

# MR01

## Particulars of a charge

08 7081 113  
IRIS Laserform

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

**You can use the WebFilin**  
Please go to [www.companieshouse.gov.uk](http://www.companieshouse.gov.uk)

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

☐ **What this form is NOT for**  
You may not use this form to  
register a charge where the  
instrument Use form MR06

WEDNESDAY



A09 \*A2JKQ3WI\* 23/10/2013 #233  
COMPANIES HOUSE

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

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

### 1 Company details

Company number 00819519  
Company name in full Arbutnot Latham & Co., Limited

6 For official use  
→ **Filling in this form**  
Please complete in typescript or in  
bold black capitals  
All fields are mandatory unless  
specified or indicated by \*

### 2 Charge creation date

Charge creation date d1 d1 m1 m0 y2 y0 y1 y3

### 3 Names of persons, security agents or trustees entitled to the charge

Please show the names of each of the persons, security agents or trustees  
entitled to the charge

Name Auster Real Estate Opportunities S.a.r.l

Name

Name

Name

If there are more than four names, please supply any four of these names then  
tick the statement below

☐ I confirm that there are more than four persons, security agents or  
trustees entitled to the charge

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**Description**

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

**Continuation page**

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

Description

5

**Fixed charge or fixed security**

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

☒ **Yes**

☐ **No**

6

**Floating charge**

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

☐ **Yes** Continue

☒ **No** Go to **Section 7**

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

☐ **Yes**

7

**Negative Pledge**

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

☒ **Yes**

☐ **No**

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### Trustee statement ①

You may tick the box if the company named in Section 1 is acting as trustee of the property or undertaking which is the subject of the charge

☐

① This statement may be filed after the registration of the charge (use form MR06)

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### Signature

Please sign the form here

Signature

Signature

X Taylor Wessingul

X

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

# MR01

## Particulars of a charge



### Presenter information

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

Contact name RHH

Company name Taylor Wessing LLP

Address 5 New Street Square

Post town London

County/Region

Postcode E C 4 A 3 T W

Country

DX 41 London London - Chancery Lane

Telephone +44 (0) 207 300 7000



### Certificate

We will send your certificate to the presenter's address if given above or to the company's Registered Office if you have left the presenter's information blank.



### Checklist

**We may return forms completed incorrectly or with information missing**

**Please make sure you have remembered the following:**

- ☐ The company name and number match the information held on the public Register
- ☐ You have included a certified copy of the instrument with this form
- ☐ You have entered the date on which the charge was created
- ☐ You have shown the names of persons entitled to the charge
- ☐ You have ticked any appropriate boxes in Sections 3, 5, 6, 7 & 8
- ☐ You have given a description in Section 4, if appropriate
- ☐ You have signed the form
- ☐ You have enclosed the correct fee
- ☐ Please do not send the original instrument, it must be a certified copy



### Important information

**Please note that all information on this form will appear on the public record.**



### How to pay

**A fee of £13 is payable to Companies House in respect of each mortgage or charge filed on paper.**

Make cheques or postal orders payable to 'Companies House'



### Where to send

**You may return this form to any Companies House address. However, for expediency, we advise you to return it to the appropriate address below.**

**For companies registered in England and Wales.**  
The Registrar of Companies, Companies House,  
Crown Way, Cardiff, Wales, CF14 3UZ  
DX 33050 Cardiff

**For companies registered in Scotland.**  
The Registrar of Companies, Companies House,  
Fourth floor, Edinburgh Quay 2,  
139 Fountainbridge, Edinburgh, Scotland, EH3 9FF  
DX ED235 Edinburgh 1  
or LP - 4 Edinburgh 2 (Legal Post)

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



### Further information

For further information, please see the guidance notes on the website at [www.companieshouse.gov.uk](http://www.companieshouse.gov.uk) or email [enquiries@companieshouse.gov.uk](mailto:enquiries@companieshouse.gov.uk)

**This form is available in an alternative format. Please visit the forms page on the website at [www.companieshouse.gov.uk](http://www.companieshouse.gov.uk)**



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

Company number: 819519

Charge code: 0081 9519 0006

The Registrar of Companies for England and Wales hereby certifies that a charge dated 11th October 2013 and created by ARBUTHNOT LATHAM & CO , LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 23rd October 2013.

*DX*

Given at Companies House, Cardiff on 25th October 2013



**Companies House**



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

Execution

DATED

11 October 2013

- (1) **ARBUTHNOT LATHAM & CO., LIMITED**  
as Chargor
- (2) **AUSTER REAL ESTATE OPPORTUNITIES S.À.R.L.**  
as Security Agent

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**DEED OF CHARGE OVER SHARES**

Re Tarn Crag Limited

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Certified to be a true copy  
of the original  
*Taylor Wessing LLP*  
Taylor Wessing LLP

Callin Wild LLC  
Advocates  
Douglas  
Isle of Man

THIS DEED is made on

11 October 2013

**BETWEEN**

- (1) **ARBUTHNOT LATHAM & CO., LIMITED** (registered in England and Wales with company number 00819519) with its registered address at Arbuthnot House, 20 Ropemaker Street, London EC2Y 9AR (the "**Chargor**"), and
- (2) **AUSTER REAL ESTATE OPPORTUNITIES S.À.R.L.** a private limited liability company incorporated under the laws of Luxembourg having its registered office at 47, avenue J F Kennedy, L-1855 Luxembourg, with a share capital of EUR12,500 and registered with the Luxembourg trade and companies register under number B 158 948 in its capacity as agent and security trustee for the Finance Parties (the "**Security Agent**")

**NOW THIS DEED WITNESSES** as follows

**1 INTERPRETATION**

**1.1 Definitions**

In this Deed

**"Authorisations"** means all approvals, consents, licences, permissions and registrations which it is necessary or advisable for the Chargor to obtain, in any jurisdiction, from any government or other authority or, without limitation, any third party for the purposes of or relating to any Finance Document,

**"Company"** means Tarn Crag Limited (registered in the Isle of Man with registration number 009651V),

**"Facility Agreement"** means the facility agreement dated on or about the date hereof between (1) the Company as borrower (2) the financial institutions named therein as Original Lenders (3) the Security Agent in its capacity as agent of the other Finance Parties and (4) the Security Agent in its capacity as security trustee for the Finance Parties as the same may be amended, supplemented, varied, novated and/or restated from time to time,

**"Receiver"** means a receiver or receiver and manager of the whole or any part of the Scheduled Securities appointed under this Deed,

**"Scheduled Securities"** means the rights, title and interest present and future of the Chargor in and to

- (a) the shares, stocks and securities of the Company listed in Schedule 1, the number and nature of which are specified in Schedule 1,
- (b) any other shares, stocks and securities of the Company issued to the Chargor to be substituted from time to time for those shares, stocks and securities listed in Schedule 1,
- (c) any additional shares stock or securities of the Company issued to the Chargor after the date of this Deed,

- (d) all interest, dividends (cash or otherwise), bonus issues, distributions, allotments, offers by way of rights, benefits, rights, proceeds and entitlements arising from or attaching to any of the securities referred to in (a), (b) and (c) above,

**"Secured Obligations"** means all obligations of the Company owed or expressed to be owed to the Finance Parties (or any of them) under or in connection with the Finance Documents whether owed jointly or severally, as principal or surety or in any other capacity,

**"Security Period"** means the period from the date hereof until the date upon which all of the Secured Obligations have been unconditionally and irrevocably paid and discharged in full or upon which all of the Transaction Security shall have been unconditionally and irrevocably released and discharged,

**"Subordination Deed"** has the meaning given to it in the Facility Agreement,

**"Tax"** means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same), and

**"Tax Deduction"** means a deduction or withholding for or on account of Tax from a payment under this Deed

## 1 2 Interpretation

In this Deed

- (a) capitalised terms defined in the Facility Agreement have, unless expressly defined in this Deed, the same meaning in this Deed,
- (b) all references to a document or agreement (including, without limitation, this Deed, the Facility Agreement and any other Finance Document) shall be construed as a reference to such document or agreement or document as the same may have been, or may from time to time be, amended, restated, varied, novated, assigned, substituted, supplemented or otherwise modified from time to time (and so that any reference to such document or agreement shall include, unless the context otherwise requires, any agreement or document expressed to be supplemental hereto or expressed to be collateral herewith or which is otherwise entered into pursuant to or in accordance with the provisions hereof),
- (c) in the event of any conflict between the terms of the Facility Agreement and the terms of this Deed, the terms of the Facility Agreement shall prevail, and
- (d) words importing the singular shall include the plural and vice versa and where there are two or more persons included in the expression the **"Chargor"** or the **"Security Agent"** references to the Chargor or the Security Agent are references to all or any of them as the context may require

## 2 CHARGE

- 2 1 As a continuing security for the payment by the Company of all Secured Obligations, the Chargor as legal and beneficial owner charges by way of equitable charge to the



Security Agent all of its present and future rights, title and interest in and to the Scheduled Securities

- 2 2 The recourse of the Security Agent against the Chargor in respect of the Secured Obligations is limited to the Security Agent's rights of enforcement and recovery against the Scheduled Securities charged under this Deed and, accordingly, the Security Agent agrees that the total amount recoverable against the Chargor under this Deed shall be limited to the proceeds received by the Security Agent in realising the Scheduled Securities in accordance with this Deed and the Security Agent shall have no other or further recourse against the Chargor

### 3 REPRESENTATIONS

The Chargor makes the representations set out in this Clause 3 to the Security Agent on the date of this Deed

#### 3 1 Status

- (a) The Chargor is a company limited by shares, duly incorporated and validly existing under the law of England and Wales
- (b) The Chargor has the power to own its assets and carry on its business as it is being conducted

#### 3 2 Binding obligations

The obligations expressed to be assumed by the Chargor in this Deed are legal, valid, binding and enforceable obligations

#### 3 3 Non-conflict with other obligations

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

- (a) any law or regulation applicable to the Chargor,
- (b) the constitutional documents of the Chargor, or
- (c) any agreement or instrument binding upon the Chargor or any of the Chargor's assets

#### 3 4 Power and Authority

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

#### 3 5 Acting as principal

The Chargor is acting in all matters relating to this Deed as principal for the Chargor's own account and not as agent or trustee or in any other capacity whatsoever on behalf of any third party

**3 6 Validity**

All Authorisations required or desirable to enable it lawfully to enter into, exercise its rights and comply with its obligations in this Deed and to make this Deed admissible in evidence in its relevant jurisdictions have been obtained or effected and are in full force and effect

**3 7 Scheduled Securities**

- (a) It has and will at all times have good title to and is and will at all times be the sole legal and beneficial owner of the Scheduled Securities free from any charges other than the security constituted or evidenced by this Deed or any other charge permitted by the Facility Agreement
- (b) The Scheduled Securities are fully paid
- (c) There are no monies or liabilities outstanding or payable in respect of the Scheduled Securities
- (d) It has not heretofore sold, transferred or otherwise disposed of the benefit of or agreed to sell, transfer or otherwise dispose of the benefit of its (or any part of its) rights, title and interest in and to the Scheduled Securities
- (e) Save as constituted by this Deed, the Scheduled Securities are not subject to any Security
- (f) The Scheduled Securities constitute the entire issued class B ordinary shares in the share capital of the Company
- (g) No breach of any law or regulation is outstanding which adversely affects or might adversely affect the value of the Scheduled Securities

**3 8 No filing or stamp taxes**

Save that this Deed must be registered at Companies House in England, it is not necessary that this Deed be filed, recorded or enrolled with any court or other authority in any jurisdiction or that any stamp, registration or similar tax be paid on or in relation to this Deed or the transactions contemplated by this Deed

**3 9 No misleading information**

- (a) Any other factual information provided by the Chargor for the purposes of this Deed was true and accurate in all material respects as at the date it was provided or as at the date (if any) at which it is stated
- (b) Nothing has occurred or been omitted from the information delivered to the Security Agent in connection with this Deed and no information has been given or withheld that results in the information delivered to the Security Agent being untrue or misleading in any material respect

**3 10 Repetition**

The representations and warranties in this Clause 3 are deemed to be made by the Chargor by reference to the facts and circumstances then existing on

- (a) the date of this Deed,

- (b) the commencement of each Interest Period, and
- (c) the date of the Chargor depositing any Scheduled Securities or any certificates, documents of title or other documentary evidence of title to the same

#### **4 COVENANTS AND UNDERTAKINGS**

##### **4.1 Duration**

The Chargor undertakes with the Security Agent in the terms of this Clause 4 such undertakings to remain in force throughout the Security Period

##### **4.2 Authorisations**

The Chargor shall promptly

- (a) obtain, comply with and do all that is necessary to maintain in full force and effect, and

- (b) supply certified copies to the Security Agent of,

any Authorisation required under any law or regulation of its jurisdiction of incorporation and/or where it carries on business to enable it to perform its obligations under this Deed and to ensure the legality, validity, enforceability or admissibility in evidence of any Finance Document

##### **4.3 Further assurance**

The Chargor shall, forthwith on demand by the Security Agent, do and execute any and all further acts, deeds, documents and things as may from time to time be specified by the Security Agent to be necessary or advisable to perfect this Deed and protect the interests of the Security Agent thereunder

##### **4.4 Negative pledge**

The Chargor shall not without the prior consent of the Security Agent

- (a) create or permit to subsist any Security over its (or any part of its) rights, title and interest in and to the Scheduled Securities other than pursuant to the Finance Documents,
- (b) enter into a single transaction or a series of transactions (whether related or not and whether voluntary or involuntary) to sell, lease, transfer or otherwise dispose of its (or any part of its) rights, title and interest in and to the Scheduled Securities,
- (c) take or omit to take any action the taking or omission of which would or might impair the interest of the Security Agent in the Scheduled Securities, or
- (d) amend or cause or allow to be amended the constitutional documents of the Company in a manner which would prejudice this security in any way

##### **4.5 Deposit of share certificates etc.**

The Chargor irrevocably undertakes

- (a) immediately upon the execution of this Deed (or upon becoming possessed thereof at any time hereafter) to deposit with the Security Agent (to the intent

that the same shall be subject in all respects to the provisions of the Finance Documents and to the extent not previously deposited with the Security Agent) (to the extent not already in the possession of the Chargor) forthwith upon receipt by it

- (i) all certificates, documents of title and other documentary evidence of all rights, bonuses, new shares, stock, rights to take up securities or other securities of whatever nature (including, without limitation, any security resulting from any conversion, consolidation or sub-division of the Scheduled Securities or rights arising from a reduction of capital, liquidation or scheme of arrangement) which at any time may be issued in respect of any of or attributable to the Scheduled Securities, and
  - (ii) stock transfer forms of the Scheduled Securities duly executed by the Chargor but left undated and completed in favour of the Security Agent or any nominee of the Security Agent notified to the Chargor, which will only be used by the Security Agent upon the occurrence of an Event of Default which is continuing
- (b) forthwith after execution and delivery of this Deed to give notice of the Security to the Company in the form contained in Part 1 of Schedule 2 and procure that the Company acknowledges such notice to the Security Agent in the form contained in Part 2 of Schedule 2

#### **4.6 Transfer of Scheduled Securities**

The Chargor shall (to the extent not previously transferred) forthwith procure, on the Security Agent's first demand following the occurrence of an Event of Default which is continuing, the transfer of the Scheduled Securities to the Security Agent or any nominee notified to the Chargor

#### **4.7 Payment of uncalled capital**

The Chargor shall duly and promptly pay all calls which may from time to time be made in respect of unpaid monies under any of the Scheduled Securities and duly and promptly pay any other monies which the Chargor may lawfully be required to pay in respect of the Scheduled Securities

#### **4.8 Statutory information**

The Chargor shall forthwith provide or cause to be forthwith provided to the Security Agent a copy of any report, accounts, circular or notice sent or provided to it in its capacity as the registered holder of the Scheduled Securities (or any of them)

#### **4.9 Indemnity**

The Chargor shall keep the Security Agent fully and effectively indemnified from and against any and all actions, losses, claims, proceedings, costs, demands and liabilities which may be suffered or incurred by the Security Agent as a result on the part of the Chargor of any breach of any of the terms of this Deed

### **5 ENFORCEMENT OF SECURITY**

#### **5.1 Enforcement**

All rights of the Security Agent under and in respect of this Deed shall become immediately exercisable and the security conferred by this Deed shall become

immediately enforceable upon the occurrence of an Event of Default which is continuing or upon any material breach of any provision of this Deed

## **5.2 Prior charges**

The Security Agent may at any time after this Deed has become enforceable redeem any prior mortgage, charge or other security over all or any of the Scheduled Securities or procure the transfer thereof to itself and may settle and pass the accounts of the prior mortgagee, chargee or security holder. Any accounts so settled and passed shall (save in respect of any manifest error) be conclusive and binding on the Chargor. All principal moneys, interest, costs, charges and expenses of and incidental to the redemption and transfer shall be Secured Obligations payable by the Company to the Security Agent on demand.

## **5.3 Powers of enforcement**

At any time after the security conferred by this Deed shall have become enforceable upon the occurrence of an Event of Default which is continuing but subject always to the terms of the Subordination Deed, the Security Agent shall cease to be under any obligation whatsoever to the Company under the Facility Agreement and the Security Agent may in its absolute discretion (and without being responsible to the Chargor for any loss or damage which may arise in connection therewith) enforce all or any of its rights, powers and remedies possessed by it according to law as mortgagee of the Scheduled Securities and in any event shall have the right to

- (a) collect, recover, compromise and give a good discharge for any and all monies and claims for monies due or to become due and for the time being comprised in the Scheduled Securities,
- (b) exercise in relation to the Scheduled Securities all such rights as the Chargor then might exercise in relation to the Scheduled Securities or might but for the terms of Clause 4 (Covenants and undertakings) so exercise,
- (c) take any and all steps necessary to vest the Scheduled Securities in the name of the Security Agent or its nominee,
- (d) sell, exchange, convert into money or otherwise dispose of or realise or concur in selling, exchanging, converting into money or otherwise disposing of or realising any or all of the Scheduled Securities either by public offer or private contract and for such consideration and on such terms as the Security Agent may think fit and to apply the net proceeds thereof in or towards payment of any of the Secured Obligations,
- (e) retain any dividends or interest received in respect of the Scheduled Securities and apply them as though they were proceeds of sale hereunder, and
- (f) do all such other acts and things as may be considered to be incidental or conducive to any powers and/or matters which the Security Agent may or can lawfully do according to law as mortgagee of the Scheduled Securities

## **5.4 Exercise of remedies**

Subject to the provisions of this Deed but subject always to the terms of the Facility Agreement and the Subordination Deed, the Security Agent may exercise its power of sale hereunder in such manner and at such times as the Security Agent in its absolute discretion may determine and shall not in any circumstances be answerable for any loss occasioned to any party by such assignment or sale or resulting from postponement thereof.

**6 RECEIVER**

**6.1** At any time after this Deed has become enforceable and without the Security Agent being required to vest, transfer or register the Scheduled Securities into the name of the Security Agent or any nominee of the Security Agent, the Security Agent may by writing (acting through an authorised officer of the Security Agent) without notice to the Chargor

- (a) appoint one or more persons to be a Receiver of the whole or any part of the Scheduled Securities,
- (b) remove (so far as it is lawfully able) any Receiver so appointed, and
- (c) appoint another person(s) as an additional or replacement Receiver(s)

The powers of appointment of a Receiver shall be in addition to all statutory and other powers of appointment of the Security Agent under statute (as extended by this Deed) or otherwise and such powers shall remain exercisable from time to time by the Security Agent in respect of any part of the Scheduled Securities

**6.2** Each person appointed to be a Receiver pursuant to Clause 6.1 shall be

- (a) entitled to act individually or together with any other person appointed or substituted as Receiver,
- (b) for all purposes deemed to be the agent of the Chargor who shall be solely responsible for his acts, defaults and liabilities and for the payment of his remuneration, subject at all times to the provisions of clause 2.2, and no Receiver shall at any time act as agent for the Security Agent, and
- (c) entitled to remuneration for his services at a rate to be fixed by the Security Agent from time to time (without being limited to the maximum rate specified under statute (if any))

**6.3** In addition to the powers of the Security Agent conferred by Clause 5, each Receiver shall (subject to any restrictions in the instrument appointing him but notwithstanding any winding-up, insolvency or dissolution of the Chargor) have, in relation to the part of the Scheduled Securities in respect of which he was appointed (in the name of or on behalf of the Chargor or in his own name and, in each case, at the cost of the Chargor)

- (a) all the powers and rights of an absolute owner and power to do or omit to do anything which the Chargor itself could do or omit to do, in each case in such manner and on such terms as such Receiver may think fit,
- (b) the power to do all things (including, without limitation, bringing or defending proceedings in the name or on behalf of the Chargor) which seem to such Receiver to be incidental or conducive to (i) any of the functions, powers, authorities or discretions conferred on or vested in him or (ii) the realisation of the Scheduled Securities or (iii) bringing to his hands any assets of the Chargor forming, or which when got in would be, part of the Scheduled Securities, and
- (c) all the powers conferred on him by general law

**6.4** Without prejudice to the generality of the foregoing, each Receiver shall (subject to any restrictions in the instrument appointing him but notwithstanding any winding-up, insolvency or dissolution of the Chargor) have the following powers in relation to the part of the Scheduled Securities (and any assets which, when got in, would be part of the Scheduled Securities) in respect of which he was appointed (and every reference in

this Clause 6 4 to the "**Scheduled Securities**" shall be read as a reference to that part of the Scheduled Securities in respect of which such Receiver was appointed)

(a) Take Possession

power to take immediate possession of, collect and get in all or any part of the Scheduled Securities including without limitation all dividends, interests and other monies arising therefrom or accruing thereto (whether before or after the date of his appointment) and without prejudice to the foregoing, to cause to be registered all or any part of the Scheduled Securities in its own name or in the name of its nominee(s) or in the name of any purchaser(s) thereof,

(b) Proceedings and Claims

power to bring, prosecute, enforce, defend and abandon applications, claims, disputes, actions, suits and proceedings in connection with all or any part of the Scheduled Securities or this Deed in the name of the Chargor or in his own name and to submit to arbitration, negotiate, compromise and settle any such applications, claims, disputes, actions, suits or proceedings,

(c) Deal with Scheduled Securities

power to sell, transfer, convey and/or dispose of all or any part of the Scheduled Securities (in each case with or without consideration) in such manner and on such terms as he thinks fit,

(d) Voting Rights

exercise (or refrain from exercising) any or all of the voting rights in respect of the Scheduled Securities or any part thereof in such manner and on such terms as he thinks fit,

(e) Instruments of Transfer

complete, date and put into effect any instrument of transfer delivered in relation to the Scheduled Securities or any part thereof pursuant to Clause 4 5 and/or any other document(s) delivered pursuant to Clause 4 5,

(f) Acquisitions

power to purchase, lease, hire or otherwise acquire any assets or rights of any description which he shall in his absolute discretion consider necessary or desirable for the improvement or realisation of the whole or any part of the Scheduled Securities or otherwise for the benefit of the whole or any part of the Scheduled Securities,

(g) Redemption of Security

power to redeem, discharge or compromise any security whether or not having priority to the security constituted by this Deed or any part of it,

(h) Covenants, Guarantees and Indemnities

power to enter into bonds, covenants, guarantees, commitments, indemnities and other obligations or liabilities as he shall think fit, to make all payments needed to effect, maintain or satisfy such obligations or liabilities, and

(i) Exercise of Powers in Chargor's Name

power to exercise any of the above powers on behalf of and in the name of the Chargor (notwithstanding any bankruptcy, winding-up or insolvency of the Chargor) or on his own behalf

In making any sale or other disposal of all or any part of the Scheduled Securities or any acquisition in the exercise of their respective powers, a Receiver or the Security Agent may accept or dispose of as, and by way of consideration for, such sale or other disposal or acquisition, cash, shares, loan capital or other obligations, including, without limitation, consideration fluctuating according to or dependent upon profit or turnover and consideration the amount whereof is to be determined by a third party. Any such consideration may, if thought expedient by the Receiver or the Security Agent, be nil or may be payable or receivable in a lump sum or by instalments. Any contract for any such sale, disposal or acquisition by the Receiver or the Security Agent may contain conditions excluding or restricting the personal liability of the Receiver or the Security Agent.

## **7 PROTECTION OF THIRD PARTIES**

### **7.1 Deemed right to enforce**

In favour of any person dealing in good faith, the Secured Obligations shall be deemed to become due and all rights of enforcement conferred upon the Security Agent by this Deed, shall be deemed to arise immediately after the execution of this Deed.

### **7.2 No enquiry required**

No purchaser, mortgagor, mortgagee or other person dealing with the Security Agent shall be bound or concerned to enquire whether any power exercised or purported to be exercised hereunder has become exercisable or whether any money is due on the security hereof or as to the propriety or regularity of any sale by or other dealing with the Security Agent or be concerned with notice to the contrary. Any such sale or dealing shall be deemed to be within the powers hereby conferred and to be valid and effective accordingly.

## **8 POWER OF ATTORNEY**

**8.1** The Chargor hereby irrevocably and by way of security (and to secure proprietary interests of the respective donees) appoints the Security Agent and any person nominated in writing under the hand of any officer of the Security Agent as attorney of the Chargor for the Chargor and in its name and on its behalf and as its act and deed to execute, seal and deliver and otherwise perfect and do any deed, assurance, agreement, instrument, act or thing which it ought to execute and do under the covenants, undertakings and provisions herein contained or contained in the Facility Agreement or which may be required or deemed proper by any such attorney for any of the purposes of this security PROVIDED always that such power shall not be exercisable by or on behalf of the Security Agent until an Event of Default has occurred.

**8.2** The Chargor ratifies and confirms and agrees to ratify and confirm whatever any attorney appointed under Clause 8.1 above properly does or purports to do in the exercise of all or any of the powers, authorities and discretions granted or referred to herein.

## **9 INDEMNITY**

The Security Agent and every attorney, manager, agent or other person duly appointed by the Security Agent under this Deed shall be entitled to be indemnified out of the sale proceeds of the Scheduled Securities in respect of all liabilities and expenses incurred, directly or indirectly, by any of them in the execution or purported execution of any of



the powers, authorities or discretions vested in them or him under this Deed and against all actions, proceedings, costs, claims and demands in respect of any matter or thing done or omitted in any way relating to the Scheduled Securities and the Security Agent may retain and pay all sums in respect of the same out of any moneys received under the powers conferred in this Deed

## **10 CONTINUING SECURITY**

The security created by this Deed shall be a continuing security notwithstanding any settlement of account or other matter whatsoever and is in addition to and shall not merge with or otherwise prejudice or affect any contractual or other right or remedy or any guarantee, lien, pledge, bill, note, mortgage or other security now or hereafter held by or available to the Security Agent and shall not be in any way prejudiced or affected thereby or by the invalidity thereof or by the Security Agent now or hereafter dealing with, exchanging, releasing, varying or abstaining from perfecting or enforcing any of the same or any rights which it may now or hereafter have or giving time for payment or indulgence or compounding with any other person liable

## **11 NEW ACCOUNT**

If the Security Agent receives or is deemed to be affected by actual or constructive notice of any subsequent mortgage, charge, assignment or other disposition affecting the Scheduled Securities, the Security Agent may open a new account for the Chargor. If the Security Agent does not open a new account then, unless it gives express written notice to the contrary to the Chargor, it shall nevertheless be treated as if it had done so at the time when it received such notice. As from that time, all payments made by or on behalf of the Chargor to the Security Agent shall be credited or be treated as having been credited to the new account and shall not operate to reduce the amount due from the Chargor to the Security Agent at the time when it received notice.

## **12 APPLICATION OF MONIES**

**12.1** Subject to Clause 12.2, any monies received by the Security Agent pursuant to the terms of this Deed shall be applied in the order set out in the Facility Agreement subject always to the provisions of the Subordination Deed.

**12.2** All moneys received or recovered by the Security Agent or any Receiver pursuant to this Deed or the powers conferred by it shall (subject to the claims of any person having prior rights thereto and subject to Clause 12.3), be applied first in the payment of the costs, charges and expenses incurred and payments made by the Receiver, the payment of his remuneration and the discharge of any liabilities incurred by the Receiver in, or incidental to, the exercise of any of his powers.

**12.3** Notwithstanding any other provision of the Finance Documents, the Security Agent or any Receiver may pay any or all of the monies received, recovered or realised by the Security Agent or such Receiver under this Deed (including, without limitation, the proceeds of any conversion of currency) into any suspense or impersonal account for so long as the Security Agent or such Receiver shall think fit (whether or not any Secured Obligations shall have become due).

## **13 EXERCISE OF VOTING RIGHTS**

**13.1** During such time as the Security Agent or any nominee for the time being of the Security Agent shall be registered in the register of members as the holder of any of the Scheduled Securities, the Security Agent will or will procure that the rights attached to such of the Scheduled Securities are only exercisable in the interests of the Chargor provided that nothing contained in this Clause 13 shall in any manner whatsoever restrict the Security Agent or any nominee for the time being of the Security Agent from exercising any such rights in such manner as it shall in its absolute discretion.

determine where such rights are being exercised for the purposes of preserving the value of the security or any part thereof or of realising the security or any part thereof

- 13.2** In the event of the Security Agent or any nominee for the time being of the Security Agent wishing to exercise any such rights as are referred to in Clause 13.1 above, the Security Agent shall be entitled (but not obliged) to request in writing that the Chargor gives notice in writing to the Security Agent of the manner in which it desires to see such rights exercised and any exercise of such rights in accordance with any such notice shall be deemed to be an exercise of such rights in the interests of the Chargor
- 13.3** In the event that the Chargor shall fail to give notice in writing pursuant to Clause 13.2 above within three Business Days of a request in writing from the Security Agent so to do, then the Chargor shall be deemed to have given notice to the Security Agent that the exercise of such rights will be in its interests whatever way such rights may be exercised
- 13.4** The provisions of Clause 13.2 above shall be without prejudice to any other manner in which the Security Agent or any nominee for the time being of the Security Agent may ascertain what is in the interests of the Chargor

#### **14 APPLICATION OF DIVIDENDS/DISTRIBUTIONS**

The Chargor hereby irrevocably authorises the Security Agent to apply all dividends and other distributions received or receivable by the Security Agent (or any nominee of the Security Agent) and/or the Chargor from the Company in respect of the Scheduled Securities in payment of the Secured Obligations irrespective of whether any Event of Default has occurred or is continuing

#### **15 GENERAL**

##### **15.1 Costs and expenses**

All costs, charges and expenses incurred by the Security Agent in the creation or discharge of or otherwise in connection with this security or in respect of the Scheduled Securities and all costs of the Security Agent of all proceedings for the preservation or enforcement (or attempted preservation or enforcement) of this security or for obtaining or attempting to obtain payment of any Secured Obligations shall be recoverable on a full indemnity basis and shall be charged on the Scheduled Securities

##### **15.2 Currency of account**

Subject to Clause 15.3 (Change of currency), Sterling is the currency of account and payment for any sum due under this Deed

##### **15.3 Change of currency**

- (a) Unless otherwise prohibited by law, if more than one currency or currency unit are at the same time recognised by the central bank of any country as the lawful currency of that country, then
- (i) any reference in this Deed to, and any obligations arising under this Deed in, the currency of that country shall be translated into, or paid in, the currency or currency unit of that country designated by the Security Agent (after consultation with the Company), and
  - (ii) any translation from one currency or currency unit to another shall be at the official rate of exchange recognised by the central bank for the conversion of that currency or currency unit into the other, rounded up or down by the Security Agent (acting reasonably)

- (b) If a change in any currency of a country occurs, this Deed will, to the extent the Security Agent (acting reasonably and after consultation with the Company) specifies to be necessary, be amended to comply with any generally accepted conventions and market practice in the European interbank market and otherwise to reflect the change in currency

#### **15.4 Certificate of Security Agent**

A statement or certificate signed by a manager or officer of the Security Agent as to the Secured Obligations or any part thereof shall, save for manifest error, be final and conclusive and be binding on the Chargor

#### **15.5 Constitution of the Security Agent**

This Deed shall remain in effect and binding on the Chargor notwithstanding any change in the constitution of the Security Agent or any amalgamation, merger or reconstruction that may be effected by the Security Agent with any other person or the sale or transfer of all or any part of the Security Agent's undertaking and assets to another person, so that this Deed shall remain valid and effective in all respects, and the benefit thereof and all rights conferred upon the Security Agent thereby may be assigned to and enforced by any such person, as if such person had been named herein instead of or in addition to the Security Agent

#### **15.6 Avoidance of payments**

Any settlement or discharge between the Security Agent and the Chargor in respect of the Secured Obligations shall be conditional upon no security of, or payment to, the Security Agent (whether by the Chargor or otherwise) being avoided or reduced or required to be paid away by virtue of any requirement (whether or not having the force of law) or enactment, whether relating to bankruptcy, insolvency, liquidation, administration or otherwise, at any time in force or by virtue of any obligation to give effect to any preference or priority and the Security Agent shall be entitled to recover the value or amount of any such security or payment from the Chargor as if such settlement or discharge had not occurred

#### **15.7 Severability**

If any of the terms hereof are or become invalid or unenforceable (or the security created hereby is ineffective) for any reason under the laws of any jurisdiction such invalidity or unenforceability shall not affect its validity or enforceability in any other jurisdiction or invalidate or make unenforceable any other term hereof or the terms hereof

#### **15.8 No set-off by the Chargor**

All payments to be made by the Chargor under this Deed shall be calculated and be made without (and free and clear of) any deduction for, set-off or counterclaim

### **16 NOTICES**

#### **16.1 Communications in writing**

Any communication to be made under or in connection with this Deed shall be made in writing and, unless otherwise stated, may be made by fax or by letter

#### **16.2 Addresses**

Any communication or document to be made or delivered under or in connection with this Deed shall

- (a) in the case of the Chargor, be to the address and fax number identified with its name below,
- (b) in the case of the Security Agent, to the address and fax number specified in the Facility Agreement

The provisions contained in Clause 35 (Notices) of the Facility Agreement shall apply (*mutatis mutandis*) to any communication to be made under or in connection with this Deed

### **16.3 Delivery**

- (a) Any communication or document made or delivered by one person to another under or in connection with this Deed will only be effective
  - (i) if by way of fax, when received in legible form, or
  - (ii) if by way of letter, when it has been left at the relevant address or five Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address
- (b) Any communication or document to be made or delivered to the Security Agent will be effective only when actually received by the Security Agent and then only if it is expressly marked for the attention of the department or officer identified above (or any substitute department or officer as the Security Agent shall specify for this purpose)

### **16.4 English language**

Any notice given under or in connection with this Deed must be in English

## **17 GOVERNING LAW**

This Deed is governed by the law of the Isle of Man

## **18 ENFORCEMENT**

### **18.1 Jurisdiction of the courts of the Isle of Man**

- (a) The courts of the Isle of Man have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute regarding the existence, validity or termination of this Deed) (a “**Dispute**”)
- (b) The parties to this Deed agree that the courts of the Isle of Man are the most appropriate and convenient courts to settle Disputes and accordingly no party to this Deed will argue to the contrary
- (c) This Clause 18.1 is for the benefit of the Security Agent only. As a result, the Security Agent shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Security Agent may take concurrent proceedings in any number of jurisdictions

## **18.2 Service of process**

- (a) Without prejudice to any other mode of service allowed under any relevant law, the Chargor
  - (i) irrevocably appoints Optimus Fiduciaries Limited of St Mary's, The Parade, Castletown, Isle of Man, IM9 1LG as its agent for service of process in relation to any proceedings before the courts of the Isle of Man in connection with this Deed, and
  - (ii) agrees that failure by a process agent to notify the Chargor of the process will not invalidate the proceedings concerned
- (b) If any person appointed as an agent for service of process is unable for any reason to act as agent for service of process, the Chargor must immediately (and in any event within 7 days of such event taking place) appoint another agent on terms acceptable to the Lender. Failing this, the Lender may appoint another agent for this purpose
- (c) The Chargor expressly agrees and consents to the provisions of this clause 18 and clause 17

## **19 DEED**

The parties to this Deed intend this Deed to take effect as a deed notwithstanding the fact that the Security Agent may only execute this Deed under hand

## **20 COUNTERPARTS**

This Deed may be executed in any number of counterparts and by the parties on separate counterparts each of which when executed and delivered shall constitute an original but all the counterparts together constitute one and the same instrument

**IN WITNESS** whereof this Deed has been duly executed as a deed and is intended to be and is delivered on the date first above written

**SCHEDULE 1**

**(the shares stocks and securities comprising the Scheduled Securities)**

All the shares in the Company legally and beneficially owned by the Chargor, being at the date hereof

<u>Number of Shares</u>	<u>Description/Class of Shares</u>
50	Class B ordinary shares of £1 00 each

## SCHEDULE 2

### Part 1

#### FORM OF NOTICE TO COMPANY

To **TARN CRAG LIMITED**, St Mary's, The Parade, Castletown, Isle of Man IM9 1LG

Date 2013

Dear Sirs

- 1 We hereby give you notice that, by a Share Charge dated 11 October 2013 (such Share Charge, as the same may have been or may from time to time be amended, varied, supplemented, novated or replaced being referred to hereinafter as the "**Charge**") and made between (1) ourselves and (2) Auster Real Estate Opportunities S A R L (the "**Security Agent**"), we mortgaged and charged the Scheduled Securities to the Security Agent, including all of our right, title and interest in and to the 50 class B ordinary shares of £1 00 in the capital of Tarn Crag Limited registered in the name of Arbuthnot Latham & Co , Limited Terms not defined in this notice shall have the meaning given in the Charge
- 2 We hereby irrevocably instruct that
  - (a) you shall notify the Security Agent in the event that you receive notice of any other third party interest of any nature in the Scheduled Securities or if you receive any request to register any transfer in respect of any of the Scheduled Securities, and
  - (b) following your being notified that the security constituted by the Charge has become enforceable you must hold all dividend and interest payments deriving from the Scheduled Securities to the order of the Security Agent
- 3 Please also note that these instructions may not be revoked or varied without the prior written consent of the Security Agent Would you please confirm your agreement to the above by signing and sending the enclosed acknowledgement to the Security Agent with a copy to ourselves
- 4 This letter shall be governed by and construed in accordance with the laws of the Isle of Man

Yours faithfully

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for and on behalf of  
**ARBUTHNOT LATHAM & CO., LIMITED**

**SCHEDULE 2**

**Part 2**

**FORM OF ACKNOWLEDGEMENT OF NOTICE**

To (1) **AUSTER REAL ESTATE OPPORTUNITIES S.À.R.L.**  
(2) **ARBUTHNOT LATHAM & CO., LIMITED**

Dated 2013

Dear Sirs

- 1 We confirm receipt from Arbuthnot Latham & Co , Limited (the "**Chargor**") of a notice dated [●] 2013 (the "**Notice**") given pursuant to the terms of a Share Charge dated 11 October 2013 (such Charge, as the same may have been or may from time to time be amended, varied, supplemented, novated or replaced being referred to hereinafter as the "**Charge**") and made between (1) the Chargor and (2) Auster Real Estate Opportunities S À R L (the "**Security Agent**")
- 2 We confirm that we accept the instructions and authorisations contained in the Notice and we undertake to act in accordance and comply with the terms of the Notice
- 3 We confirm that the Scheduled Securities are fully paid and that we have not received notice of any previous mortgage of, charges over, trusts in respect of or other interests of any third party in the Scheduled Securities
- 4 Terms not defined in this letter shall have the meaning given in the Charge
- 5 This letter shall be governed by and construed in accordance with the laws of the Isle of Man

Yours faithfully

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for and on behalf of

**TARN CRAG LIMITED**



**EXECUTION PAGE**

**THE CHARGOR**

**EXECUTED and DELIVERED as  
a DEED by ARBUTHNOT LATHAM & CO.,  
LIMITED acting  
by one of its directors**

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)  
)  
)  
)



Director

**Notice details:**

Address	Arbuthnot House 20 Ropemaker Street London EC2Y 9AR
Fax number	0207 012 2501
For the attention of	Christopher Hunter

**THE SECURITY AGENT**

Signed by  
for and on behalf of  
**AUSTER REAL ESTATE OPPORTUNITIES S.À.R.L.**

Execution

**EXECUTION PAGE**

**THE CHARGOR**

EXECUTED and DELIVERED as  
a DEED by ARBUTHNOT LATHAM & CO.,  
LIMITED acting  
by one of its directors

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)




Director

**Notice details:**

Address	Arbuthnot House 20 Ropemaker Street London EC2Y 9AR
Fax number	0207 012 2501
For the attention of	Christopher Hunter

**THE SECURITY AGENT**

Signed by  
for and on behalf of  
AUSTER REAL ESTATE OPPORTUNITIES S.À.R.L.



**Ian Kent  
Manager**