



Registration of a Charge

LLP name in full: **CASTLE STUART RESORT OWNERSHIP LLP**

LLP Number: **SO300975**



Received for filing in Electronic Format on the: **02/11/2023**

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Details of Charge

Date of creation: **31/10/2023**

Charge code: **SO30 0975 0002**

Persons entitled: **VICI LENDCO UK LLC**

Brief description:

Contains fixed charge(s).

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 AS APPLIED BY THE LIMITED LIABILITY PARTNERSHIPS (APPLICATION OF COMPANIES ACT 2006) REGULATIONS 2009 THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by: **JONATHAN HEANEY**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

LLP number: SO300975

Charge code: SO30 0975 0002

The Registrar of Companies for Scotland hereby certifies that a charge dated 31st October 2023 and created by CASTLE STUART RESORT OWNERSHIP LLP was delivered pursuant to Part 25 of the Companies Act 2006 as applied by The Limited Liability Partnerships (Application of Companies Act 2006) (Amendment) Regulations 2013 on 2nd November 2023 .

Given at Companies House, Edinburgh on 3rd November 2023

The above information was communicated by electronic means and authenticated
by the Registrar of Companies under the Limited Liability Partnership
(Application of the Companies Act 2006) Regulations 2009 SI 2009/1804

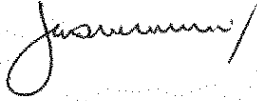


Companies House



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES

For and on behalf of Burness Paull, I certify that this is a true copy of an original document, save for the information redacted pursuant to section 859G of the Companies Act 2006, comprising electronically delivered counterparts



EXECUTION VERSION

CASTLE STUART RESORT OWNERSHIP LLP
as Chargor

in favour of

VICI LENDCO UK LLC
as Lender

ASSIGNATION IN SECURITY OF OPTION AGREEMENT

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ASSIGNATION IN SECURITY

by

- (1) **CASTLE STUART RESORT OWNERSHIP LLP**, a limited liability partnership, registered number SO300975, having its registered office at Dalcross, Inverness, Scotland, IV2 7JL (the “**Chargor**”)

in favour of

- (2) **VICI LENDCO UK LLC**, a Delaware limited liability company having an address at 535 Madison Ave, 20th Fl., New York, New York, 10022, USA (the “**Lender**”)

CONSIDERING THAT:

- (A) the Lender has agreed or will agree to make a loan under the Loan Agreement (as defined below);
- (B) one of the conditions precedent to the availability of the loan referred to in paragraph (A) above is that the Chargor grants to the Lender this assignment in security.

NOW IT IS HEREBY AGREED AND DECLARED AS FOLLOWS:

1 DEFINITIONS AND INTERPRETATION

1.1 In this Deed:

“**Assigned Rights**” means the assets and rights assigned or to be assigned pursuant to this Security;

“**Borrower**” means Cabot Highlands LLP (registered number SO300920) (formerly called Castle Stuart Golf LLP, their name having changed conform to certificate of incorporation on change of name issued by the Registrar of Companies on 19 April 2023);

“**Event of Default**” means any of the events referred to in clause 6.1 of the Loan Agreement following expiry of any applicable cure period and only while such event is continuing;

“**Expense**” or “**Expenses**” mean the total of the following:

- (a) any commission and other charges which Lender may from time to time charge to the Borrower in the ordinary course of the Lender’s business in respect of the Secured Liabilities or any service provided by Lender to the Borrower;
- (b) any costs, charges and expenses incurred by the Lender in connection with the Lender doing anything to protect this Deed or to obtain possession of or sell or deal (in any other way allowed by this Deed) with the Assigned Rights;

together with Value Added Tax upon such sums where appropriate,

"Interest" means any sum of money payable to the Lender by way of interest upon the Secured Liabilities;

"Loan Agreement" means the £9,000,000 loan agreement dated on or about the date of the Chargor's execution of this Deed between the Borrower, the Chargor (as guarantor) and the Lender;

"Option Agreement" means the option agreement in relation to Phases 1, 2 and 3 Castle Stuart, Balnaglack, Inverness between (1) Moray Estates Properties Limited ("**MEPL**"), (2) Moray Estates Developments Limited ("**MEDL**"), (3) the Borrower and (4) the Chargor in the Books of Council and Session on 4 August 2022;

"Rights" in relation to any contract, agreement or arrangement includes:

- (a) the right to receive all and any monies payable thereunder;
- (b) the proceeds of any payment thereunder;
- (c) all claims for damages for any breach thereof (except for a breach by the Chargor) including the proceeds of all such claims;
- (d) the benefit of all warranties and indemnities contained therein;
- (e) any right to terminate the same; and
- (f) the right to perform and observe the provisions of the same and to compel the performance and observance of the same;

"Schedule" means the schedule annexed to this Deed; and

"Secured Liabilities" 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 Lender by the Borrower, whether actually or contingently, solely or jointly and whether as principal, guarantor, cautioner or surety, including any money or liabilities of the Borrower to a third party which have been assigned or novated to or otherwise vested in the Lender, and including discount, commission and other lawful charges or expenses which the Lender may in the course of its business charge or incur in respect of any of those matters or for keeping the Borrower's account, together with Interest upon them and Expenses relating to them.

1.2 Construction

1.2.1 Capitalised terms defined in the Loan Agreement have, unless expressly defined in this Deed, the same meaning in this Deed.

1.2.2 Unless a contrary indication appears, any reference in this Deed to:

- (a) the “**Chargor**” and the “**Lender**” shall be construed so as to include their respective successors in title, permitted assignees and permitted transferees; and
 - (b) a “**person**” includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium or partnership (whether or not having separate legal personality).
- 1.2.3 All documents referred to in this Deed include (without prejudice to any prohibition on amendments) all amendments however fundamental to include such documents, including any amendment providing for any increase in the amount of a facility or any additional facility.
- 1.2.4 The term this “**Security**” means any security created by this Deed.
- 1.2.5 A reference to any asset, unless the context otherwise requires, includes any present and future asset.
- 1.2.6 If the Lender considers that an amount paid to it is likely to be avoided or otherwise set aside on the liquidation or administration of the payer or otherwise, then that amount will not be considered to have been irrevocably paid for the purposes of this Deed.
- 1.2.7 Unless the context otherwise requires, a reference to an “**Assigned Right**” includes the proceeds of sale of that Assigned Right.

2 BOND

The Chargor hereby binds itself and its successors and executors whomsoever to pay and discharge the Secured Liabilities to the Lender.

3 ASSIGNATION IN SECURITY

The Chargor as security for the payment and discharge of all the Secured Liabilities hereby assigns in favour of the Lender its whole right, title, interest and benefit in and to:

- 3.1 the Option Agreement; and
- 3.2 Rights of the Chargor relative to the Option Agreement.

4 PERFECTION OF SECURITY

- 4.1 The Chargor shall forthwith upon the execution of this Deed procure that intimation is made to such parties as the Lender may require of the fact that an assignation of the Chargor’s

interest in the Assigned Rights has been made in favour of the Lender, such intimations to be in the form set out in the Schedule.

- 4.2 The Chargor shall (if requested by the Lender) deposit with the Lender, and the Lender during the continuance of this Security shall be entitled to hold, any deeds and documents of title which would otherwise be in the Chargor's custody or control and which relate to the Assigned Rights.

5 RANKING

- 5.1 This Security shall rank in point of security in priority to all other security created or subsisting from time to time over all or any part of the Assigned Rights.
- 5.2 The Chargor undertakes that it shall not create, incur, assume or permit to subsist any security on all or any part of the Assigned Rights other than this Security.

6 ENFORCEMENT

- 6.1 Until an Event of Default occurs:

- 6.1.1 all monies and other things received by the Lender in respect of the Assigned Rights shall be for the account of the Chargor and the Lender shall account to the Chargor for those monies and other things;
- 6.1.2 save as provided in paragraph 6.1.3, the Chargor may, on behalf of the Lender, exercise all rights in respect of the agreements or other documentation underlying the Assigned Rights; and
- 6.1.3 the Chargor shall not, without the previous consent in writing of the Lender:
- (a) commence any litigation, arbitration or administrative proceedings or investigations of, or before, any court, arbitral body or agency in relation to the Assigned Rights;
 - (b) give any consent or exercise any discretion under or agree to waive any performance of any of the obligations under or amend, vary, or supplement any Assigned Rights in any respect which would have an adverse effect on the rights of the Lender under this Deed or the security created by this Deed;
 - (c) terminate the Assigned Rights;
 - (d) agree or consent to any assignment and transfer by any person of any of its rights or obligations under the Assigned Rights; or

- (e) transfer or otherwise dispose of any of its right, title and interest to or in the Assigned Rights.

6.2 After the occurrence of an Event of Default:

- 6.2.1 the Lender may apply all monies and other things in respect of the Assigned Rights received by the Lender or its nominee in discharge of any part of the Secured Liabilities and if the Chargor or any person on its behalf receives or obtains the benefit of any monies paid in respect of any Assigned Rights it shall account to the Lender for those monies. If the Chargor (or any person on its behalf) receives any cheque, warrant or other monetary instrument in respect of any monies for which it would on receipt be obliged to account pursuant to this Clause, it shall immediately pay those monies or procure the transfer of such instrument to the Lender;
- 6.2.2 the Lender shall be entitled to exercise all rights in respect of the agreements or other documentation underlying the Assigned Rights, including, without prejudice to that generality, to permit the sale of the Assigned Rights or any part thereof at such time and on such terms as the Lender may consider expedient and without the Lender being under any obligation to have regard in that respect to the effect (if any) which a sale at such time or on such terms may have on the price likely to be realised. The Lender shall not in any circumstances, either by reason of any dealing with the Assigned Rights or any part thereof or for any other reason whatsoever, be liable to account to the Chargor for anything, except in respect of the Lender's own actual receipts or be liable to the Chargor, for any loss or damage arising from any realisation by the Lender of the Assigned Rights or any part thereof or from any act, default or omission of the Lender in relation to the Assigned Rights or any part thereof or from any exercise or non-exercise by the Lender of any power, authority or discretion conferred upon it in relation to the Assigned Rights or any part thereof by or pursuant to this Deed or otherwise by any applicable law;

7 **APPLICATION OF ENFORCEMENT PROCEEDS**

- 7.1 All monies received by the Lender following the enforcement of this Security shall be applied, subject to the claims of any creditors ranking in priority to or *pari passu* with the claims of the Lender under this Deed, in the following order:
 - 7.1.1 first, in or towards satisfaction of the Secured Liabilities in such order as the Lender shall in its absolute discretion decide; and
 - 7.1.2 secondly, any surplus shall be paid to the Chargor or any other person entitled thereto.
- 7.2 Nothing contained in this Deed shall limit the right of the Lender (and the Chargor acknowledges that the Lender is so entitled) if and for so long as the Lender, in its discretion, shall consider it appropriate, to place all or any monies arising from the enforcement of this

Security into a suspense account, without any obligation to apply the same or any part thereof in or towards the discharge of any of the Secured Liabilities.

8 PROTECTION OF SECURITY

- 8.1 This Security shall be a continuing security, notwithstanding any settlement of account or other matter or thing whatsoever, and in particular (but without prejudice to the generality of the foregoing) shall not be considered satisfied by an intermediate repayment or satisfaction of part only of the Secured Liabilities and shall continue in full force and effect until total and irrevocable satisfaction of all the Secured Liabilities.
- 8.2 This Security shall be in addition to and shall not in any way prejudice or be prejudiced by any collateral or other security, right or remedy which the Lender may now or at any time hereafter hold for all or any part of the Secured Liabilities.
- 8.3 No failure on the part of the Lender to exercise and no delay on its part in exercising any right, remedy, power or privilege under or pursuant to this Deed or any other document relating to or securing all or any part of the Secured Liabilities will operate as a waiver thereof, nor will any single or partial exercise of any right or remedy preclude any other or further exercise thereof or the exercise of any other right or remedy. The rights and remedies provided in this Deed and any such other document are cumulative and not exclusive of any right or remedies provided by law.
- 8.4 Each of the provisions in this Deed 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 of this Deed shall not in any way be affected or impaired by that occurrence.
- 8.5 If the Lender receives or is deemed to be affected by notice whether actual or constructive of any subsequent security or other interest affecting any part of the Assigned Rights and/or the proceeds of sale(s) thereof, the Lender may open a new account or accounts in the name of the Chargor. If the Lender does not open a new account or accounts it shall nevertheless be treated as if it had done so at the time when it receives or was deemed to have received notice and as from that time all payments made to the Lender shall be credited or be treated as having been credited to the new account or accounts and shall not operate to reduce the amount for which this Deed is security.
- 8.6 Neither this Security nor the rights, powers, discretions and remedies conferred upon the Lender by this Deed or by law shall be discharged, impaired or otherwise affected by reason of:
- 8.6.1 any present or future security, guarantee, indemnity or other right or remedy held by or available to the Lender being or becoming wholly or in part void, voidable or unenforceable on any ground whatsoever, or by the Lender from time to time

exchanging, varying, realising, releasing or failing to perfect or enforce any of the same; or

8.6.2 the Lender compounding with, discharging or releasing or varying the liability of, or granting any time, indulgence or concession to, the Chargor or any other person or renewing, determining, varying or increasing any accommodation or transaction in any manner whatsoever or concurring in accepting or varying any compromise, arrangement or settlement or omitting to claim or enforce payment from the Chargor or any other person; or

8.6.3 any act or omission which would not have discharged or affected the liability of the Chargor had it been a principal debtor instead of cautioner or by anything done or omitted which, but for this provision, might operate to exonerate the Chargor from the Secured Liabilities; or

8.6.4 any legal limitation, disability, incapacity or other similar circumstance relating to the Chargor.

8.7 The Lender shall not be obliged, before exercising any of the rights, powers or remedies conferred upon it by or pursuant to this Deed or by law, to:

8.7.1 take any action or obtain judgement or decree in any court against the Chargor; or

8.7.2 make or file any claim to rank in a winding-up or liquidation of the Chargor; or

8.7.3 enforce or seek to enforce any other security taken, or exercise any right or plea available to the Lender in respect of, any of the Chargor's obligations under the Loan Agreement.

9 FURTHER ASSURANCE

The Chargor shall execute and do all such assurances, acts and things as the Lender may require for perfecting or protecting the security created by or pursuant to this Deed over the Assigned Rights or for facilitating the realisation of such rights and the exercise of all powers, authorities and discretions conferred on the Lender and shall, in particular, (but without limitation) promptly after being requested to do so by the Lender, execute all fixed securities, floating charges, assignments, securities, transfers, dispositions and assurances of the Assigned Rights whether to the Lender or to its nominee(s) or otherwise and give all notices, orders and directions which the Lender may think expedient for the purposes specified in this Clause 9 (Further Assurance).

10 RETROCESSION

10.1 Upon unconditional and irrevocable discharge of the Secured Liabilities in full, the Lender undertakes upon demand to retrocess the Assigned Rights to the Chargor free of charge,

following which the Chargor shall procure that intimation is made to such parties as the Chargor may require.

- 10.2 In the event that the Chargor wishes to exercise any of the Assigned Rights in accordance with the terms of the Option Agreement the Chargor shall be entitled to request that the Lender who shall be required to act reasonably to retrocess the relevant Assigned Rights to the Chargor (the "**Retroceded Rights**"), provided that:

- 10.2.1 no Event of Default is continuing;
- 10.2.2 the request does not breach any of the terms of the standard security by the Chargor in favour of the Lender dated on or around the date of this Deed;
- 10.2.3 the Chargor shall indemnify the Lender in respect of their whole expenses in the preparation and completion of the retrocession in respect of the Retroceded Rights;
- 10.2.4 the Chargor shall procure that intimation is made to such parties as the Chargor may require;
- 10.2.5 the Chargor shall serve notice to the counterparty to the Option Agreement of its intention to exercise the Retroceded Rights immediately upon completion of the retrocession; and
- 10.2.6 the Chargor shall exercise the Retroceded Rights within 3 Business Days of giving the notice referred to in 10.2.5 above.

- 10.3 If the Chargor fails to exercise the Retroceded Rights in accordance with Clause 10.2, the Chargor undertakes to promptly (and in any event within 3 Business Days following the lapse of the period referred to in 10.2.6 above) grant the Lender an assignation in security in respect of the Retroceded Rights in form and substance identical to this Deed.

11 **MANDATE AND ATTORNEY**

- 11.1 The Chargor irrevocably and by way of security appoints the Lender as the attorney of them, for them and in their name and on their behalf, to execute and deliver and otherwise perfect any deed, assurance, agreement, instrument or act which may be required of the Chargor under this Deed or may be required or deemed proper in the exercise of any rights or powers conferred on the Lender under this Deed or otherwise for any of the purposes of this Deed.
- 11.2 The Chargor ratifies and confirms and agrees to ratify and confirm whatever the attorney does or purports to do under its appointment this Clause 11 (Mandate and Attorney).

12 **EXPENSES AND INDEMNITY**

The Chargor must:

- 12.1 immediately on demand pay all costs and expenses (including legal fees) incurred in connection with this Deed by the Lender, attorney, manager, agent or other person appointed by the Lender under this Deed including any arising from any actual or alleged breach by any person of any law or regulation, whether relating to the environment or otherwise; and
- 12.2 keep each of them indemnified against any failure or delay in paying those costs or expenses.

13 **NOTICES**

All notices, requests, demands and other communications to be given under this Deed shall be given and/or be deemed to be given in the same manner as notices to be given under the Loan Agreement, and the terms of clause 10.5 of the Loan Agreement shall apply *mutatis mutandis* as though that clause were set out in full in this Deed.

14 **GOVERNING LAW AND JURISDICTION**

This Deed shall be governed by, and construed in all respects in accordance with, the law of Scotland and, for the benefit of the Lender, the Chargor irrevocably submits to the non-exclusive jurisdiction of the Scottish courts but without prejudice to the ability of the Lender to proceed against the Chargor in any other appropriate jurisdiction.

15 **CONSENT TO REGISTRATION**

- 15.1 A certificate signed by any official, manager or equivalent account officer of the Lender shall, in the absence of manifest error, conclusively determine the Secured Liabilities at any relevant time and shall constitute a balance and charge against the Chargor, and no suspension of a charge or of a threatened charge for payment of the balance so constituted shall pass nor any sist of execution thereon be granted except on consignment.

15.2 The Chargor hereby consents to the registration of this Deed and of any such certificate for preservation:

IN WITNESS WHEREOF these presents consisting of this and the preceding 9 pages together with the schedule annexed hereto are executed in counterpart as follows and delivered on 31 October 2023:

THE CHARGOR

SUBSCRIBED for and on behalf of the said **CASTLE STUART RESORT OWNERSHIP LLP**

at PERTH

on 26 OCTOBER 2023

by

STUART MCCOLM

Print Full name

before this witness:

CHRISTOPHER DAVID ALLAN

Print Full Name

Address: WHITEHALL HOUSE

33 YEAMAN SHORE

DUNDEE


~~Authorised Signatory~~ STUART MCCOLM,
ON BEHALF OF CASTLE STUART RESORT OWNERSHIP LLP


Witness

THE LENDER

SUBSCRIBED for and on behalf of the said **VICI LENDCO UK LLC**

at

on

by

Print Full name

Authorised Signatory

15.2 The Chargor hereby consents to the registration of this Deed and of any such certificate for preservation:

IN WITNESS WHEREOF these presents consisting of this and the preceding 9 pages together with the schedule annexed hereto are executed in counterpart as follows and delivered on 31 October 2023:

THE CHARGOR

SUBSCRIBED for and on behalf of the said **CASTLE STUART RESORT OWNERSHIP LLP**

at

on

by

Print Full name

Authorised Signatory

before this witness:

Print Full Name

Witness

Address:

THE LENDER

SUBSCRIBED for and on behalf of the said **VICI LENDCO UK LLC**

at New York, New York

on October 27, 2023

by

Samantha S. Gallagher, Secretary

Print Full name



Authorised Signatory

This is the Schedule referred to in the foregoing Assignment in Security granted by Castle Stuart Resort Ownership LLP dated 26 and 27 October 2023 and delivered on 31 October 2023

FORM OF INTIMATION

BY RECORDED DELIVERY

To: [insert name of other party to Charged Document]

[●]

Dear Sirs

On behalf of our client, _____, a _____ with registered number _____ and having its registered address at _____ (hereinafter referred to as "the Chargor") WE HEREBY INTIMATE TO YOU, _____, a _____ (registered number _____) and having its registered address at _____ that the Chargor's interest in each of the undernoted _____ (hereinafter referred to as "the _____") has been assigned to _____, a _____ having an address at _____ (hereinafter referred to as "the Lender") with effect from [] 2023 in terms of an Assignment in Security granted by the Chargor in favour of the Lender dated [] (hereinafter referred to as the "Assignment in Security"), a certified copy of the Assignment in Security being annexed and signed as relative hereto. In terms of the Assignment in Security, prior to an Event of Default (as defined therein) the Chargor remains liable to perform all its obligations and entitled to exercise all its rights, powers and discretions under the [Charged Document] PROVIDED THAT the Chargor shall not take any action detailed in clause _____ of the [Charged Document] without the previous written consent of the Lender.

Please acknowledge receipt of this intimation by signing and returning the acknowledgement on the enclosed duplicate.

Yours faithfully

Undernote referred to:-

Acknowledgement

We, _____, hereby acknowledge receipt of the notice of which the above is a duplicate.

.....
Director

