



Registration of a Charge

Company name: **BALHOUSIE HOLDINGS LIMITED**

Company number: **SC278485**



X3MI6I55

Received for Electronic Filing: **11/12/2014**

Details of Charge

Date of creation: **26/11/2014**

Charge code: **SC27 8485 0009**

Persons entitled: **BANCO SANTANDER SA, LONDON BRANCH**

Brief description: **ALL AND WHOLE THE SUBJECTS ON THE WEST SIDE OF OLD GLAMIS ROAD, AND THE SOUTH SIDE OF FAIRMUIR ROAD, DUNDEE BEING THE WHOLE SUBJECTS REGISTERED IN THE LAND REGISTER OF SCOTLAND UNDER TITLE NUMBER ANG18048**

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:

ANDREW JORDAN



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 278485

Charge code: SC27 8485 0009

The Registrar of Companies for Scotland hereby certifies that a charge dated 26th November 2014 and created by BALHOUSIE HOLDINGS LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 11th December 2014 .

Given at Companies House, Edinburgh on 15th December 2014

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**



Dated

2014

- (1) Balhousie Holdings Limited
- (2) Banco Santander SA, London Branch (as Security Agent)

Standard Security

Eversheds LLP
115 Colmore Row
Birmingham
B3 3AL

Tel 0845 497 9797
Fax 0845 497 1900
Int +44 121 232 1000
DX 13004 Birmingham
www.eversheds.com

We certify this document as a true copy of the original
Eversheds LLP
Date: *9 December 2014*
EVERSHEDS LLP

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THIS STANDARD SECURITY is made

BETWEEN

- (1) **Balhousie Holdings Limited** (registered number SC278485) whose registered office is C/O Balhousie Care Group, Earn House, Lamberkine Drive, Perth, PH1 1RA ("the **Chargor**"); and
- (2) **Banco Santander SA, London Branch** (registered number BR001085), 2 Triton Square, Regents Place, London, NW1 3AN as Security Agent for itself and the Secured Parties ("the **Security Agent**").

1. DEFINITIONS AND INTERPRETATION

1.1 Defined terms

In this Standard Security, the following words and expressions have the following meanings:

"Act" means the Conveyancing and Feudal Reform (Scotland) Act 1970 as amended by the Redemption of Standard Securities (Scotland) Act 1971

"Business Day" means a day (other than a Saturday or Sunday) on which banks are open for general business in London

"Default Rate" means the rate being two percent higher than the rate otherwise applicable to the Secured Obligations

"Facilities Agreement" means the term loan and revolving credit facilities agreement dated 30 September 2010, made between, amongst others, (1) Balhousie Holdings Limited (the "**Parent**") as parent; (2) each of the entities listed in Part I of Schedule 1 as original borrowers; (3) each of the subsidiaries of the Parent, listed in Part I of Schedule 1 thereof as original guarantors; (4) Santander UK plc as mandated lead arranger; (5) the financial institutions listed in Part II and Part III of Schedule 1 as original lenders; (6) the persons listed in Part IV of Schedule 1 as original hedge counterparties; (7) Banco Santander SA, London Branch as agent; (8) Banco Santander SA, London Branch as security agent; and (9) Santander UK plc as working capital lender originally in respect of a term loan facility of up to £29,000,000 and a revolving credit facility of up to £15,000,000 as such

agreement may be amended, supplemented, restated, varied and novated from time to time, including by way of an amendment and restatement deed made between each of the parties on the date of this Standard Security

"Finance Document" has the meaning given to it in the Facilities Agreement

"Finance Party" has the meaning given to it in the Facilities Agreement

"Intercreditor Agreement" has the meaning given to it in the Facilities Agreement

"Obligor" has the meaning given to it in the Facilities Agreement

"Planning Acts" means the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Planning (Hazardous Substances) Act 1990, the Planning (Consequential Provisions) Act 1990, the Planning and Compensation Act 1991, the Planning and Compulsory Purchase Act 2004, the Town and Country Planning (Scotland) Act 1997, the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, the Planning (Hazardous Substances) (Scotland) Act 1997, the Planning (Consequential Provisions) (Scotland) Act 1997, the National Parks (Scotland) Act 2000 and the Planning etc. (Scotland) Act 2006 together with any other statutes governing or controlling the use or development of land, buildings or property

"Property" means all and whole the property or properties described in the Schedule or such of them as shall for the time being remain subject to this Standard Security including all buildings, erections and fixtures and fittings and fixed plant for the time being thereon and all improvements and additions thereto and all servitudes and other heritable rights appurtenant thereto subject to and with the benefit of all leases, underleases, tenancies, agreements for lease, rights, burdens and conditions affecting the same but

otherwise free from Security Interest

"Secured Obligations" means all present and future obligations and liabilities (whether actual or contingent and whether owned jointly or severally or in any other capacity whatsoever) of each Obligor to any Secured Party under or pursuant to each Finance Document together with all costs, charges and expenses incurred by any Secured Party in connection with the protection, preservation or enforcement of its respective rights under the Finance Documents, except for any obligations or liabilities which, if so included, would result in this Standard Security contravening section 678 or 679 of the Companies Act 2006 or any other applicable law

"Secured Parties" has the meaning given to it in the Facilities Agreement

"Security Interest" means any mortgage, standard security, charge, pledge, hypothecation, title retention, lien, assignment or assignment by way of security, assignation or assignation by way of security or other agreement or arrangement having the effect of conferring security

"Standard Conditions" means the standard conditions specified in Schedule 3 to the Act and any lawful variation thereof operative for the time being

"Standard Security" means this standard security

"Taxes" has the meaning given to it in the Facilities Agreement

1.2 Each of the provisions of this Standard Security is severable and distinct from the others and if at any time one or more such provisions becomes invalid illegal or unenforceable in any respect under any law or jurisdiction, neither the validity legality or enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.

1.3 The provisions of Clause 1.2 (*Construction*) of the Facilities Agreement apply to this Standard Security as though they were set out in full in this Standard Security except that references to the Facilities Agreement will be construed as references to this Standard Security.

- 1.4 In this Standard Security the headings to clauses are for convenience only and have no legal effect and reference to clauses and schedules are to clauses and schedules of this Standard Security unless otherwise stated.
- 1.5 References to the Property include any part of it and the Property includes all title burdens and conditions and rights affecting or concerning the same.
- 1.6 Any reference in this Standard Security to:
- 1.6.1 the "Chargor", an "Obligor" a "Secured Party" or the "Security Agent" shall include any person deriving title from them or any permitted successor or assignee;
 - 1.6.2 any agreement or instrument is a reference to that agreement or instrument as amended, varied, novated, replaced or restated in whole or in part;
 - 1.6.3 a provision of law is a reference to that provision as amended or re-enacted; and
 - 1.6.4 a "Clause", "paragraph", "sub -paragraph" or "Schedule" is to a Clause, paragraph or sub-paragraph of, and the Schedule to, this Standard Security.
- 1.7 Words in the singular shall import the plural and vice versa.
- 1.8 The headings in this Standard Security are for ease of reference only.
- 1.9 Unless otherwise defined, terms and expressions defined in the Facilities Agreement shall have the same meaning herein.

2. UNDERTAKING TO PAY

The Chargor undertakes to the Security Agent to pay or discharge the Secured Obligations in the manner provided for in the Finance Documents.

3. CHARGE

- 3.1 In security of the payment and discharge of its obligations hereunder and in respect of the Secured Obligations, the Chargor to the intent that the security created shall rank as a continuing security, hereby grants a Standard Security in favour of the Security Agent over the Property.
- 3.2 The Chargor undertakes to deposit with the Security Agent, upon the date of execution hereof by the Chargor, the deeds and documents of title relating to the Property.

4. **STANDARD CONDITIONS**

4.1 The Standard Conditions shall apply and the Standard Conditions shall be varied firstly by the terms of the Facilities Agreement, secondly in accordance with the provisions of this Standard Security and thirdly to the effect that the following provisions shall apply:

4.1.1 Standard Condition 7 shall be varied to the effect that:

4.1.1.1 the Security Agent shall not be required to give any notice of its exercise of the right of entry referred to in Standard Condition 7(2);

4.1.1.2 the interest rate for the purposes of Standard Condition 7(3) shall be the Default Rate.

4.1.2 For the purposes of Standard Condition 9(1) the Chargor shall be held to be in default if there is an Event of Default which occurs and is continuing and in the event of the Chargor being in default as aforesaid, then without prejudice to any other rights and remedies available to the Security Agent by virtue of the Standard Conditions or any other security, charge or undertaking or in any other manner the Security Agent will be entitled to exercise any of the remedies available to a Security Agent on default of the Chargor by virtue of the provisions of the Act.

5. **DECLARATIONS**

5.1 If there shall be any breach of the obligations or undertakings contained or referred to in this Standard Security the Security Agent shall (without prejudice to all other rights and powers available to it) be entitled, without notice to the Chargor, to withhold further facilities from the Chargor.

5.2 If the Security Agent receives notice of any subsequent charge or other interest affecting all or any part of the Property the Security Agent may open a new account or accounts with the Chargor and, if or in so far as the Security Agent does not open a new account or accounts, it shall nevertheless be treated as if it had done so at the time when it received such notice and as and from that time all payments made by the Chargor to the Security Agent shall, notwithstanding any instructions by the Chargor to the contrary, be credited or treated as having been credited to the new account or accounts and shall not operate to reduce the amount due from the Chargor to the Security Agent at the time when notice was received.

6. UNDERTAKINGS BY THE CHARGOR

6.1 The Chargor undertakes to comply with all obligations affecting the Property incumbent on it and contained in the Facilities Agreement.

6.2 The Chargor may not:

6.2.1 create or permit to subsist any Security on the Property except as expressly allowed under the terms of the Facilities Agreement or the Intercreditor Agreement; or

6.2.2 sell, transfer, licence, lease or otherwise dispose of the Property or any part thereof except as expressly allowed under the Facilities Agreement.

6.3 If the Chargor fails at any time to perform or observe any undertaking or condition on its part contained herein or in the Facilities Agreement, the Security Agent shall be entitled but not obliged, in order to make good such failure in whole or in part:

6.3.1 to enter upon the Property and effect such repairs and other works thereon as the Security Agent considers necessary;

6.3.2 to take such steps, give such notices, execute such works and do such things as the Security Agent, acting reasonably, considers necessary to comply with any requirements of or any notice, order, direction, permission or proposal given, served or made under the Planning Acts or otherwise affecting or likely to affect the Property;

6.3.3 to insure and keep insured the Property in such amount and in such manner as the Security Agent considers necessary; and

6.3.4 to admit, settle, liquidate, compound or contest in such manner as the Security Agent thinks fit any claim or liability in relation to the Property whether or not the Security Agent is expressly indemnified herein against the same and to make such payments and expend or debit on account such moneys as the Security Agent considers necessary to that end,

provided that the Security Agent shall not be deemed to be a heritable creditor in possession by reason of the exercise of any right conferred by this Clause 6.3 and provided further that any sum expended by the Security Agent in accordance with this Clause 6.3 shall be repayable by the Chargor and be added to the total of the Secured Obligations.

No failure or delay by the Security Agent in exercising any right or remedy under this Standard Security shall operate as a waiver, and no

single or partial exercise shall prevent further exercise, of any right or remedy.

- 6.4 All moneys received under any insurance whatsoever in respect of loss or damage by fire or otherwise to the Property shall, if the Security Agent so requires, be applied in making good the loss or damage or in or towards the discharge of the money for the time being owing under this Standard Security.

7. PAYMENTS

- 7.1 All payments by the Chargor pursuant to this Standard Security shall be made without any set-off, counterclaim or equity and free and clear of and without withholding or deduction for or on account of any Taxes except to the extent that the Chargor is required by law to make such withholding or deduction. If the Chargor or any agent of the Chargor is obliged to make any such withholding or deduction the Chargor shall pay a sufficient amount as will result (after such withholding or deduction) in the receipt by the Security Agent of a sum equal to the payment which would have been due if no such withholding or deduction had been required.
- 7.2 The Security Agent's costs (including legal costs and surveyors fees) of any dealing including the costs of any release, discharge or re-conveyance will be the responsibility of the Chargor and shall be added to the total of the Secured Obligations.
- 7.3 The Security Agent may in relation to this Standard Security act on the opinion or advice of or any information obtained from any lawyer, valuer, surveyor, auditor, accountant or other expert acting in his professional capacity whether obtained by the Chargor or the Security Agent and shall not be responsible for any loss occasioned by so acting.
- 7.4 No assurance, security or payment which may be avoided under any enactment relating to bankruptcy, insolvency, winding-up or any similar process (including under sections 238 to 245 (inclusive) of the Insolvency Act 1986) and no release, settlement or discharge given or made by the Security Agent on the faith of any such assurance, security or payment, shall prejudice or affect the right of such persons to enforce the security created by or pursuant to this Standard Security in respect of the full extent of the Secured Obligations hereby secured. The Security Agent shall be at liberty at its absolute discretion to retain the security so created as security for the Secured Obligations for a period of one month plus such statutory period within which any security or payment given or made pursuant to this Standard Security may be avoided or invalidated after the Secured Obligations hereby secured shall have been paid in full, notwithstanding any release, settlement, discharge or arrangement given or made by the Security Agent on or as a consequence of such termination of liability. If at any

time within such period after such termination, a petition shall be presented to a competent court for an order for the bankruptcy, insolvency, winding up or similar process of or in respect of the Chargor or the Chargor shall commence to be wound up voluntarily or an application for an administration order shall be made to a competent court in respect of the Chargor, the Security Agent shall be at liberty, notwithstanding the above, to continue to retain such security or any part thereof for and during such further period as the Security Agent in its absolute discretion shall determine. The Chargor agrees that such security shall be deemed to have been and to have remained held by the Security Agent as and by way of security for the payment to the Security Agent of all or any sums which may become due and owing to the Security Agent in respect of the Secured Obligations hereby secured.

- 7.5 The Security Agent may at any time (without notice or consent) assign, transfer or otherwise dispose of in any manner it sees fit, all or any part of the benefit of this Standard Security (or all or any of its rights under this Standard Security) and/or any of its obligations under this Standard Security to any person. The Chargor may not assign, transfer or otherwise dispose of any part of the benefit or burden of this Standard Security or all or any of its rights under this Standard Security without the prior written consent of the Security Agent.

8. CERTIFICATE OF SUMS DUE

A certificate by a director, officer or manager of the Security Agent as to the money or liabilities for the time being due or incurred to it by the Chargor shall be conclusive evidence against the Chargor in any legal proceedings in the absence of manifest error.

9. CONTINUING SECURITY

- 9.1 The security created by this Standard Security shall not be considered as satisfied by any intermediate payment or satisfaction of the whole or part of the Secured Obligations but shall be a continuing security for all the Secured Obligations.

10. The security created by this Standard Security shall be in addition to and shall not in any way be prejudiced or affected by any collateral or other Security Interest now or hereafter held or judgement or order obtained by the Security Agent for all or any part of the Secured Obligations or the omission of the Security Agent to claim payment from the Chargor or any other person nor shall such collateral or other Security Interest, judgement or order or any lien to which the Security Agent may otherwise be entitled (including any Security Interest prior to the date of this Standard Security) or the liability of any person not party hereto for all or any part of the Secured Obligations be in any way prejudiced or affected by this Standard Security.

11. **FURTHER ASSURANCE**

The Chargor shall upon demand execute any document or do any act or thing which the Security Agent may specify with a view to perfecting or improving any security created or intended to be created by this Standard Security or (upon such security becoming enforceable) which the Security Agent may specify with a view to facilitating the exercise or the proposed exercise of any of its powers in this Standard Security.

12. **NOTICES**

Clause 35 (*Notices*) of the Facilities Agreement (with the exclusion of Clause 35.4) is incorporated into this Standard Security as if fully set out in this Standard Security.

13. **FINANCIAL COLLATERAL**

- 13.1 To the extent that the assets mortgaged or charged under this Standard Security constitute "financial collateral" and this Standard Security and the obligations of the Chargor constitute a "security financial collateral arrangement" (in each case for the purpose of and as defined in the Financial Collateral Arrangements (No. 2) Regulations 2003 (SI 2003 No. 3226)) the Security Agent shall have the right after this Standard Security has become enforceable to appropriate all or any part of that financial collateral in or towards the satisfaction of the Secured Obligations.

- 13.2 For the purpose of Clause 13.1 above, the value of the financial collateral appropriated shall be such amount as the Security Agent reasonably determines having taken into account advice obtained by it from an independent investment or accountancy firm of national standing selected by it. The Chargor agrees that the methods of valuation provided for in this Clause 13 are commercially reasonable for the purposes of the Regulations. To the extent that Security Assets constitute Financial Collateral, the Chargor agrees that such Security Assets shall be held or designated so as to be under the control of the Security Agent for all purposes of the Regulations.

14. PRESERVATION OF RIGHTS

14.1 Neither the obligations of the Chargor herein contained nor the rights, powers and remedies conferred in respect of the Chargor upon the Security Agent by this Standard Security or by law shall be discharged, impaired or otherwise affected by:

14.1.1 the winding up, dissolution, administration or reorganisation of the Chargor or any change in the status, function, control or ownership of the Chargor;

14.1.2 any legal limitation, disability, incapacity or other circumstances relating to the Chargor in relation to the indebtedness or any of the obligations of the Chargor in relation to the Secured Obligations being or becoming illegal, invalid, unenforceable or ineffective in any respect;

14.1.3 any time or other indulgence being granted or agreed to be granted to the Chargor in respect of its obligations in relation to the Secured Obligations or under any other Security Interest;

14.1.4 any amendment to, or any variation, waiver or release of any obligation of the Chargor in relation to the Secured Obligations;

14.1.5 any failure to take, or fully to take, any Security Interest agreed to be taken in respect of the obligations of the Chargor in relation to the Secured Obligations;

14.1.6 any failure to realise or fully to realise the value of, or any release, discharge, exchange or substitution of any such Security Interest taken in respect of the Chargor in relation to the Secured Obligations; or

14.1.7 any other act, event or omission which, but for this Clause might operate to discharge, impair or otherwise affect any of the obligations of the Chargor herein contained or any of the rights, powers or remedies conferred upon the Security Agent by this Standard Security or by law.

15. CONFLICT WITH THE TERMS OF THE FACILITIES AGREEMENT

Where there is any conflict between: (a) the Standard Conditions and/or the conditions contained in the Standard Security and; (b) the Facilities Agreement, the Facilities Agreement shall in so far as lawful prevail and have effect in preference to the Standard Conditions and/or the conditions contained in the Standard Security.

16. **GOVERNING LAW AND JURISDICTION**

17. This Standard Security and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with the laws of Scotland.
18. The Chargor irrevocably agrees for the benefit of the Security Agent and that the Court of Session in Scotland (the "Court") shall have exclusive jurisdiction (subject as provided below) in relation to any claim, dispute or difference concerning this Standard Security and in relation to, or in relation to the enforcement of, any judgement relating to any such claim, dispute or difference.
19. The Chargor irrevocably waives any right that it may have to object to an action being brought in the Court, to claim that the action has been brought in an inconvenient forum or to claim that the Court does not have jurisdiction,
20. Such aforesaid submission to the jurisdiction of the Courts shall not (and shall not be construed as to) limit the right of the Security Agent to bring legal proceedings in any other court of competent jurisdiction (including, without limitation, the courts having jurisdiction by reason of the Chargor's place of incorporation). Legal proceedings by the Security Agent in any one or more jurisdictions shall not preclude legal proceedings by them or it in any other jurisdiction, whether by way of substantive action, ancillary relief, enforcement

21. **WARRANTICE**

The Chargor grants warrantice and the Chargor consents to registration of the Standard Security for preservation and execution.

IN WITNESS WHEREOF these presents consisting of this and the preceding 12 pages, together with the Schedule annexed, are subscribed on behalf of the Chargor as follows:

Subscribed for and on behalf the Chargor

Signature of director / secretary /
authorised signatory

ANTHONY ROSE BANKS

Full name of above (print)

18 September 2014

Date of signing

Place of signing

Signature of witness

JACK MOR

Full name of above (print)

Address of witness

THIS IS THE SCHEDULE REFERRED TO IN THE FOREGOING STANDARD SECURITY BY BALHOUSIE HOLDINGS LIMITED IN FAVOUR OF BANCO SANTANDER SA, LONDON BRANCH AS SECURITY AGENT FOR THE SECURED PARTIES

THIS IS THE SCHEDULE REFERRED TO IN THE FOREGOING STANDARD SECURITY
BY BACHOUSE HOLDINGS LIMITED IN FAVOUR OF BANCO SANTANDER SA, LONDON BRANCH AS
SECURITY AGENT FOR THE SECURED PARTIES

SCHEDULE 1

Property

1. All and whole the subjects on the west side of Old Glamis Road, and the south side of Fairmuir Road, Dundee being the whole subjects registered in the Land Register of Scotland under Title Number ANG18048.



.....Director