from the Property towards the repayment of all money that the receiver has borrowed and secondly in payment of the receiver's fees and expenses. The receiver will then apply any remaining money received as required by law.
- 9.5 The Security Trustee may exercise any of its powers even if a receiver has been appointed.
- 9.6 The Security Trustee may exercise any rights attached to any charged stock, shares and other securities as it considers necessary to preserve the value of, or realise, that Property. Otherwise, the Security Trustee will only exercise those rights as instructed by the Company.
- 9.7 Each Secured Party may set off any amount due from the Company against any amount owed by that Secured Party to the Company. The relevant Secured Party may exercise this right, without prior notice, both before and after demand. For this purpose, the relevant Secured Party may convert an amount in one currency to another, using a market rate of exchange in its usual course of business at the relevant time.
- 9.8 Any credit balance with a Secured Party will not be repayable, or capable of being disposed of, charged or dealt with by the Company, until the Secured Obligations both before and after demand have been paid in full. A Secured Party allowing the Company to make withdrawals will not waive this restriction in respect of future withdrawals.
- 10 Application of Payments
- 10.1 The Security Trustee may apply any payments received for the Company to reduce any of the Secured Obligations, as the Security Trustee decides.

- 10.2 If the Security Trustee receives notice of any charge or interest affecting the Property, the Security Trustee may suspend the Company's account(s) and open a new account or accounts. Regardless of whether the Security Trustee suspends the account(s), any payments received by the Security Trustee for the Company after the date of the notice will be applied first to repay the Secured Obligations arising after that date.
- 11 Preservation of Other Security and Rights and Further Assurance
- 11.1 The deed is in addition to any other security or guarantee for the Secured Obligations held by the Security Trustee now or in the future. The Security Trustee may consolidate the deed with any other security so that they have to be redeemed together, but it will not merge with or prejudice any other security or guarantee or any of the Security Trustee's other rights.
- 11.2 On request, the Company will execute any deed or document, or take any other action required by the Security Trustee, to perfect or enhance the Security Trustee's security under the deed.
- 12 Power of Attorney
- To give effect to the deed and secure the exercise of any of their powers, the Company irrevocably appoints the Security Trustee, and separately any receiver, to be the Company's attorney (with full power of substitution and delegation), in the Company's name to sign or execute any documents, deeds and other instruments, or to take, continue or defend any proceedings.
- 13 Consents, Notices and Demands
- 13.1 All consents, notices and demands must be in writing.
- 13.2 The Security Trustee may deliver a notice or demand to the Company at its registered office or at the contact details last known to the Security Trustee.
- 13.3 A notice or demand signed on behalf of the Secured Party will be effective at the time of personal delivery; on the second business day after posting; or, if by fax, at the time of sending, if sent before 6.00 p.m. on a business day, or otherwise on the next business day. A **business day** is a weekday other than a national holiday.
- 13.4 A notice from the Company to the Security Trustee will be effective on receipt.
- 14 Transfers
- The Security Trustee may assign or transfer any of its rights and/or duties to any person, or otherwise allow any person to take over any of its rights and/or duties, under the deed. The Company authorises the Security Trustee to give that person or its agent any financial or other information about the Company. References to the Security Trustee include its successors.
- 15 Law
- 15.1 Scots law applies to this deed and the Scottish courts have exclusive jurisdiction.

15.2 For the benefit of the Security Trustee, the Company irrevocably submits to the jurisdiction of the Scottish courts and irrevocably agrees that a decree or ruling in any proceedings in connection with the deed in those courts will be conclusive and binding on the Company and may be enforced against the Company in the courts of any other jurisdiction.

IN WITNESS WHEREOF:- these presents consisting of this and the preceding 7 pages are subscribed as follows:

Subscribed for and on behalf of Wilderness
Scotland Limited

by

[Redacted Signature]

~~*Authorised Signatory/Director/Company Secretary~~

Full Name of Signatory (Please Print)

V IAN MCILRATH

at HENFIELD

on 16/10/20

before

[Redacted Signature]

Witness (Signature)

Witness Name (Please Print)

MARK BEARD

Witness Address

LAYSPRING, LAWYERS LAKE,

HENFIELD, WEST SUSSEX BN5 9QS

*Please delete as applicable

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