

MR01

Particulars of a charge

034610 | 13



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

**You can use the WebFiling service to file this form online**  
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 there is  
an instrument. Use form MR08

For further information, please  
refer to our guidance at

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



\*A2F7RLWP\*  
A07 21/08/2013 #14  
COMPANIES HOUSE

**1 Company details**

Company number 0 1 6 1 7 7 1 9

Company name in full HG CONSTRUCTION LIMITED

38 For official use

→ **Filing 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 d6 m0 m8 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 INVESTEC BANK PLC

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

# MR01

## Particulars of a 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

*Michael de Ruyn*

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 NEEL UMMAT

Company name Mishcon de Reya

Address 12 Red Lion Square

Post town London

County/Region

Postcode W C 1 R 4 Q D

Country

DX 37954 Kingsway

Telephone 0207 440 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)**

DX



**FILE COPY**

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

Company number: 1617719

Charge code: 0161 7719 0038

The Registrar of Companies for England and Wales hereby certifies that a charge dated 16th August 2013 and created by HG CONSTRUCTION LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 21st August 2013

Given at Companies House, Cardiff on 22nd August 2013

Dated: 16 AUGUST 2013

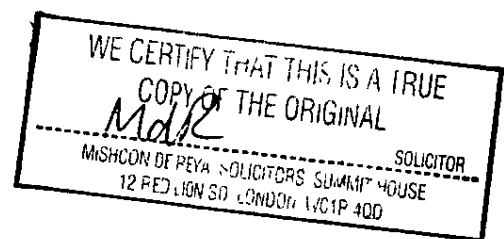
(1) HG CONSTRUCTION LIMITED

(2) INVESTEC BANK PLC

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## DEPOSIT ACCOUNT CHARGE

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**IMPORTANCE NOTICE – WE RECOMMEND THAT YOU CONSULT YOUR SOLICITOR OR OTHER INDEPENDENT LEGAL ADVISER BEFORE EXECUTING THIS DOCUMENT**

**THIS DEPOSIT ACCOUNT CHARGE** is made as a Deed on 16 AUGUST 2013

**BETWEEN**

- (1) **HG CONSTRUCTION LIMITED** a company incorporated in England and Wales (Company Number 01617719) whose registered office is at 4 Hunting Gate, Hitchin, Hertfordshire, SG4 0TJ ("the **Chargor**"), and
- (2) **INVESTEC BANK PLC**, a company incorporated in England & Wales (Company Number 00489604 whose registered office is at 2 Gresham Street, London, EC2V 7QP, United Kingdom, as security trustee for the Finance Parties ("the **Bank**")

**WITNESS** as follows

**1 DEFINITIONS AND INTERPRETATION**

**1.1 Definitions**

In this Charge, unless the context otherwise requires

**"Account"** means the deposit account opened by the Chargor with the Account Bank with account number 686920 and includes, where the context admits or requires, any replacement account, sub-account or ledger relating to such deposit account and all renewals, renumberings and redesignations thereof

**"Account Bank"** means Investec Bank Plc, being the bank with which the Account is held

**"Charged Property"** means all assets, property and rights of the Chargor described in Clause 3.1 (*Fixed Charge*)

**"Collateral Instruments"** means notes, bills of exchange, certificates of deposit and other negotiable and non-negotiable instruments, guarantees, indemnities and any other documents or instruments which contain or evidence an obligation (with or without security) to pay, discharge or be responsible directly or indirectly for, any liabilities of any person and includes any document or instrument creating or evidencing an Encumbrance

**"Cost Overrun Guarantee"** means the cost overrun guarantee dated on or about the date of this Charge and made between the Chargor, Leopard Guernsey Old Street Limited and the Bank

**"Default Rate"** means the rate of interest which is two per cent (2%) per annum over the base rate of the Bank from time to time



**"Deposit"** means the sum of £3,405,000 standing to the credit of the Account and all other sums from time to time credited to the Account together with interest accruing on such sums and includes, for the avoidance of doubt, all deposit renewals and all sums representing the proceeds of conversion of any such sum into another currency

**"disposal"** includes any sale, lease, sub-lease, assignment or transfer, the grant of an option or similar right, the grant of any easement, right or privilege, the grant of a licence or permission to assign or sublet, the creation of a trust or other equitable interest or any other proprietary right in favour of a third party, a sharing or parting with possession or occupation whether by way of licence or otherwise and the granting of access to any other person over any intellectual property, and **"dispose"** and **"disposition"** shall be construed accordingly

**"Due Date"** has the meaning given to that term in Clause 5.1 (*Maturity*)

**"Encumbrance"** means any mortgage, charge, standard security, right in security, security, pledge, lien, assignment, assignation, guarantee, indemnity, right of set-off, right to retention of title or other encumbrance, whether fixed or floating, over any present or future property, assets or undertaking

**"Enforcement Event"** means the occurrence of any obligation of the Chargor to make a Cost Overrun Guarantor Contribution in accordance with the terms of the Cost Overrun Guarantee

**"Facility Agreement"** means the £51,625,000 facility agreement between, amongst others, Leopard Guernsey Old Street Limited as Borrower and a Guarantor, Leopard Guernsey Old Street 2 Limited as a Guarantor, the Bank and LaSalle Investment Management as Arrangers, the Bank and Cobalt Investments S à r l as Original Lenders, and the Bank as Agent and Security Trustee (each term as defined therein), dated on or about the date of this Charge and all terms and conditions expressly incorporated therein

**"Facility Documents"** means

- (a) the Facility Agreement,
- (b) the Finance Documents, and
- (c) any other letter, document, agreement or security (including this Charge) comprising or constituting the Secured Obligations from time to time

**"Finance Documents"** has the meaning given to that term in the Facility Agreement

**"Finance Party"** has the meaning given to that term in the Facility Agreement

**"Financial Collateral"** has the meaning given to that expression in the Financial Collateral Regulations

**"Financial Collateral Regulations"** means the Financial Collateral Arrangements (No. 2) Regulations 2003 (S.I. 2003 No. 3226)

**"Incapacity"** means, in relation to a person, the insolvency, liquidation, dissolution, winding-up, administration, receivership, amalgamation, reconstruction or other incapacity of that

person whatsoever (and, in the case of a partnership, includes the termination or change in the composition of the partnership)

"ITA" means the Income Tax Act 2007

"Receiver" has the meaning given to that term in Clause 9 (*Receiver*)

"Repeating Representation" shall have the meaning given to that term in the Facility Agreement

"Secured Obligations" means all or any money and liabilities which shall from time to time (and whether on or at any time after demand) be due, owing or incurred in whatsoever manner to the Finance Parties by the Chargor, whether actually or contingently, solely or jointly and whether as principal or surety (or guarantor or cautioner) under the terms of the Cost Overrun Guarantee or this Charge

"Security Financial Collateral Arrangement" has the meaning given to that term in the Financial Collateral Regulations

## 1 2 Interpretation

In this Charge (unless the context otherwise requires)

- 1 2 1 any reference to statutes, statutory provisions and other legislation shall include all amendments, substitutions, modifications and re-enactments for the time being in force and shall include any orders, regulations, instruments or other subordinate legislation made under the relevant legislation,
- 1 2 2 any reference to a "**regulation**" includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation,
- 1 2 3 any reference to "**control**" of any company shall be interpreted in accordance with Section 995 of the ITA,
- 1 2 4 any reference to any clause, paragraph or schedule shall be construed as a reference to the clauses in this Charge, the schedules to this Charge and the paragraphs in such schedules,
- 1 2 5 any reference to any term or phrase defined in the Companies Act 2006 (as amended from time to time) shall (whether or not it is capitalised) bear the same meaning in this Charge,
- 1 2 6 any reference to words importing the singular shall include the plural and vice versa and words denoting any gender shall include all genders,
- 1 2 7 any reference to this Charge and to any provisions of it or to any other document referred to in this Charge shall be construed as references to it in force for the time being and as amended, varied, supplemented, restated, substituted or novated from time to time including, for the avoidance of doubt and without

prejudice to the generality of the foregoing, any amendment, variation, supplement, restatement or substitution that increases the amount of any loan or credit facility made available under any Facility Document or increases the amount of any interest, fees, costs or expenses or any other sums due or to become due under the Facility Documents or pushes back the date for full and final repayment of the facility made available under the Facility Documents,

- 1 2 8      any reference to a "**person**" is to be construed to include references to a natural person, corporation, firm, company, partnership, limited partnership, limited liability partnership, joint venture, unincorporated body of persons, individual or any state or any agency of a state, whether or not a separate legal entity,
- 1 2 9      any reference to any person is to be construed to include that person's assignees or transferees or successors in title, whether direct or indirect,
- 1 2 10     any reference to any word or phrase includes all derivations thereof,
- 1 2 11     any reference to "**assets**" includes present and future properties, revenues and rights of every description,
- 1 2 12     any reference to "**guarantee**" means any guarantee, letter of credit, bond, indemnity or similar assurance against loss, or any obligation, direct or indirect, actual or contingent, to purchase or assume any indebtedness of any person or to make an investment in or loan to any person or to purchase assets of any person where, in each case, such obligation is assumed in order to maintain or assist the ability of such person to meet its indebtedness,
- 1 2 13     any reference to "**indebtedness**" or "**borrowings**" includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent,
- 1 2 14     any reference to any "**associated person**" means, in relation to a person, a person who is either acting in concert (as defined in the City Code on Takeovers and Mergers) with that person or is a connected person (as defined in section 993 (as supplemented by section 994) of the ITA) of that person,
- 1 2 15     any reference to a time of day is a reference to London time, and
- 1 2 16     clause headings are for ease of reference only and shall not affect the interpretation of this Charge

### 1 3      **Effect as a deed**

It is intended that this Charge takes effect as a deed notwithstanding that any party may only execute it under hand

### 1 4      **Appointment of Receiver**

Any appointment of a Receiver under Clause 9 (*Receiver*) hereof may be made by any successor or assignee or transferee of the Bank, and the Chargor hereby irrevocably

appoints each such successor or assignee or transferee to be its attorney in the terms and for the purposes stated in Clause 13 (*Power of Attorney*) hereof

## **1 5 Cost Overrun Guarantee definitions**

Unless the context otherwise requires or unless otherwise defined in this Charge, words and expressions defined in the Cost Overrun Guarantee shall have the same meaning when used in this Charge

## **1 6 Rights of the Finance Parties**

1 6 1 All of the representations, covenants and undertakings given by the Chargor pursuant to this Charge are given to the Bank for the benefit of each Finance Party

1 6 2 All of the security created by the Chargor pursuant to the terms of this Charge is created in favour of the Bank as security trustee for each of the Finance Parties and the Bank holds the benefit of this Charge on trust for itself and each of the other Finance Parties

## **2 COVENANT TO PAY**

### **2 1 Covenant to pay**

The Chargor covenants with the Bank that it will on demand pay and discharge the Secured Obligations when the same become due for payment and discharge

### **2 2 Appropriation of money/assets**

At any time after the occurrence of an Enforcement Event, each Finance Party shall be entitled to appropriate moneys and/or assets to satisfy the Secured Obligations in such manner or order as it sees fit and any such appropriation shall override any appropriation by any other person

### **2 3 Statements of account conclusive**

Any statement of account of the Chargor, signed as correct by an officer of the Bank, showing the amount of the Secured Obligations, shall, in the absence of manifest error, be binding and conclusive on and against the Chargor

### **2 4 Charge Limit**

The total amount recoverable by the Bank and the other Finance Parties from the Chargor under this Charge shall not exceed the sum of £3,405,000 plus interest standing to the credit of the Account and costs and expenses payable under clause 20 1

## **3 CHARGE**

### **3 1 Fixed Charge**

The Chargor, with full title guarantee and as a continuing security for the payment and discharge of the Secured Obligations, hereby charges to the Bank by way of first fixed charge, the Deposit and the Account and all rights, benefits and advantages whatsoever at any time accruing, offered or arising in respect of or incidental to the same

### **3 2 Notice to Account Bank**

Save where the Account Bank is the Bank, the Chargor will upon execution of this Charge give notice to the Account Bank (and forthwith on any change in the identity of the Account Bank, give notice to the new Account Bank) of this Charge in the form set out in Schedule 1 (*Form of Notice of Charge to Account Bank*) hereto and use all reasonable endeavours to procure that such Account Bank or new Account Bank (as the case may be) acknowledges such notice to the Bank in the form set out in Schedule 2 (*Form of Acknowledgment of Notice of Charge from the Account Bank*) hereto within 15 Business Days of the date of such notice

### **3 3 Restrictions on dealing with Charged Property**

The Chargor hereby covenants that it will not without the prior written consent of the Bank

3 3 1 create or attempt to create or permit to subsist in favour of any person other than the Bank any Encumbrance on or affecting the Charged Property or any part thereof, or

3 3 2 dispose of the Charged Property or any part thereof or attempt or agree so to do

## **4 DUTY TO ACCOUNT; SET-OFF**

### **4 1 Duty to account**

No Finance Party shall have any duty to account to the Chargor in respect of the Account or the Deposit, and the Chargor shall not be entitled to withdraw or transfer any sums from the Account save as expressly provided in this Charge

### **4 2 Set-off**

The Chargor hereby agrees that, notwithstanding any settlement of account or other matter whatsoever, in addition to any other remedy of combination or consolidation of accounts or any lien which a Finance Party may have, each Finance Party shall be entitled without notice to the Chargor to set-off or transfer the Deposit against any matured obligation owed by that Finance Party to the Chargor and to combine the Account with any other account held by the Chargor with such Finance Party (at any of its branches or offices in any country whatsoever) which may be in debit

#### 4 3 Purchase of currencies

For the purpose of Clause 4 2 (*Set-off*), the Chargor authorises each Finance Party to purchase with all or any part of the Deposit such other currencies as may be necessary to effect such set-off or combination

### 5 DEPOSIT

#### 5 1 Maturity

Subject to this Clause 5 (*Deposit*), the Deposit shall be held by the Bank on terms that (except with the Bank's prior written consent) the Deposit (or, in the circumstances set out below in this Clause 5 1 (*Maturity*), the relevant part of the Deposit) shall automatically mature on the earlier of

5 1 1 the date on which the Chargor is released from the Guaranteed Obligations under the terms of the Cost Overrun Guarantee whereupon the Account and the balance of the Deposit shall be released from the Security constituted by this Charge , and

5 1 2 the date (any such date, a "**Due Date**") on which all or any part of the Secured Obligations shall have become due and payable and shall not have been paid immediately upon so becoming due and payable

If, on any Due Date the Deposit shall so mature only to the extent of an amount equal to the amount of the Secured Obligations which shall have become immediately due and payable and the balance of the Deposit shall continue to be subject to the provisions of this Clause 5 (*Deposit*) unless the Deposit shall be equal to or less than such amount, in which case the whole of the Deposit shall so mature

#### 5 2 Exercise of set-off etc. rights

Without prejudice to Clause 4 2 (*Set-off*) and Clause 19 1 (*Set-off*), at or at any time after such time as the Deposit (or any part of the Deposit) shall mature, the Bank may exercise in relation to the Deposit and the Account all or any rights of set-off, combination or consolidation to which the Bank may be entitled under this Charge, by law or otherwise

#### 5 3 Interest

Interest shall accrue on the Deposit at such rate and on such terms as may from time to time be offered by the Account Bank and agreed between the Chargor and the Bank or, failing such agreement, as may be determined by the Bank in its absolute discretion (which may include a zero rate of interest) Interest shall be credited to the Account and form part of the Deposit

#### 5 4 Time deposit arrangements

Any agreement between the Chargor and the Bank which is from time to time entered into to the effect that all or any part of the Deposit is to be held as a fixed time deposit or on a current or call basis, as the case may be, shall operate for the purposes solely of the calculation and payment of interest or of the maintenance and operation of the Account

Any such agreement shall not (a) prejudice the Finance Parties' rights or obligations under or pursuant to this Clause 5 (*Deposit*) or any other provision of this Charge or (b) preclude the Bank from exercising, or oblige the Bank to delay the exercise of, any of its rights until the expiry of any fixed time deposit period. In exercising any of its rights the Bank may unilaterally terminate any such fixed time deposit period without notice to the Chargor and adjust any interest on the Deposit accordingly. No Finance Party shall have any liability to the Chargor for any such termination of a fixed time deposit period, whether for loss of interest or otherwise. Unless and until the Deposit or any part of the Deposit shall mature in accordance with the provisions of Clause 5.1 (*Maturity*), any part of the Deposit held as a fixed time deposit shall, upon the expiry of the fixed time deposit period, be held on such terms (including, without limitation, successive fixed time deposits) as may be agreed from time to time between the Chargor and the Bank or, failing such agreement, as may be determined by the Bank in its absolute discretion.

#### 5.5 **Saving provision**

Nothing in this Clause 5 (*Deposit*) shall prejudice or affect the provisions of Clause 1.6 (*Covenant to Pay*).

#### 5.6 **Release from Security**

5.6.1 Amounts permitted to be withdrawn or transferred from the Account pursuant to this Charge shall, upon withdrawal or transfer, be released from the Security constituted by this Charge.

5.6.2 The Chargor shall pay to the Bank within three Business Days of demand all such costs and expenses (including legal fees and any VAT or similar tax thereon) reasonably incurred by the Bank in connection with the release of the Security constituted by this Charge.

### 6 **REPRESENTATIONS AND WARRANTIES**

#### 6.1 **Representations and warranties**

The Chargor represents and warrants to the Bank on the date of this Charge as follows:

##### 6.1.1 ***Title to Charged Property***

it is the beneficial owner of and has full right and title to the Charged Property and that the Charged Property is free from any Encumbrance (other than any Encumbrance created by this Charge) of any kind,

##### 6.1.2 ***Due incorporation***

where the Chargor is not a natural person, it is duly incorporated or established and validly existing under the laws of the country of its incorporation or establishment and has power to carry on its business as it is now being conducted and to own its property and other assets,

##### 6.1.3 ***Corporate power***

where the Chargor is not a natural person, it has power to execute, deliver and perform its obligations under this Charge and all necessary corporate, shareholder and other action has been taken to authorise the execution, delivery and performance of the same,

**6 1 4      *Binding obligations***

this Charge constitutes its valid, legal, binding and enforceable obligations,

**6 1 5      *No conflict with other obligations***

the execution and delivery of, the performance of its obligations under, and the compliance by it with the provisions of this Charge will not

6 1 5 1      contravene any existing applicable law, statute, rule or regulation or any judgment, decree or permit to which it is subject, or

6 1 5 2      conflict with, or result in any breach of any of the terms of, or constitute a default under, any agreement or other instrument to which it is a party or is subject or by which it or any of its property is bound, or

6 1 5 3      where the Chargor is not a natural person, contravene or conflict with any provision of its memorandum and articles of association,

**6 1 6      *Consents obtained***

every authorisation, or registration (other than at Companies House) with, or declaration to, governmental or public bodies or authorities or courts required by it to authorise, or required by it in connection with, the execution, delivery, validity, enforceability or admissibility in evidence of this Charge or the performance by it of its obligations hereunder or thereunder has been obtained or made and is in full force and effect and there has been no default in the observance of any of the conditions or restrictions imposed in or in connection with any of the same,

**6 1 7      *No litigation***

no litigation, arbitration or administrative proceeding is taking place, pending or, to the knowledge of the officers of it (but without personal liability), threatened against it which could have a material adverse effect on the business, assets or financial condition of it,

**6 1 8      *No filings required***

other than presentation for registration at Companies House, it is not necessary to ensure the legality, validity, enforceability or admissibility in evidence of this Charge that it or any other instrument be notarised, filed, recorded, registered or enrolled in any court, public office or elsewhere in any relevant jurisdiction or that any stamp, registration or similar tax or charge be paid in any relevant jurisdiction



on or in relation to this Charge and this Charge is in proper form for its enforcement in the courts of any relevant jurisdiction, and

**6 1 9      *No immunity***

neither it nor any of its assets are entitled to immunity on the grounds of sovereignty or otherwise from any legal action or proceeding (which shall include, without limitation, suit, attachment prior to judgment, execution or other enforcement)

**6 2      Repetition**

The representations and warranties in Clause 6 1 (*Representations and warranties*), other than Clause 6 1 8 (*No filings required*), shall be repeated by the Chargor on each date on which a Repeating Representation is made under the Facility Agreement as if made with reference to the facts and circumstances existing on each such day

**7            COVENANTS OF THE CHARGOR**

**7 1            Covenants**

The Chargor hereby covenants and undertakes with the Bank that during the continuance of this Charge, the Chargor will

**7 1 1          *Consents and Licences***

obtain or cause to be obtained, maintain in full force and effect and comply in all material respects with the conditions and restrictions (if any) imposed in, or in connection with, every consent, authorisation, licence or approval of governmental or public bodies or authorities or courts and do, or cause to be done, all other acts and things which may from time to time be necessary or desirable under applicable law for the continued due performance of all its obligations under this Charge,

**7 1 2          *Financial Information***

provide the Bank with all financial and other information with respect to the assets, liabilities, financial condition and affairs of the Chargor (and its subsidiaries and associated companies (if any) where the Chargor is not a natural person), that the Bank may from time to time require,

### 7 1 3 ***Deposit of Deeds***

promptly upon the execution of this Charge (and on acquisition by it of any Charged Property at any time) deposit with the Bank (to be held at the risk of the Chargor)

- (a) all deeds and documents of title relating to the Charged Property in its possession constituting or evidencing title to the Charged Property, and to any subordinate interest in any of them and the insurance policies relating thereto, and
- (b) all such other documents relating to its assets as the Bank may from time to time reasonably require promptly upon coming into possession of them, and
- (c) procure (if directed to do so by the Bank) that any such deeds and documents of title referred to in Clauses 7 1 3(a) and 7 1 3(b) above are held to the order of the Bank, on terms acceptable to the Bank

### 7 1 4 ***Conduct of business***

conduct and carry on its business, and procure that each of its Subsidiaries conducts and carries on its business, in a proper and efficient manner and keep or cause or procure to be kept proper books of account relating to such business and not make any material alteration in the nature or mode of conduct of any such business,

### 7 1 5 ***Statutes***

comply with the provisions of all present or future statutes and directives and every notice, order or direction made under any of the foregoing,

### 7 1 6 ***Jeopardy***

not do or cause or permit to be done anything which may in any way depreciate, jeopardise or otherwise prejudice the value or marketability of any of the Charged Property or the security created by this Charge, and

### 7 1 7 ***Insolvency***

notify the Bank immediately

- (a) in the event of any creditor executing diligence against the Chargor or any distress or execution is levied or enforced against the Chargor or any garnishee order is made and served in respect of any of its assets, and/or
- (b) if any steps (including, without limitation, the making of an application or the giving of any notice) are taken by any person (including, without limitation, the Chargor) in relation to the administration, receivership, winding-up or dissolution of the Chargor

## 7.2 Power to remedy

If the Chargor defaults at any time in complying with any of its obligations contained in this Charge, the Bank shall, without prejudice to any other rights arising as a consequence of such default, be entitled (but not bound) to make good such default and the Chargor hereby irrevocably authorises the Bank and its employees and agents by way of security to do all such things necessary or desirable in connection therewith. Any monies so expended by the Bank shall be repayable by the Chargor to the Bank on demand together with interest at the Default Rate from the date of payment by the Bank until such repayment, both before and after judgment. No exercise by the Bank of its powers under this Clause 7.2 (*Power to remedy*) shall make the Bank liable to account as a mortgagee in possession.

## 8 ENFORCEMENT

### 8.1 Powers on enforcement

At any time on or after the occurrence of an Enforcement Event or if requested by the Chargor, the Bank may, without further notice, exercise all the powers conferred upon mortgagees by the Law of Property Act 1925, without the restrictions contained in section 103 of the Law of Property Act 1925, and do all or any of the following and/or delegate such powers or any of them to any person on such terms as it may think fit:

- 8.1.1 sell or otherwise dispose of all or any of the Charged Property or otherwise exercise and do (or permit the Chargor or any nominee of it to exercise and do) all such powers and things as the Bank would be capable of exercising or doing if the Bank were the absolute beneficial owner of the Charged Property,
- 8.1.2 settle, adjust, refer to arbitration, compromise and arrange any claims, accounts, disputes, questions and demands with or by any person relating in any way to the Charged Property,
- 8.1.3 bring, prosecute, enforce, defend and abandon actions, suits and proceedings in relation to the Charged Property,
- 8.1.4 redeem any Encumbrance (whether or not having priority to this Charge) over the Charged Property and settle the accounts of encumbrancers,
- 8.1.5 do, and concur in the doing of, all such other acts and things, either alone or jointly with any other person, which the Bank may consider necessary or expedient for the realisation of the Charged Property or incidental to the exercise of any of the rights and powers conferred on the Bank under or by virtue of this Charge, the Law of Property Act 1925 or the Insolvency Act 1986.

### 8.2 Additional powers

The Bank shall be entitled to permit the sale of the Charged Property or any part thereof at such time and on such terms as the Bank may consider expedient and without being under any obligation to have regard in that respect of the effect (if any) which a disposal at such time or on such terms may have on the price likely to be realised. No Finance Party shall in any circumstances, either by reason of any dealing with the Charged Property or any part thereof or for any other reason whatsoever be liable to account to the Chargor for anything except in respect of the relevant Finance Party's own actual receipts or be liable to the

Chargor for any loss or damage arising from any realisation by it of the Charged Property or any part thereof or from any act, default or omission of it in relation to the Charged Property or any part thereof or from any exercise or non-exercise by it of any power, authority or discretion conferred upon it in relation to the Charged Property or any part thereof by or pursuant to this Charge or otherwise by any applicable law

### **8 3 Law of Property Act 1925**

The powers of sale or other disposal in Clauses 8 1 (*Powers on enforcement*) and 8 2 (*Additional powers*) shall operate as a variation and extension of the statutory power of sale under Section 101 of the Law of Property Act 1925 and such power shall arise (and the Secured Obligations shall be deemed due and payable for that purpose) on execution of this Charge. The restrictions contained in Sections 93 and 103 of the Law of Property Act 1925 shall not apply to this Charge or to any exercise by the Bank of its right to consolidate mortgages or its power of sale on or at any time after an Enforcement Event

### **8 4 Certificate in writing**

A certificate in writing by an officer or agent of the Bank that the power of sale or disposal has arisen and is exercisable shall be conclusive evidence of that fact in favour of a purchaser of all or any part of the Charged Property

### **8 5 Redemption of prior Encumbrances**

At any time after the security constituted by this Charge has become enforceable, or after any powers conferred by any Encumbrance having priority to this Charge shall have become exercisable, the Bank may

8 5 1 redeem such or any other prior Encumbrance, or procure its transfer to itself, and

8 5 2 settle any account of that encumbrancer

The settlement of any such account shall be conclusive and binding on the Chargor. All monies paid by the Bank to such encumbrancer in settlement of such an account shall, as from its payment by the Bank, be due from the Chargor to the Bank on current account and shall bear interest and be secured as part of the Secured Obligations

### **8 6 Financial Collateral**

To the extent that the Charged Property constitutes Financial Collateral and is subject to a Security Financial Collateral Arrangement created by or pursuant to this Charge, the Bank shall have the right, at any time after this Charge becomes enforceable, to appropriate all or any part of the Charged Property in or towards the payment or discharge of the Secured Obligations. The value of any Charged Property appropriated in accordance with this Clause 8 6 (*Financial Collateral*) shall be the price of such Charged Property at the time the right of appropriation is exercised as listed on any recognised market index, or determined by such other method as the Bank may select (including independent valuation). The Chargor agrees that the methods of valuation provided for in this Clause 8 6 (*Financial Collateral*) are commercially reasonable for the purpose of Regulation 18 of the Financial Collateral Regulations. To the extent that Charged Property constitutes Financial Collateral, the Chargor agrees that such Charged Property shall be held or redesignated so as to be under the control of the Bank for all purposes of the Financial Collateral Regulations

## 9 RECEIVER

### 9 1 Appointment of receiver(s)

At any time on or after the occurrence of an Enforcement Event or if the Chargor so requests in writing, the Bank may without further notice to the Chargor appoint by writing under hand or under seal any one or more persons either singly, jointly, severally or jointly and severally to be a receiver (each a "**Receiver**") in respect of all or any part of the property charged by this Charge and either at the time of appointment or any time thereafter may fix his or their remuneration and except as otherwise required by statute may remove any such Receiver and appoint another or others in his or their place

### 9 2 Agent of Chargor

Any Receiver shall be the agent of the Chargor which shall be solely responsible for his acts and defaults and the payment of his remuneration

### 9 3 Powers of Receiver

9 3 1 Any Receiver shall, subject to any restrictions specified in the deed or instrument appointing him, have all the powers conferred by statute on mortgagees in possession (but without liability as such) and receivers which in the case of joint receivers may be exercised either jointly or severally (including, without limitation, all the rights, powers and discretions conferred on a receiver under the Law of Property Act 1925 and a receiver or administrative receiver under the Insolvency Act 1986) In addition, but without prejudice to the generality of the foregoing the Receiver shall have power (in the name of the Chargor or otherwise and in such manner and on such terms and conditions as he shall think fit) to

9 3 1 1 take possession of, collect and get in all or any part of the property in respect of which he is appointed and for that purpose to take any proceedings,

9 3 1 2 make any arrangement or compromise between the Chargor and any other person which he may think expedient, and

9 3 1 3 do all such other acts and things as may be considered to be incidental or conducive to any other matters or powers aforesaid or to the realisation of the security constituted by this Charge and which he lawfully may or can do

9 3 2 The powers of a Receiver may be limited by the terms of his appointment

### 9 4 Remuneration

The Bank may from time to time determine the remuneration of any Receiver and section 109(6) Law of Property Act 1925 shall be varied accordingly A Receiver shall be entitled to remuneration appropriate to the work and responsibilities involved upon the basis of charging from time to time adopted by the Receiver in accordance with the current practice of his firm

## **10 APPLICATION OF PROCEEDS**

### **10 1 Order of application**

Any monies received by the Bank or any Receiver under this Charge shall, subject to the payment of any claims having priority to the charges created by this Charge, be applied in the following order but without prejudice to the right of the Bank to recover any shortfall from the Chargor

10 1 1 in the payment of all costs, charges and expenses of and incidental to the appointment of the Receiver and the exercise of all or any of his powers and of all outgoings paid by him,

10 1 2 in the payment of the Receiver's remuneration,

10 1 3 in or towards the satisfaction of the Secured Obligations in such order as the Bank (in its absolute discretion acting on behalf of the Finance Parties) thinks fit, and

10 1 4 in payment of the surplus (if any) to the person or persons entitled to it

## **11 PROTECTION OF THIRD PARTIES**

### **11 1 No enquiry**

No person dealing with a Receiver or the Bank shall be concerned to enquire whether any power which he or it is purporting to exercise has become exercisable or whether any money is due under this Charge or as to the application of any money paid, raised or borrowed or as to the propriety or regularity of any sale by or other dealing with such Receiver or the Bank

### **11 2 Law of Property Act**

All the protections to purchasers contained in Sections 104 and 107 of the Law of Property Act 1925 shall apply to any person purchasing from or dealing with a Receiver or the Bank as if the liabilities secured by this Charge had become due and the statutory powers of sale in relation the Charged Property had arisen on the date of this Charge

## **12 PAYMENTS**

### **12 1 No set-off or withholding**

All sums payable by the Chargor under this Charge shall be paid in full without any set-off, condition or counterclaim whatsoever and free and clear of any deduction or withholding whatsoever save only as may be required by law which is binding on it

### **12 2 Gross-up**

If any deduction or withholding is required by law in respect of any payment due from the Chargor under this Charge, the relevant sum payable by the Chargor shall be increased so

that, after making the minimum deduction or withholding so required, the Chargor shall pay to the relevant Finance Party and the relevant Finance Party shall receive and be entitled to retain on the due date for payment a net sum at least equal to the sum which it would have received had no such deduction or withholding been required to be made

### 13 POWER OF ATTORNEY

#### 13 1 Power of Attorney

13 1 1 The Chargor by way of security hereby irrevocably appoints each of the Bank, any person selected by the Bank and any Receiver jointly and also severally, to be its attorney in its name and on its behalf

13 1 1 1 to execute and complete any documents or instruments which the Bank or such Receiver may require for perfecting the title of the Bank to the Charged Property or for vesting the same in the Bank, its nominees or any purchaser,

13 1 1 2 to sign, execute, seal and deliver and otherwise perfect any further security document referred to in Clause 18 (*Further Assurance*), and

13 1 1 3 otherwise generally to sign, seal, execute and deliver all deeds, assurances, agreements and documents and to do all acts and things which may be required for the full exercise of all or any of the powers conferred on the Bank or a Receiver under this Charge or which may be deemed expedient by the Bank or a Receiver in connection with any disposition, realisation or getting in by the Bank or such Receiver of the Charged Property or any part thereof or in connection with any other exercise of any power under this Charge,

13 1 2 The power of attorney granted under Clause 13 1 (*Power of attorney*) shall be exercisable at any time (i) prior to an Enforcement Event to do anything which the Chargor is obliged to do under this Charge but has not done, (ii) on or after an Enforcement Event to do anything which the Chargor is obliged to do under this Charge and (iii) to exercise any of the rights conferred on the Bank, any Receiver or any such person appointed by the Bank in relation to the Charged Property or under the Finance Documents, the Law of Property Act 1925 or the Insolvency Act 1986

#### 13 2 Ratification

The Chargor hereby ratifies and confirms and agrees to ratify and confirm whatever any such attorney shall reasonably do in the exercise or purported exercise of all or any of the powers, authorities and discretions referred to in this Clause 13 (*Power of Attorney*)

### 14 GENERAL INDEMNITY

The Chargor hereby undertakes to indemnify and keep indemnified the Finance Parties, any Receiver and any attorney, agent or other person appointed by any Finance Party under this Charge and the Finance Parties' and any Receiver's officers and employees (each an

"Indemnified Party") in respect of all costs, losses, actions, claims, expenses, demands or liabilities whether in contract, tort or otherwise and whether arising at common law, in equity or by statute which may be incurred by, or made against, any of the Indemnified Parties (or by or against any manager, agent, officer or employee for whose liability, act or omission any of them may be answerable) at any time relating to or arising directly or indirectly out of or as a consequence of

14 1 1 anything done or omitted in the exercise or purported exercise of the powers contained in this Charge, or

14 1 2 any breach by the Chargor of any of its obligations under this Charge

## 15 CURRENCY CONVERSION AND INDEMNITY

### 15 1 Conversion of currency

For the purpose of or pending the discharge of any of the monies and liabilities secured by this Charge, a Finance Party may convert any monies received, recovered or realised by it under this Charge (including the proceeds of any previous conversion) from their existing currency into such other currency as the relevant Finance Party may think fit and any such conversion shall be effected at the relevant Finance Party's then prevailing spot selling rate of exchange for such other currency against the existing currency

### 15 2 Currency indemnity

As a separate and independent obligation, the Chargor agrees to indemnify and hold harmless each Finance Party against any shortfall between any amount received or recovered by it in respect of any payment due under this Charge and converted in accordance with Clause 15 1 (*Conversion of currency*) into the currency in which such amount was payable and the amount in such currency which was due and payable to the relevant Finance Party under this Charge

## 16 NEW ACCOUNTS

If a Finance Party shall at any time receive actual or constructive notice of any charge or other interest affecting any part of the property charged under this Charge then each Finance Party may open a new account or accounts for the Chargor and if a Finance Party does not do so then it shall be treated as if it had in fact done so at the time when it received or was deemed to receive notice and as from that time all payments made by the Chargor to each Finance Party shall be credited or treated as having been credited to the new account and shall not operate to reduce the amount secured by this Charge at the time when the relevant Finance Party received or was deemed to have received such notice

## 17 PRIOR CHARGES

### 17 1 Redemption of prior security

If there is any Encumbrance over any of the property charged by this Charge which ranks in priority to this Charge and any proceedings or steps are taken to exercise or enforce any powers or remedies conferred by such prior Encumbrance, the Bank or any Receiver appointed under this Charge in respect of such property may redeem such prior



Encumbrance or procure its transfer to itself and may settle and pass the accounts of any prior mortgagee, chargee or encumbrancer

## **17 2      Extension of powers and rights**

Any account so settled and passed shall be conclusive and binding on the Chargor and all the principal, interest, costs, charges and expenses of and incidental to such redemption or transfer shall be secured on the property charged by this Charge and all the powers conferred by any prior Encumbrance upon the encumbrancer or any receiver thereunder shall be exercisable by the Bank or a Receiver in like manner as if the same were expressly included in this Charge

## **18          FURTHER ASSURANCE**

### **18 1      Further assurance**

The Chargor shall at its own cost whenever requested by the Bank in writing, promptly, and in any event within 3 Business Days, execute and sign all such Encumbrances, deeds, documents and assurances and do all such things as the Bank may reasonably require for the purpose of perfecting or more effectively providing security to the Bank for the payment and discharge of the Secured Obligations or, if an Enforcement Event has occurred, to facilitate the realisation of the Charged Property or the exercise of any rights vested in the Bank or any Receiver

### **18 2      Certain documentary requirements**

Such further Encumbrances, deeds, documents and assurances shall be prepared by or on behalf of the Bank at the expense of the Chargor and shall contain (a) an immediate power of sale without notice, (b) a clause excluding section 93 Law of Property Act 1925 and the restrictions contained in section 103 Law of Property Act 1925 and (c) such other clauses for the benefit of the Bank as the Bank may require

## **19          SET OFF**

### **19 1      Set-off**

The Chargor hereby agrees that each Finance Party may at any time without notice, notwithstanding any settlement of account or other matter whatsoever, combine or consolidate all or any of its then existing accounts wheresoever situate (including accounts in the name of a Finance Party or of the Chargor jointly with others), whether such accounts are current, deposit, loan or of any other nature whatsoever, whether they are subject to notice or not and whether they are denominated in sterling or in any other currency, and set-off or transfer any sum standing to the credit of any one or more such accounts against any matured obligation owed by that Finance Party to the Chargor, regardless of place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Finance Party may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off

### **19 2      Purchase of currencies**

For the purpose of this Clause 19 (*Set-off*), the Chargor authorises the Finance Parties to purchase with the moneys standing to the credit of such accounts such other currencies as may be necessary to effect such applications

## 20 COSTS AND EXPENSES

### 20 1 Costs and expenses

20 1 1 All costs, charges and expenses (together with any Value Added Tax thereon) incurred by the Bank in connection with the preservation or enforcement or attempted enforcement of the Bank's rights under this Charge shall be reimbursed by the Chargor to the Bank on demand on a full indemnity basis and, until so reimbursed, shall carry interest in accordance with the provisions set out in Clause 5 3 (*Interest*) from the date of payment to the date of reimbursement and be secured on the property charged by this Charge

20 1 2 A certificate signed by the Bank as to the amount of such costs and expenses shall be conclusive and binding upon the Chargor

### 20 2 Enforcement etc

Each Finance Party and every Receiver, attorney or other person appointed by the Bank under this Charge and their respective employees shall be entitled to be indemnified on a full indemnity basis out of the property charged by this Charge in respect of all liabilities and expenses incurred by any of them in or directly or indirectly as a result of the exercise or purported exercise of any of the powers, authorities or discretions vested in them under this Charge and against all actions, proceedings, losses, costs, claims and demands in respect of any matter or thing done or omitted in any way relating to the property charged by this Charge and the Finance Parties and any such Receiver may retain and pay all sums in respect of the same out of the monies received under the powers conferred by this Charge

## 21 MISCELLANEOUS

### 21 1 Time, indulgence and other matters

The Finance Parties may without discharging or in any way affecting the security created by this Charge or any remedy of the Finance Parties grant time or other indulgence or abstain from exercising or enforcing any remedies, securities, guarantees or other rights which it may now or in the future have from or against the Chargor and may make any arrangement, variation or release with any person or persons without prejudice either to this Charge or the liability of the Chargor for the monies and liabilities secured by this Charge

### 21 2 Severability

Each of the provisions in this Charge shall be severable and distinct from one another and if at any time any one or more of such provisions is or becomes or is declared null and void, invalid, illegal or unenforceable in any respect under any law or otherwise howsoever the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby

### 21 3 Remedies cumulative

No failure or delay on the part of the Bank to exercise any power, right or remedy shall operate as a waiver thereof nor shall any single or any partial exercise or waiver of any power, right or remedy preclude its further exercise or the exercise of any other power, right or remedy

**21 4 No waiver**

No delay or omission on the part of the Bank in exercising any right or remedy under this Charge shall impair that right or remedy or operate as or be taken to be a waiver of it nor shall any single, partial or defective exercise of any such right or remedy preclude any other or further exercise under this Charge of that or any other right or remedy

**21 5 Statutory references**

Any reference in this Charge to any statute or any section of any statute shall be deemed to include reference to any statutory modification or re enactment thereof for the time being in force

**21 6 No liability as mortgagee in possession**

Neither the Bank nor any Receiver shall be liable to account as mortgagee in possession in respect of all or any of the Charged Property or be liable for any loss upon realisation or for any neglect or default of any nature whatsoever for which a mortgagee may be liable as such

**21 7 Stamp taxes**

The Chargor shall pay all stamp, documentary, registration or other duties (including any duties payable by or assessed on the Finance Parties) imposed on or in connection with this Charge and the Bank consents to the Chargor recovering such sums from the Principal as soon as they are incurred

**21 8 Value Added Tax**

21 8 1 All fees, costs and expenses payable under or pursuant to this Charge shall be paid together with an amount equal to any value added tax payable by the Finance Parties in respect of the same to the extent that the Bank shall have certified (such certificate to be binding and conclusive on the Chargor) to the Chargor that it is not entitled to credit for such value added tax as input tax

21 8 2 Any value added tax chargeable in respect of any services supplied by the Finance Parties under this Charge shall, on delivery of a value added tax invoice, be paid in addition to any sum agreed to be paid under this Charge

**21 9 Continuing security, etc**

This Charge and the obligations of the Chargor under this Charge shall

21 9 1 secure the ultimate balance from time to time owing to the Finance Parties in respect of the Secured Obligations and shall be a continuing security

notwithstanding any intermediate payment, partial settlement or other matter whatsoever,

- 21 9 2 be in addition to, and not prejudice or affect, any present or future Collateral Instrument, Encumbrance, right or remedy held by or available to the Finance Parties,
- 21 9 3 not merge with or be in any way prejudiced or affected by the existence of any such Collateral Instruments, Encumbrances, rights or remedies or by the same being or becoming wholly or in part void, voidable or unenforceable on any ground whatsoever or by any Finance Party dealing with, exchanging, releasing, varying or failing to perfect or enforce any of the same, or giving time for payment or indulgence or compounding with any other person liable, and
- 21 9 4 not in any way be prejudiced or affected by any amendment or supplement to, or novation of, any of the Facility Documents

#### 21 10 **Liability unconditional**

The obligations of the Chargor under this Charge and the security created or granted under this Charge will not be affected by an act, omission, matter or thing which, but for this Clause 21 10 (*Liability unconditional*), would reduce, release or prejudice any of its obligations under this Charge and/or any of the security created or granted under this Charge (without limitation and whether or not known to it or any Finance Party) including

- 21 10 1 any time, waiver or consent granted to, or composition with, the Chargor or other person,
- 21 10 2 the release of the Chargor or any other person under the terms of any composition or arrangement with any creditor of the Chargor or such other person,
- 21 10 3 the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, the Chargor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security,
- 21 10 4 any Incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of the Chargor or any other person,
- 21 10 5 any amendment, novation, supplement, extension (whether of maturity or otherwise) or restatement (in each case, however fundamental and of whatsoever nature) or replacement of a Facility Document or any other document or security,
- 21 10 6 any unenforceability, illegality or invalidity of any obligation of any person under any Facility Document or any other document or security,
- 21 10 7 where the security created or purported to be created by this Charge secures the Chargor's obligations and liabilities as guarantor and/or indemnitor, any act or omission which would not have discharged or affected the liability of the Chargor

had the Chargor been a principal debtor in respect of those obligations and liabilities instead of guarantor or indemnitor or by anything done or omitted by any person which but for this provision might operate to exonerate or discharge the Chargor or otherwise reduce or extinguish the Chargor's liability under this Charge, or

21 10 8 any insolvency or similar proceedings

#### 21 11 Collateral Instruments

No Finance Party shall be obliged to make any claim or demand on the Chargor or any other person liable or to resort to any Collateral Instrument or other means of payment before enforcing this Charge and no action taken or omitted in connection with any such Collateral Instrument or other means of payment shall discharge, reduce, prejudice or affect the liability of the Chargor. No Finance Party shall be obliged to account for any money or other property received or recovered in consequence of any enforcement or realisation of any such Collateral Instrument or other means of payment

#### 21 12 Suspense accounts

Any money received or recovered by the Bank pursuant to the realisation of any security created pursuant to this Charge (whether before or after any Incapacity of the Chargor or any other person liable) may be credited at the discretion of the Bank to any suspense or interest-bearing account, with a view to preserving the rights of the Finance Parties to prove for the whole of its respective claims against the Chargor or any other person liable or may be applied in or towards satisfaction of the Secured Obligations, and may be held in such account for so long as the Bank shall think fit pending its application from time to time in or towards the discharge of any of the monies and liabilities secured by this Charge

#### 21 13 Settlements conditional

Any release, discharge or settlement between the Chargor and the Bank shall be conditional upon no right, security, disposition or payment to any Finance Party by the Chargor or any other person being void, set aside or ordered to be refunded pursuant to any enactment or law relating to breach of duty by any person, bankruptcy, liquidation, administration, the protection of creditors or insolvency or for any other reason whatsoever and if such condition is not fulfilled the Bank shall be entitled to enforce this Charge as if such release, discharge or settlement had not occurred and any such payment had not been made

#### 21 14 Chargor bound

The Chargor agrees to be bound by this Charge notwithstanding that any person intended to execute or to be bound by this Charge may not do so or may not be effectually bound and notwithstanding that any guarantees or charges contained in this Charge may be terminated or released or may be or become invalid or unenforceable against the Chargor whether or not the deficiency is known to any Finance Party

#### 21 15 Section 93, LPA

Section 93 Law of Property Act 1925 shall not apply to the security created by this Charge or to any security given to the Bank pursuant to this Charge

**21 16 Reorganisation**

This Charge shall remain binding on the Chargor notwithstanding any change in the constitution of the Bank or its absorption in, or amalgamation with, or the acquisition of all or part of its undertaking by, any other person, or any reconstruction or reorganisation of any kind. The security granted by this Charge shall remain valid and effective in all respects in favour of the Bank and any assignee, transferee or other successor in title of the Bank in the same manner as if such assignee, transferee or other successor in title had been named in this Charge as a party instead of, or in addition to the Bank.

**21 17 Unfettered discretion**

Any liability or power which may be exercised or any determination which may be made under this Charge by the Bank may be exercised or made in its absolute and unfettered discretion and it shall not be obliged to give reasons therefor.

**21 18 Delegation of powers**

The Bank shall be entitled, at any time and as often as may be expedient, to delegate all or any of the powers and discretions vested in it by this Charge in such manner, upon such terms, and to such person as the Bank in its absolute discretion may think fit and such person shall have the same rights and obligations as it would have had if such person had been a party to the Facility Documents in place of the Bank.

**21 19 Trustee Act 2000**

The Chargor and the Bank agree that the Bank shall not be subject to the duty of care imposed on the trustees by the Trustee Act 2000.

**22 ASSIGNMENTS AND TRANSFERS****22 1 Bank's right to transfer**

**22 1 1** The Bank may at any time (and without notice or consent) assign or transfer the benefit of this Charge (or all or any of its rights under this Charge) to any person to whom it assigns or transfers benefit of (or all or any of its rights under) the Facility Agreement in accordance with its terms and the expression "**the Bank**" shall include its successors and assigns.

**22 1 2** The Bank shall be entitled to disclose any information to any actual or prospective assignee, successor or participant.

## 22 2      **Chargor may not transfer**

The Chargor may not assign or transfer the benefit or burden of this Charge or all or any of its rights under this Charge without the prior written consent of the Bank

## 22 3      **Receivers etc**

Any appointment or removal of a Receiver under Clause 9 (*Receiver*) and any consents under this Charge may be made or given in writing signed or sealed by any successors or assigns of the Bank and accordingly the Chargor hereby irrevocably appoints each successor and assign of the Bank to be its attorney in the terms and for the purposes set out in Clause 13 (*Power of Attorney*)

## 23        **NOTICES**

23 1 1      Any demand or notice under this Charge shall be in writing signed by an officer, manager or agent of the Bank and (without prejudice to any other effective means of serving it) may be served on the Chargor personally or by post and either by delivering it to the Chargor or any officer of the Chargor at any place or by despatching it addressed to the Chargor at the address stated in this document (or such other address as may from time to time be notified by the Chargor to the Bank for this purpose) or the Chargor's current registered office or the place of business or address last known to the Bank- Any such demand or notice delivered personally shall be deemed to have been received immediately upon delivery

23 1 2      If such demand or notice is sent by post it shall be deemed to have been received on the day following the day on which it was posted and shall be effective notwithstanding that it was not in fact delivered or was returned undelivered. If sent by facsimile it shall be deemed to have been received (whether or not actually received) at the time of dispatch

## 24        **COUNTERPARTS**

24 1 1      This Charge may be executed in any number of counterparts (manually or by facsimile) and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all which when taken together shall constitute one and the same instrument

24 1 2      In the case of a virtual closing/signing, each party shall circulate to its lawyers or the lawyers co-ordinating the closing (as agreed) an electronic copy of the final execution version of this Charge together with an electronic copy of the execution page signed by that party with the originals to follow as agreed

24 1 3      Where this Charge is to be executed as a deed, the parties shall stipulate in any email sent pursuant to Clause 24 1 2 above, when delivery of their respective counterpart is or shall be deemed to take place

24 1 4      One or more additional originals of this Charge may be created by printing off the final version of this Charge and attaching it to the electronic copy of the signed execution page or the "wet ink" execution page as the case may be

**25 THIRD PARTIES**

A third party (being a person other than the Chargor, the Bank or another Finance Party and their permitted successors, transferees and assigns) has no right under Contract (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of a term of this Charge

**26 GOVERNING LAW AND ENFORCEMENT****26 1 Governing law**

This Charge and any non-contractual obligations arising out of or in connection with it are governed by English law

**26 2 Jurisdiction of English courts**

26 2 1 The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Charge (including a dispute relating to the existence, validity or termination of this Charge or any non-contractual obligation arising out of or in connection with this Charge) (a "**Dispute**")

26 2 2 The Chargor agrees that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly it will not argue to the contrary

26 2 3 This Clause 26 2 (*Jurisdiction of English courts*) is for the benefit of the Bank only. As a result, the Bank shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Bank may take concurrent proceedings in any number of jurisdictions

**IN WITNESS WHEREOF** this Charge has been executed and delivered as a Deed by the parties hereto on the date stated at the beginning of this Charge



**SCHEDULE 1**  
**FORM OF NOTICE OF CHARGE TO ACCOUNT BANK**

To [Name of Account Bank]

[Address]

[ ]

Dear Sirs,

We hereby give you notice that, by a Deposit Account Charge dated [ ] (a copy of which is attached), we charged (by way of a first fixed charge) to Investec Bank Plc (as security trustee for the Finance Parties, as defined therein) (the **Bank**) all monies (including interest) from time to time standing to the credit of the account numbered [ ] held with you (the **Account**) and the debt or debts represented thereby

We may not withdraw any monies from the Account without first having obtained the written consent of the Bank and accordingly we hereby irrevocably authorise and instruct you

- (1) to disclose to the Bank without any reference to, or further authority from, us and without any inquiry by you as to the justification for such disclosure, such information relating to the Account as the Bank may, at any time and from time to time, request you to disclose to it,
- (2) to hold to the order of the Bank all sums from time to time standing to the credit of the Account in our name with you,
- (3) to pay or release all or any part of the sums from time to time standing to the credit of the Account in accordance with the written instructions of the Bank at any time or times,
- (4) to comply with the terms of any written notice or instructions in any way relating to or purporting to relate to the charge specified above, the sums standing to the credit of the Account from time to time or the debts represented thereby which you receive at any time from the Bank without reference to, or further authority from, us and without any inquiry by you as to the justification for or validity of such notice or instructions

Please also note that these instructions shall not be revoked or varied without the prior written consent of the Bank

This letter shall be governed by and construed in accordance with English law

Please confirm your agreement to the above by sending the enclosed acknowledgement to the Bank with a copy to ourselves

Yours faithfully,

**SCHEDULE 2**  
**FORM OF ACKNOWLEDGEMENT OF NOTICE OF CHARGE FROM THE ACCOUNT BANK**

To Investec Bank Plc

cc HG Construction Limited

[Date]

Dear Sirs,

We confirm receipt from HG Construction Limited (the **Chargor**) of a notice dated [ ] of a charge upon the terms of a Deposit Account Charge dated [ ] (the "**Notice**") of all monies (including interest) from time to time standing to the credit of the account numbered [ ] with us (the **Account**) and the debt or debts represented thereby

We confirm that

- (a) we have not received notice of the interest of any third party in the Account, and
- (b) we will not claim or exercise any right of set-off or counterclaim in relation to the Chargor and/or the Account and we hereby waive all such rights and powers during the continuance of the Encumbrance (as such term is defined in the Deposit Account Charge referred to above)

This letter shall be governed by and construed in accordance with English law

Yours faithfully,

For and on behalf of

[Name of Account Bank]

(Authorised Signatory)

**EXECUTION**

**The Chargor**

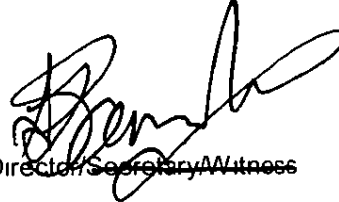
**EXECUTED and DELIVERED as a DEED by  
HG CONSTRUCTION LIMITED acting by**



Director

Full Name

**CHRISTOPHER BENHAM**



Director/Secretary/Witness

Full Name **IAN NICHOLAS SAUNDERS**

Witness only

Address

Occupation

**The Bank**

**EXECUTED and DELIVERED by  
INVESTEC BANK PLC**  
acting as security trustee for the Finance Parties  
by its duly appointed authorised signatories under  
a power of attorney dated 4 June 2013 as  
follows

Authorised Signatory

In the presence of

Witness

Witness Name

Witness Address

Authorised Signatory

In the presence of

Witness

Witness Name

Witness Address

**IMPORTANCE NOTICE – WE RECOMMEND THAT YOU CONSULT YOUR SOLICITOR OR  
OTHER INDEPENDENT LEGAL ADVISER BEFORE EXECUTING THIS DOCUMENT**