



**Registration of a Charge**

Company Name: **BURHILL GOLF AND LEISURE LIMITED**

Company Number: **01497205**



XA3RZWSP

Received for filing in Electronic Format on the: **04/05/2021**

**Details of Charge**

Date of creation: **23/04/2021**

Charge code: **0149 7205 0009**

Persons entitled: **HSBC UK BANK PLC**

Brief description:

**Contains fixed charge(s).**

**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: **BLAKE MORGAN LLP**



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

Company number: 1497205

Charge code: 0149 7205 0009

The Registrar of Companies for England and Wales hereby certifies that a charge dated 23rd April 2021 and created by BURHILL GOLF AND LEISURE LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 4th May 2021 .

Given at Companies House, Cardiff on 5th May 2021

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**

Date: 23 April 2021

- (1) Burhill Group Limited
- (2) Burhill Golf and Leisure Limited
- (3) Burhill Developments Limited
- (4) Adventure Leisure Limited
- (5) Shropshire County Leisure Limited
- (6) HSBC UK Bank Plc

## **Deed of Confirmation**



**Blake Morgan LLP**  
Apex Plaza  
Forbury Road  
Reading  
RG1 1AX  
[www.blakemorgan.co.uk](http://www.blakemorgan.co.uk)  
Ref: 41569.611

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THIS DEED OF CONFIRMATION IS MADE ON THE 23 DAY OF April 2021

**BETWEEN:**

- (1) **BURHILL GROUP LIMITED** a company incorporated in England and Wales with company number 07447067 whose registered office is at Burhill, Burwood Road, Walton on Thames, Surrey, KT12 4BX (the "**Company**");
- (2) **BURHILL GOLF AND LEISURE LIMITED** a company incorporated in England and Wales with company number 01497205 whose registered office is at Burhill, Walton on Thames, Surrey, KT12 4BX;
- (3) **BURHILL DEVELOPMENTS LIMITED** a company incorporated in England and Wales with company number 03507288 whose registered office is at Burhill, Walton on Thames, Surrey, KT12 4BX;
- (4) **ADVENTURE LEISURE LIMITED** a company incorporated in England and Wales with company number 01829116 whose registered office is at Burhill, Burwood Road, Walton-On-Thames, Surrey, KT12 4BX;
- (5) **SHROPSHIRE COUNTY LEISURE LIMITED** a company incorporated in England and Wales with company number 03371466 whose registered office is at Burhill, Burwood Road, Walton-On-Thames, Surrey, KT12 4BX,

(Parties (1) to (5) each being an "**Obligor**", together, the "**Obligors**"); and

- (6) **HSBC UK BANK PLC** (the "**Bank**").

**BACKGROUND:**

- (A) By a facility agreement originally dated 26 April 2017 (the "**Original Facilities Agreement**"), HSBC Bank Plc (the "**Original Lender**") agreed to provide a revolving credit facility to the Company, which was secured on the assets of each Obligor pursuant to the Existing Security Agreements (as defined below).
- (B) The Original Lender transferred part of its banking business, which included its rights, obligations and liabilities under certain of the Existing Security Agreements, to the Bank pursuant to a statutory ring-fencing transfer scheme made available under Part VII of the Financial Services and Markets Act 2000 (the "**Scheme**"). The Scheme became effective on 1 July 2018.
- (C) On or about the date of this Deed, the Company and the Bank entered into an agreement to amend and restate the Original Facility Agreement (the "**Amendment and Restatement Agreement**"). It is a condition precedent of the Amendment and Restatement Agreement that this Deed be entered into by the Obligors.
- (D) It is intended that this document takes effect as a deed notwithstanding the fact that a party may only execute this document under hand.

**IT IS AGREED AS FOLLOWS:**

**1 DEFINITIONS AND INTERPRETATION**

- 1.1. Terms defined in the Existing Debentures shall have the same meaning when used in this Deed, unless defined below. In addition, the following definitions below apply in this Deed:

**Company Debenture** means the debenture granted by the Company in favour of the Bank dated 25 October 2019 and registered on 28 October 2019, with charge code 0744 7067 0003.

**Debt** means all money and liabilities whatever, whenever and however incurred whether now or in the future due, or becoming due, from each Obligor to the Bank whether incurred solely or jointly with any other person and whether as principal or surety, including without limitation:

- a) overdrafts, loans or other facilities and further advances of money;
- b) guarantees and indemnities to the Bank and any of the Obligor's other contingent liabilities owed to the Bank;
- c) discount, commission and other lawful charges and expenses;
- d) interest in accordance with any agreement between the Obligor and the Bank and, if there is no agreement, interest on any money and liabilities due from the Obligor at an annual rate of 3% above the Bank of England base rate from time to time computed and compounded monthly and/or according to the Bank's then current practice. Interest as above applies before and after any demand or judgement; and
- e) money agreed to be paid by the Obligors under clause 25 of the Existing Debentures.

**Existing Debentures:** means:

- 1) the Company Debenture; and
- 2) the Group Debentures.

**Existing Legal Mortgages:** means:

- 1) the legal mortgage granted by Burhill Golf and Leisure Limited in favour of the Original Lender

dated 26 April 2017 and registered on 28 April 2017, with charge code 0149 7205 0007; and

- 2) the legal mortgage granted by Burhill Golf and Leisure Limited in favour of the Original Lender dated 26 April 2017 and registered on 28 April 2017, with charge code 0149 7205 0008.

**Existing Security Agreements:** means the Existing Debentures and the Existing Legal Mortgages.

**Group Debentures** means:

- 1) the debenture granted by Burhill Golf and Leisure Limited in favour of the Original Lender dated 26 April 2017 and registered on 28 April 2017, with charge code 0149 7205 0006;
- 2) the debenture granted by Burhill Developments Limited in favour of the Original Lender dated 26 April 2017 and registered on 28 April 2017, with charge code 0350 7288 0001;
- 3) the debenture granted by Adventure Leisure Limited in favour of the Original Lender dated 26 April 2017 and registered on 28 April 2017, with charge code 0182 9116 0001; and
- 4) the debenture granted by Shropshire County Leisure Limited in favour of the Original Lender dated 26 April 2017 and registered on 28 April 2017, with charge code 0337 1466 0004.

**Properties** means the freehold properties known as:

- 1) Hoebridge Golf Club, Old Woking Road, Woking, Surrey registered at HM Land Registry with title number: SY629624 and the land and buildings known as the Greenkeeper's land, being part of the land comprising HM Land Registry title number: SY373471; and
- 2) Birchwood Park Golf Club, Birchwood Road, Dartford registered at HM Land Registry with title numbers: K235163 and K695973.

**Restated Facility Agreement** means the Original Facility Agreement as amended and restated by the Amendment and Restatement

Agreement.

- 1.2. With effect from the date of this Deed, any reference in the Existing Debentures to:
  - 1.2.1. "this Debenture" shall be construed as a reference to each of the Existing Debentures as amended by this Deed; and
  - 1.2.2. the "Facility Agreement" or to any provision of the Original Facility Agreement shall be construed as a reference to the Restated Facility Agreement or to a provision thereof.
- 1.3. With effect from the date of this Deed, any reference in the Existing Legal Mortgages to:
  - 1.3.1. "this Legal Mortgage" shall be construed as a reference to each of the Existing Legal Mortgages as amended by this Deed; and
  - 1.3.2. the "Facility Agreement" or to any provision of the Original Facility Agreement shall be construed as a reference to the Restated Facility Agreement or to a provision thereof.
- 1.4. The provisions of clause 42 (*Interpretation*) of the Company Debenture and the provisions of clause 41 (*Interpretation*) of the Group Debentures shall apply to this Deed as though they were set out in full in this Deed except that references to the "this Debenture" are to be construed as references to this Deed.
- 1.5. The provisions of the Conditions (as defined in the Existing Legal Mortgages) shall apply to this Deed as though they were set out in full in this Deed.
- 1.6. In this Deed:
  - 1.6.1. any reference to a "clause" is, unless the context otherwise required, a reference to a clause of this Deed; and
  - 1.6.2. clause headings are for ease of reference only.
- 1.7. This Deed is designated as a Finance Document (as defined in the Restated Facility Agreement).

**2 CONFIRMATION**

- 2.1 Each Obligor confirms that the Existing Security Agreements:
  - 2.1.1 ranks as a continuing security for the payment and discharge of the Debt including, without limitation, all present and future monies, obligations and liabilities owed by the Borrower to the Lender, whether actual or contingent and whether owed jointly or severally, as principal or surety and/or in any other capacity, under or in connection with the Restated Facility Agreement or the Existing Security Agreements; and
  - 2.1.2 shall continue in full force and effect in all respects and the Existing Security Agreements and this deed shall be read and construed together.



### 3 CREATION OF SECURITY

3.1 To the extent only that the security or guarantees referred to in clause 2 (*Confirmation*) are not effective (for whatever reason) in respect of the Existing Debentures each Obligor, with full title guarantee and as continuing security for the payment and discharge of the Debt, charges and guarantees as follows:

3.1.1 by way of legal mortgage, all freehold (including commonhold) and leasehold land now vested in the Obligor together with all buildings, fixtures, fittings and fixed plant and machinery now or at any time afterwards on it. This includes (without limitation) the land described or referred to in part 1 of the Schedule of the relevant Existing Debenture;

3.1.2 by way of first fixed charge (except as already charged above):

- (a) all the present and future right, title and interest of the Obligor in or to any freehold (including commonhold) or leasehold land or other immovable property wherever situated and all fixtures, fittings and fixed plant and machinery now or at any time afterwards on it;
- (b) all chattels now or at any time afterwards belonging to the Obligor. This excludes any of them for the time being forming part of the stock in trade or work-in progress of the Obligor;
- (c) the benefit of all rights, licences, guarantees, rent deposits, contracts, deeds, undertakings and warranties relating to any land or other property mentioned above and/or to any trade or business from time to time carried on by the Obligor;
- (d) all book debts and other debts and monetary claims and any rents, licence fees or other payments due from any lessee, licensee or occupier of any immoveable property (wherever) situated now or at any time afterwards due owing or incurred to the Obligor. In addition, the full benefit of all guarantees and securities for them and all liens, reservations of title and other rights enabling the Obligor to enforce any such debts or claims (all of the above collectively called the "debts"). This excludes any debts and claims (if any) which the Bank may from time to time have agreed in writing with the Obligor as being excluded from this fixed charge and also such debts and claims as are charged in accordance with clause 3.1.2(e) below;
- (e) any credit balance on any account of the Obligor with the Bank now or in the future;
- (f) any credit balance on any account of the Obligor with any bank (other than the Bank) or other person, now or in the future;
- (g) all goodwill and uncalled capital of the Obligor now or in the future;
- (h) all the present and future right, title and interest of the Obligor in or to:

- (i) all stocks, shares, debentures, bonds, loan capital and other securities of any description of any other person (including, without limitation, any subsidiary or subsidiary undertaking of the Obligor);
- (ii) all rights to subscribe to or convert other securities into or otherwise acquire any such securities now or at any time afterwards belonging to the Obligor; and
- (iii) all dividends, interest and other income and all other rights of whatsoever kind deriving from or incidental to, any of these,

(collectively call the "**securities**");

- (i) all rights and other property to which the Obligor is now, or may at any time afterwards, become entitled as a result of, or in connection with, any proceedings threatened or commenced under the Insolvency Act 1986 or any similar legislation in any jurisdiction;
- (j) the benefit of all agreements for the provision by the Obligor to any person of any loan or credit or other financial accommodation of any description (including, without limitation, any finance leases and hire or hire-purchase agreements) now, or at any time afterwards, entered into by the Obligor;
- (k) all rights under all policies of insurance, including life insurance or assurance, (including, without limitation, the insurances mentioned to in clause 8(a) of the Existing Debentures), including all rights and claims to which the Obligor is now, or may at any time afterwards, become entitled in relation to the proceeds of those policies (collectively called, the "**charged insurances**");
- (l) all patents, trademarks, service marks, designs, utility models, copyrights, design rights, moral rights, inventions, confidential information, know-how, applications for registration of any of them and the right to apply for them in any part of the world and rights of a similar nature arising or subsisting anywhere in the world in relation to all or any of the above (whether registered or unregistered) now or at any time afterwards belonging to the Obligor (collectively called, the "**intellectual property**");
- (m) the proceeds of sale of any property mentioned above; and

- 3.1.3 by way of floating charge, all the undertaking of the Obligor and all its property whatsoever and wheresoever both present and future excluding any part of the same which is, for the time being, effectively charged by way of legal mortgage, assigned or charged by way of fixed charge by this Deed and recognised as effectively so charged under the laws of the jurisdiction in which the same is situated.

3.2 To the extent only that the security or guarantees referred to in clause 2 (*Confirmation*) are not effective (for whatever reason) in respect of the Existing Legal Mortgages, Burhill Golf and Leisure Limited, with full title guarantee and as continuing security for the payment and discharge of the Debt, charges and guarantees as follows:

3.2.1 by way of legal mortgage and (as appropriate) assigned and transfer to the Bank as continuing security:

- (a) the Properties;
- (b) the benefit of all rights, licences, guarantees, rent deposits, contracts, deeds, undertakings and warranties relating to the Properties;
- (c) any shares or membership rights mentioned in paragraph 3 of the Conditions;
- (d) any goodwill of any business from time to time carried on at the Property;
- (e) any rental any other money payable under any lease, licence, or other interest created in respect of the Properties; and
- (f) any other payments whatever in respect of the Properties, for example, payments from any insurance policy or any compensation money.

3.3 To the extent only that the security or guarantees referred to in clause 2 (*Confirmation*) are not effective (for whatever reason) in respect of the Company Debenture, the Company, with full title guarantee and as continuing security for the payment and discharge of the Debt, assigns and agrees to assign absolutely, subject to a proviso for reassignment on the irrevocable discharge in full of the Debt, all of its present and future right, title and interest in and to:

3.3.1 to the extent not charged by clause 3.1.1 and 3.1.2, all present and future rents and other sums due to the Company under any lease, agreement for lease, underlease, tenancy, licence or other right of occupation to which the Company's real property is from time to time subject together with any related guarantee or other security for the performance of a lessee's obligations;

3.3.2 to the extent not charged by clause 3.1.2, the charged insurances; and

3.3.3 to the extent not charged by clause 3.1.2, the intellectual property.

#### **4 BANK'S ABILITY TO CONVERT FLOATING CHARGE AND AUTOMATIC CONVERSION**

4.1 The Bank may, by giving notice in writing to each of the Obligors, convert the floating charge created by clause 3.1.3 above into a fixed charge in respect of such of the property of the Obligor as may be specified in such notice. The Bank may give such notice:

4.1.1 on or following the happening of any of the events mentioned in clause 5 below; or

- 4.1.2 if it appears to the Bank that such property is in danger of seizure, distress, diligence, execution or any other form of legal process or that the same, and/or the security now created in respect of it, is otherwise in jeopardy.

In either event, the ability of the Obligor to deal in any way with such property shall cease except to the extent that the Bank may otherwise agree in writing.

- 4.1.3 The floating charge created by clause 3.1.3 will convert automatically into fixed charges:

- (a) if any of the circumstances set out in clause 5.1.3, 5.1.4 or 5.1.5 occur;
- (b) if the Obligor creates or attempts to create security over all or any of the charged property (other than security permitted under this Deed or created pursuant to a Parallel Security Document);
- (c) on the crystallisation of any other floating charge over the charged property;
- (d) if any person levies or attempts to levy any distress, attachment, execution or other legal process against any assets referred to in clause 3.1.3; and/or
- (e) in any other circumstances prescribed by law.

## **5 WHEN THE SECURITY BECOMES ENFORCEABLE**

- 5.1 The security created by clause 3 shall become enforceable:

- 5.1.1 if the Debt is not paid or discharged when due (whether on demand, at agreed maturity or earlier as the case may be); or
- 5.1.2 if the Obligor is in breach of any of the obligations under this Deed; or
- 5.1.3 if the Obligor shall enter into any composition or arrangement for the benefit of its creditors; or
- 5.1.4 if any step is taken for the administration or winding up of the Obligor (which includes, without limitation, in each case, the board of directors of the Obligor's shareholders, passing a resolution for the same) except where, in the case of winding up, the Bank has consented in writing for the purpose of a solvent reconstruction or amalgamation; or
- 5.1.5 if a third party shall take possession of, or a receiver shall be appointed over, or any secured creditor of the Obligor shall seek to enforce its security in respect of, all or any of the charged property or any other event shall happen which puts in jeopardy all or any part of the security created by this Deed; or
- 5.1.6 if the Bank, in its reasonable discretion, considers that any claim may be or has been made against the Bank under any bond, guarantee, indemnity or other contingent liability issued or entered into for any liabilities of the Obligor in respect

of which the Bank reasonably considers that it may not be or has not been indemnified on demand or as and when required under any agreement it has with the Obligor regarding the same; or

- 5.1.7 if any security granted under a Parallel Security Document has become enforceable; or
- 5.1.8 if any other event shall occur which has been agreed by the Obligor and the Bank as an event upon the occurrence of which this or any other security for the Debt shall be enforceable, which shall include but not be limited to a request by the Obligor to the Bank to appoint a receiver and/or administrator of the Obligor.

If any of the above events referred to at clauses 5.1.1 to 5.1.10 should occur:

- 5.1.9 the powers of sale and appointing a receiver conferred by Section 101 of the Law of Property Act 1925 shall immediately arise and become exercisable by the Bank free from the restrictions contained in Sections 103 and 109 of that Act; and
  - 5.1.10 the powers of leasing, or agreeing to lease, or of accepting or agreeing to accept surrenders of leases (conferred by Sections 99 and 100 of the Law of Property Act 1925) shall immediately become exercisable.
- 5.2 These powers are available to the Bank whether or not the Bank shall then be in possession of all or any part of the charged property. The Bank may grant a lease at a premium and for any length of term and, generally, without the necessity for the Bank to comply with any restrictions imposed by, or other provisions of, the sections and legislation mentioned above (and so that for the purposes of Sections 99 and 100 of the Law of Property Act 1925, the expression "mortgagor" shall include any person deriving title under the Obligor and sub-sections 99 (18) and 100 (12) shall not apply).

## **6 LAND REGISTRY RESTRICTION**

- 6.1 In respect of any part of, or interest in, the fixed charged property title to which is or becomes registered at the Land Registry in relation to the Company Debenture, the Company applies to the Chief Land Registrar to enter the following restriction on the Proprietorship Register of the title of all such property:

"No disposition of the registered estate by the proprietor of the registered estate, or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction, is to be registered without a written consent signed by the proprietor for the time being of the charge dated 23 April 2021 in favour of HSBC UK Bank plc referred to in the Charges Register."

- 6.2 In respect of any part of, or interest in, the fixed charged property title to which is or becomes registered at the Land Registry in relation to the Group Debentures and the Existing Legal Mortgages, the Obligor applies to the Chief Land Registrar to enter the following restriction on the Proprietorship Register of the title of all such property:

"No disposition of the registered estate by the proprietor of the registered estate is to be registered without a written consent signed by the proprietor for the time being of the charge dated 23 April 2021 in favour of HSBC UK Bank plc referred to in the Charges Register."

**7 MISCELLANEOUS**

7.1 The provisions of clauses 23 (*Indemnity*), 25 (*Payment of costs, charges and expenses*), 33 (*Bank's Right of Set Off*), 35 to 36 inclusive (*Notices Governing Law and Jurisdiction*), 38 (*Transfer of Rights*) and 40 (*Severance and Modification - Unenforceability*) of the Company Debenture shall apply to this Deed as if set out in this Deed, but as if references in those clauses to the Company Debenture were references to this Deed.

7.2 The provisions of clauses 23 (*Indemnity*), 25 (*Payment of costs, charges and expenses*), 32 (*Bank's Right of Set Off*), 35 to 36 inclusive (*Notices Governing Law and Jurisdiction*), 38 (*Transfer of Rights*) and 40 (*Severance and Modification - Unenforceability*) of the Group Debentures shall apply to this Deed as if set out in this Deed, but as if references in those clauses to the Group Debentures were references to this Deed.

**8 CONTINUANCE**

Except as supplemented by this Deed, the Existing Security Agreements will remain in full force and effect and each of the Obligors confirm that their obligations under the Existing Security Agreements continue to be legal, valid and enforceable in accordance with its terms.

**9 COUNTERPARTS**

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

**THIS DEED** has been executed and delivered by or on behalf of the parties on the date at the top of page 1.



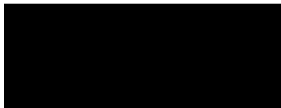
## SIGNATURES

### Obligors

Executed as a deed but not delivered until the date of this Deed by **BURHILL GROUP LIMITED** acting by a director in the presence of:

  
Director

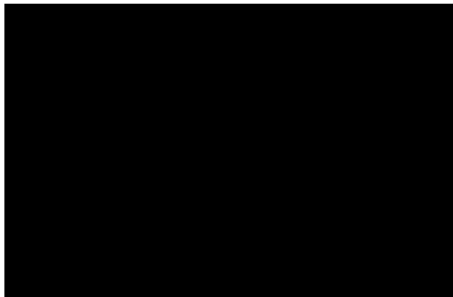
Witness signature



Name  
(in block capitals)

*ALISTAIR BOOTH*

Address



Occupation

Executed as a deed but not delivered until the date of this Deed by **BURHILL GOLF AND LEISURE LIMITED** acting by a director in the presence of:

  
Director

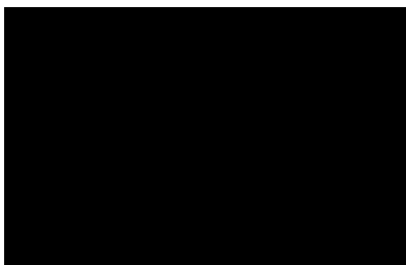
Witness signature



Name  
(in block capitals)

*ALISTAIR BOOTH*

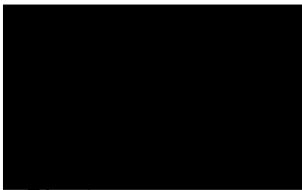
Address




Occupation



Executed as a deed but not delivered until the date of  
this Deed by **BURHILL DEVELOPMENTS LIMITED**  
acting by a director in the presence of:

  
Director

Witness signature 

Name  
(in block capitals)

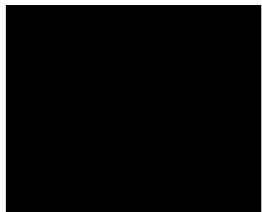
**ALISTAIR BOOTH**


Address



Occupation

Executed as a deed but not delivered until the date of  
this Deed by **ADVENTURE LEISURE LIMITED** acting  
by a director in the presence of:

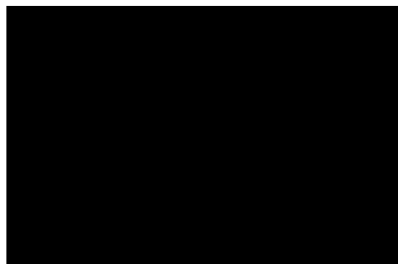
  
Director

Witness signature 

Name  
(in block capitals)

**ALISTAIR BOOTH**

Address



Occupation

Executed as a deed but not delivered until the date of  
this Deed by **SHROPSHIRE COUNTY LEISURE  
LIMITED** acting by a director in the presence of:



Director

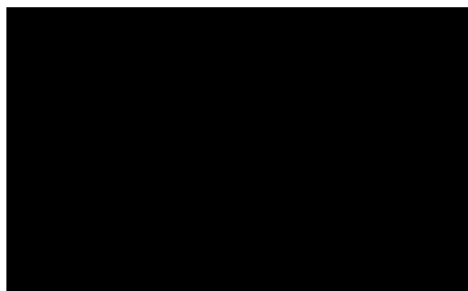
Witness signature



Name  
(in block capitals)

**ALISTAIR BOOTH**

Address



Occupation

**Bank**

Signed by \_\_\_\_\_ for and on behalf of  
**HSBC UK BANK PLC** in the presence of:

}

\_\_\_\_\_

Witness signature

\_\_\_\_\_

Name

(in block capitals)

\_\_\_\_\_

Address

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Occupation

\_\_\_\_\_