



Registration of a Charge

Company name: **RB LEASE COMPANY LTD**

Company number: **00041254**



X68ZUKIH

Received for Electronic Filing: **20/06/2017**

Details of Charge

Date of creation: **02/06/2017**

Charge code: **0004 1254 0027**

Persons entitled: **EASTLEIGH BOROUGH COUNCIL**

Brief description: **GOLF COURSE, BOTLEY ROAD, WEST END (UNDERLEASE DATED 6 SEPTEMBER 2012 AND MADE BETWEEN EASTLEIGH BOROUGH COUNCIL (1) RB LEASE COMPANY LIMITED (FORMERLY HAMPSHIRE COUNTY CRICKET GROUND COMPANY LIMITED (THE)) (2) AND RB SPORT & LEISURE HOLDINGS PLC (FORMERLY ROSE BOWL PLC) (3) WITH TITLE NUMBER HP754207; LAND ON THE WEST SIDE OF THE M27, HEDGE END (UNDERLEASE DATED 6 SEPTEMBER 2012 AND MADE BETWEEN EASTLEIGH BOROUGH COUNCIL (1) RB LEASE COMPANY LIMITED (FORMERLY HAMPSHIRE COUNTY CRICKET GROUND COMPANY LIMITED (THE)) (2) AND RB SPORT & LEISURE HOLDINGS PLC (FORMERLY ROSE BOWL PLC) (3) WITH TITLE NUMBER HP725875; GOLF CLUB HOUSE, WEST END (UNDERLEASE DATED 6 SEPTEMBER 2012 AND MADE BETWEEN EASTLEIGH BOROUGH COUNCIL (1) RB LEASE COMPANY LIMITED (FORMERLY THE HAMPSHIRE COUNTY CRICKET GROUND COMPANY LIMITED (THE)) (2) AND RB SPORT & LEISURE HOLDINGS PLC (FORMERLY ROSE BOWL PLC) (3) WITH TITLE NUMBER HP754212 FOR FURTHER DETAILS OF THE LAND CHARGED, REFER TO THE GUARANTEE AND DEBENTURE.**

Authentication of Form

Authentication of Instrument

Certification statement: **I CERTIFY THAT SAVE FOR MATERIAL REDACTED PURSUANT TO S.859G OF THE COMPANIES ACT 2006 THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by: **VICTORIA QUEK**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 41254

Charge code: 0004 1254 0027

The Registrar of Companies for England and Wales hereby certifies that a charge dated 2nd June 2017 and created by RB LEASE COMPANY LTD was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 20th June 2017 .

Given at Companies House, Cardiff on 21st June 2017

The above information was communicated by electronic means and authenticated by the Registrar of Companies under section 1115 of the Companies Act 2006

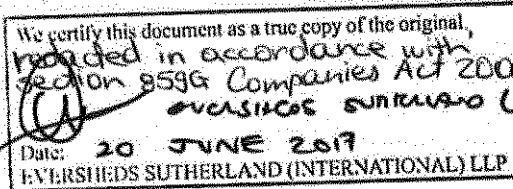


Companies House



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES

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Execution version

Dated 2 June 2017

**RB SPORT & LEISURE HOLDINGS PLC and others
as Chargors**

**EASTLEIGH BOROUGH COUNCIL
as Chargee**

**SECOND GUARANTEE AND DEBENTURE
relating to the Hotel and Spa at The
Ageas Bowl**

**This Second Guarantee and Debenture is
subject to the terms of certain
Intercreditor Deeds dated the date hereof**

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Deed dated 2 June 2017

PARTIES

- (1) **Chargors** : RB Sport & Leisure Holdings plc (formerly Rose Bowl plc) (company number 04368413) and the other companies described in Schedule 1
- (2) **Chargee** : Eastleigh Borough Council

SUMMARY

Chargors and guarantors	the companies described in Schedule 1, as varied from time to time
Chargee and beneficiary of Guarantees	Eastleigh Borough Council
Charged Assets	those assets of the Chargors which are from time to time the subject of clauses 3.2 and 3.3
Secured Obligations	all liabilities owed by the Chargors to the Chargee from time to time under the Hotel Landlord Documents
Type of security	fixed charges
Law	English law

IT IS AGREED as follows:

INTERPRETATION

1 Definitions and interpretation

Definitions

1.1 In this Deed:

Additional Chargor means a company which becomes a party to this Deed by executing a Supplemental Deed;

Administrative Receiver means one or more administrative receivers appointed, or to be appointed, under this Deed;

Administrator means one or more administrators appointed, or to be appointed, under this Deed;

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

Charged Assets means those assets which are from time to time the subject of clauses 3.2 and 3.3;

Chargee Security means the Security created by this Deed and any other existing or future Security Interest granted by a Chargor to the Chargee to secure the payment and discharge of the Secured Obligations;

Chargee Security Document means a document creating or evidencing Chargee Security;

Chargor means an Original Chargor or an Additional Chargor;

Enforcement Time, in relation to a Chargor, means any time at which an Option Event has occurred and is continuing;

First Hotel Guarantee and Debenture means the guarantee and debenture dated 6 September 2012 and made between the Chargors (other than Southern Vipers Ltd and Elite International Sports Academy Limited) and the Charge relating to the Property as amended, supplemented and restated from time to time including (without limitation) pursuant to a deed of amendment between each of the Chargors and the Chargee dated the date hereof

Guarantee means, in relation to a Chargor, the Obligations of that Chargor under clause 2.2 (*Payment of Secured Obligations*);

Insolvency Event, in relation to a person, means:

- (a) the dissolution, liquidation, provisional liquidation, administration, administrative receivership or receivership of that person or the entering into by that person of a voluntary arrangement or scheme of arrangement with creditors;
- (b) any analogous or similar procedure in any jurisdiction other than England; or
- (c) any other form of procedure relating to insolvency, reorganisation or dissolution in any jurisdiction;

Insolvency Legislation means:

- (a) the Insolvency Act 1986 and secondary legislation made under it; and

- (b) any other primary or secondary legislation in England from time to time relating to insolvency or reorganisation;

Land means:

- (a) freehold, leasehold or commonhold land;
- (b) any estate or interest in, and any Rights attaching or relating to, that land; and
- (c) any buildings, fixtures and fittings (including trade fixtures and fittings) and other equipment attached to, situated on or forming part of that land;

Obligations, in relation to a person, means all obligations or liabilities of any kind of that person from time to time, whether they are:

- (a) to pay money or to perform (or not to perform) any other act;
- (b) express or implied;
- (c) present, future or contingent;
- (d) joint or several;
- (e) incurred as a principal or surety or in any other manner; or
- (f) originally owing to the person claiming performance or acquired by that person from someone else;

Officer means, in relation to a person, means any officer, employee or agent of that person;

Original Chargor means a person described in Schedule 1;

Parent means RB Sport & Leisure Holdings plc (formerly Rose Bowl plc), a company incorporated in England (company number 04368413) whose registered office is at The Ageas Bowl, Botley Road, West End, Southampton, Hampshire, SO30 3XH;

Property means the property described in Part 1 of Schedule 1 to the RBH Hotel and Spa Underlease (and all additions and improvements made to it);

RBH means RB Hotels Limited, a company incorporated in England (company number 07824381) whose registered office is at The Ageas Bowl, Botley Road, West End, Southampton, Hampshire SO30 3XH;

RBH Hotel and Spa Underlease means the lease dated 6 September 2012 and made between the Parent, RBH and the Chargee by which the Property was demised by the Chargee to RBH, as it may from time to time be amended, restated, novated or replaced (however fundamentally) including (without limitation) pursuant to a deed of amendment between RBH, the Parent and the Chargee dated the date hereof;

Receiver means an Administrative Receiver or a Specific Receiver;

Relevant Person means:

- (a) the Chargee and each Subsidiary of the Chargee; and
- (b) each of the members, officers, employees, secondees, agents and advisers of the Chargee;

Right means any right, privilege, power or immunity, or any interest or remedy, of any kind, whether it is personal or proprietary;

Secured Obligations means the Obligations undertaken to be paid or discharged in clause 2 (*Payment of Secured Obligations*);

Security means:

- (a) any mortgage, charge, pledge, lien, hypothecation, assignment by way of security, trust arrangement for the purpose of providing security or other security interest of any kind in any jurisdiction;
- (b) any proprietary interest over an asset, or any contractual arrangement in relation to an asset, in each case created in relation to Financial Indebtedness and which has the same commercial effect as if security had been created over it; and
- (c) any right of set-off created by agreement;

Specific Receiver means one or more receivers or managers appointed, or to be appointed, under this Deed who is not an Administrative Receiver;

Supplemental Deed means a deed by which a company becomes party to this Deed in a form agreed by the Parent and the Chargee;

Tenant means RBH;

Third Parties Act means the Contracts (Rights of Third Parties) Act 1999;

VAT or Value Added Tax means value added tax as provided for in the Value Added Tax Act 1994 or any similar tax supplementing or replacing the same;

Interpretation

- 1.2 In this Deed, unless the context otherwise requires or unless otherwise defined in this Deed, words and expressions defined in the First Hotel Guarantee and Debenture or, if not so defined therein, the RBH Hotel and Spa Underlease shall have the same meaning and construction when used in this Deed.
- 1.3 In this Deed:
 - (a) the table of contents, the summary and the headings are inserted for convenience only and do not affect the interpretation of this Deed;
 - (b) references to clauses and schedules are to clauses of, and schedules to, this Deed;
 - (c) references to the RBH Hotel and Spa Underlease, any Hotel Landlord Document or any other document are to that document as from time to time amended, restated, novated or replaced, however fundamentally, including, without limitation pursuant to deeds of amendment dated the date hereof;
 - (d) references to a person include an individual, firm, company, corporation, unincorporated body of persons and any government entity;
 - (e) references to a person include its successors in title, permitted assignees and permitted transferees;
 - (f) words importing the plural include the singular and vice versa; and
 - (g) references to any enactment include that enactment as amended or re-enacted; and, if an enactment is amended, any provision of this Deed which refers to that enactment shall be

amended in such manner as the Chargee, after consultation with the Parent, determines to be necessary in order to preserve the intended effect of this Deed.

- 1.4 The Obligations of the Chargors under this Deed are joint and several.
- 1.5 Where this Deed imposes an obligation on a Chargor to do something if required or requested by the Chargee, it shall do so as soon as practicable after it becomes aware of the requirement or request.
- 1.6 It is intended that this document takes effect as a deed even though the Chargee may only execute it under hand.
- 1.7 This Deed may be executed in counterparts.
- 1.8 The provisions of any other Hotel Landlord Document relating to:
 - (a) any disposition of an interest in land; or
 - (b) any obligation of the Chargee to make further payments pursuant to the terms of the RBH Hotel and Spa Underlease,are deemed to be incorporated in this Deed.
- 1.9 Where a definition of a type of asset in clause 1.1 contains a number of categories, each category shall be construed as separate from each other category.
- 1.10 An Option Event is continuing if it has not been remedied to the satisfaction of the Chargee or waived.

Third party rights

- 1.11 The Rights conferred on each Receiver and on each Officer of the Chargee or a Receiver under clauses 12 (*Expenses, liability and indemnity*) and 13 (*Payments*) are enforceable by each of them under the Third Parties Act.
- 1.12 No other term of this Deed is enforceable under the Third Parties Act by anyone who is not a party to this Deed.
- 1.13 The parties to this Deed may terminate this Deed or vary any of its terms without the consent of any third party. However, they must obtain consent if the termination or variation adversely affects the Rights of a Receiver or of an Officer of the Chargee or a Receiver under this Deed, but only to the extent that it has notified the Chargee that it intends to enforce that clause at the time of the termination or variation.

Intercreditor Deeds

- 1.14 The rights and obligations of the Chargee and/or any Receiver under this Deed are subject to the terms of the Intercreditor Deeds. In the event of any conflict between the terms of this Deed and the terms of the Intercreditor Deeds, the terms of the Intercreditor Deeds shall prevail only and to the extent that such terms of the Intercreditor Deeds affect the rights of any secured creditor that the Chargee has agreed shall rank in priority to the rights of the Chargee under the terms of the Intercreditor Deeds.

SECURITY

2 Payment of Secured Obligations

- 2.1 Each Chargor shall pay or otherwise discharge all Obligations from time to time incurred by it to the Chargee under or in connection with the Hotel Landlord Documents (whether such Chargor is an original party to a Hotel Landlord Document or subsequently acquired rights and obligations under a Hotel Landlord Document) when they become due for payment or discharge.
- 2.2 Each Chargor irrevocably and unconditionally:
- (a) guarantees to the Chargee the punctual payment and discharge of all Obligations from time to time owing or incurred:
 - (i) by RBH to the Chargee under or in connection with the Hotel Landlord Documents; and
 - (ii) by each other Chargor to the Chargee under or in connection with the Hotel Landlord Documents;
 - (b) undertakes with the Chargee that, whenever RBH or, as the case may be, that other Chargor does not pay or discharge any of the Obligations referred to in clause 2.2(a) when they become due for payment or discharge, it shall immediately on demand do so itself, as if it were the principal obligor; and
 - (c) agrees with the Chargee that if, for any reason, any amount claimed by the Chargee under this clause 2 is not recoverable on the basis of a guarantee, it shall be liable as a principal debtor and primary obligor to indemnify the Chargee against any cost, loss or liability it incurs as a result of RBH or, as the case may be, a Chargor not paying any amount expressed to be payable by it under any Hotel Landlord Document on the date when it is expressed to be due; the amount payable by a Chargor under this indemnity shall not exceed the amount it would have had to pay under this clause 2 if the amount claimed had been recoverable on the basis of a guarantee.
- 2.3 Each Guarantee is given with the benefit of clause 10 (*Guarantee protections*) and the other provisions of this Deed.
- 2.4 Each Chargor shall pay interest on each amount demanded of it under its Guarantee from the date of demand until payment (after as well as before judgment) at the Prescribed Rate.

3 Charges

- 3.1 The charges contained in this clause 3:
- (a) are given to the Chargee
 - (b) secure the payment and discharge of the Secured Obligations; and
 - (c) are given with full title guarantee.
- 3.2 Each Chargor charges, by way of first legal mortgage:
- (a) all the Land of which a brief description is contained in Schedule ⁴ ~~3~~ (Land); and
 - (b) all other Land now owned by it,

and any Rights accruing to, derived from or otherwise connected with it (including insurances and proceeds of Disposal and of insurances).

3.3 Except in relation to the Excluded Assets, each Chargor charges, by way of first fixed charge, all of the Rights which it now has and all of the Rights which it obtains at any time in the future in Land, other than that charged under clause 3.2 and in any Rights accruing to, derived from or otherwise connected with them (including insurances and proceeds of Disposal).

3.4 The Chargee acknowledges that, in accordance with the terms of the RBH Hotel and Spa Underlease, it is obliged to release the Chargors from the Security constituted by this Deed in certain circumstances.

4 Set-off

4.1 The Chargee may set off any matured Secured Obligation due from a Chargor (to the extent beneficially owned by the Chargee) against any matured obligation owed by the Chargee to the Chargor, regardless of the place of payment, booking branch or currency of either obligation.

4.2 If the obligations are in different currencies, the Chargee may convert either obligation at a market rate of exchange in its usual course of trading for the purpose of the set-off.

4.3 These Rights are in addition to the security conferred on the Chargee under this Deed.

5 Perfection

General action

5.1 Each Chargor shall, at its own expense, create all such Security, execute all such documents, give all such notices, effect all such registrations (whether at the Companies Registry, an asset registry or otherwise), deposit all such documents and do all such other things as the Chargee may require from time to time (subject to the terms of the Intercreditor Deeds) in order to:

(a) ensure that it has an effective first-ranking fixed charge (or, in the case of Land then owned by that Chargor, a charge by way of legal mortgage) over the Charged Assets, subject only to Permitted Security; and

(b) facilitate the enforcement of the Chargee Security, the realisation of the Charged Assets or the exercise of any Rights held by the Chargee or any Receiver or Administrator under or in connection with the Chargee Security.

5.2 The scope of clause 5.1 is not limited by the specific provisions of the rest of this clause 5 or by any other provision of the Chargee Security Documents.

Notification

5.3 If, after the date of this Deed, a Chargor acquires Rights in Land it shall notify the Chargee as soon as reasonably practicable and shall provide it with such information about the acquisition as the Chargee may reasonably require.

Land

5.4 If required to do so by the Chargee, each Chargor shall execute a first charge by way of legal mortgage over any Land in England and Wales owned by it at that time which is not already the subject of such a charge in favour of the Chargee, in any form which the Chargee may reasonably require.

5.5 Save as provided in the Intercreditor Deeds, each Chargor agrees to the entry of the following restriction in standard form P in the proprietorship register of the title to any Land in England and Wales which now or in the future is the subject of a charge by way of legal mortgage in favour of the Chargee and which is, or is required to be, registered at the Land Registry:

"No disposition of the registered estate by the proprietor of the registered estate is to be registered without a written consent signed by the proprietor for the time being of the Charge dated [date of this Deed] in favour of Eastleigh Borough Council of [Eastleigh House, Upper Market Street, Eastleigh SO50 9YN] referred to in the Charges Register."

5.6 If any Land in which a Chargor has Rights now or in the future is required to be registered at the Land Registry, the Chargor shall, within the relevant priority period under the Land Charges Act 1972:

- (a) apply to the Land Registry for first registration of the title to that Land and registration of that Chargor as proprietor of that Land and notify the Chargee of its title number; and
- (b) if so required by the Chargee, create a first charge by way of legal mortgage over that Land in favour of the Chargee or, if not so required, procure that this Deed is noted in the charges register of that Land.

5.7 If any Land in which a Chargor has Rights is already registered when those Rights are acquired, that Chargor shall within the priority period of the relevant Land Registry Official Search:

- (a) apply to the Land Registry for its title to that Land to be registered and give notice of the title number to the Chargee; and
- (b) if so required by the Chargee, create a first charge by way of legal mortgage over that Land in favour of the Chargee or, if not so required, procure that this Deed is noted in the charges register of that Land.

5.8 If any Land in which a Chargor has Rights now or in the future is not required to be registered at the Land Registry, the Chargor shall, within the relevant priority period under the Land Charges Act 1972, apply to register a Class C Land Charge in respect of this Deed at the Land Charges Registry if the title deeds and documents to that Land are not deposited with the Chargee under clause 5.10 (*Documents*).

5.9 Each Chargor shall procure the entry of a note of the obligation to make further payments under the terms of the RBH Hotel and Spa Underlease on the Charges Register of any registered land forming part of the Land over which it has created a charge by way of legal mortgage in favour of the Chargee.

5.10 Subject to the terms of the Intercreditor Deeds, each Chargor shall deposit with the Chargee all deeds and documents of title and all leases, licences and other ancillary documents received by it or on its behalf in relation to its Land.

Financial Collateral

5.11 The parties to this Deed designate those Charged Assets which constitute Financial Collateral to be under the control of the Chargee.

ENFORCEMENT

6 Enforcement

Time for enforcement

- 6.1 The Chargee may enforce the Chargee Security created by a Chargor at any time which is an Enforcement Time or if the Chargor concerned requests it to do so.

Methods of enforcement

- 6.2 The Chargee may enforce the Chargee Security by:
- (a) appointing an Administrator of that Chargor;
 - (b) if permitted to do so by the Insolvency Legislation, appointing an Administrative Receiver of that Chargor;
 - (c) appointing a Specific Receiver of assets of that Chargor;
 - (d) going into possession of, receiving the benefit of, or selling assets of the Chargor, giving notice to the Chargor or any other person in relation to any assets of the Chargor, exercising a right of set-off or in any other way it may decide; or
 - (e) taking any other action it may decide in any jurisdiction other than England.
- 6.3 An Administrator must be appointed in accordance with the Insolvency Legislation.
- 6.4 A Receiver must be appointed by an instrument in writing, and otherwise in accordance with the Insolvency Legislation.
- 6.5 The appointment of a Receiver may be made subject to such limitations as are specified by the Chargee in the appointment.
- 6.6 If more than one person is appointed as a Receiver, each person shall have power to act independently of any other, except to the extent that the Chargee may specify to the contrary in the appointment.
- 6.7 Subject to the Insolvency Legislation, the Chargee may remove or replace any Receiver.
- 6.8 If required by the Insolvency Legislation, an Administrator or Receiver must be a person qualified to act as such under it.

Powers on enforcement

- 6.9 An Administrator shall have the powers given to him by the Insolvency Legislation.
- 6.10 An Administrative Receiver of a Chargor shall have:
- (a) the powers given to him by the Insolvency Legislation;
 - (b) the powers given to a mortgagee or a receiver by the Law of Property Act 1925, but without the restrictions contained in section 103 of that Act; and
 - (c) the power to do, or omit to do, on behalf of the Chargor, anything which that Chargor itself could have done, or omitted to do, if its assets were not the subject of Security and the Chargor were not in insolvency proceedings.

- 6.11 A Specific Receiver shall have the same powers as an Administrative Receiver in respect of the assets over which he is appointed.
- 6.12 The Chargee shall, if it enforces the Chargee Security itself, have the same powers as an Administrative Receiver in respect of the assets which are the subject of the enforcement.
- 6.13 Except to the extent provided by law, none of the powers described in this clause 6 shall be affected by an Insolvency Event in relation to a Chargor.

Status and remuneration of Receiver

- 6.14 A Receiver of a Chargor shall be the agent of that Chargor until the Chargor goes into liquidation. He shall have no authority to act as agent for the Chargee, even in the liquidation of the Chargor.
- 6.15 The Chargee may from time to time determine the remuneration of any Receiver.

Third parties

- 6.16 A person dealing with the Chargee or with a Receiver is entitled to assume, unless it has actual knowledge to the contrary, that:
- (a) those persons have the power to do those things which they are purporting to do; and
 - (b) they are exercising their powers properly.

7 Application of proceeds

All money received by the Chargee or a Receiver under or in connection with the Hotel Landlord Documents (whether during, or before, enforcement of the Chargee Security) shall, subject to the rights of any persons having priority and the terms of the Intercreditor Deeds, be applied in the following order of priority:

- (a) first, in or towards payment of all amounts payable to the Chargee, any Receiver or their Officers under clause 12 (*Expenses, liability and indemnity*) and all remuneration due to any Receiver under or in connection with the Chargee Security;
- (b) secondly, in or towards payment of the Secured Obligations in such order as the Chargee shall determine (and, if any of the Secured Obligations are not then payable, by payment into a suspense account until they become payable); and
- (c) thirdly, in payment of any surplus to the Chargor or other person entitled to it.

UNDERTAKINGS AND REPRESENTATIONS AND WARRANTIES

8 Land

8.1 Each Chargor shall:

- (a) comply with all material statutory, regulatory, environmental and contractual obligations relating to its Land or its use; and
- (b) comply with all obligations imposed on it, and enforce the observance and performance of all obligations of all other persons, under any lease of its Land.

8.2 Subject to the Development and the Hotel Landlord Documents, each Chargor shall keep its Land in good repair, working order and condition and permit the Chargee and its representatives to enter and view their state and condition during normal working hours and upon giving reasonable notice to such Chargor.

8.3 No Chargor shall, without the written consent of the Chargee (such consent not to be unreasonably withheld):

- (a) grant or extend any lease, agreement for lease or licence, or part with or share possession or occupation, of its Land;
- (b) grant any licence or permission to any occupier to assign, underlet, part with possession or occupation or change the use of its Land;
- (c) determine, accept or agree to accept the surrender of any leasehold interest in any of its Land;
- (d) apply to the Land Registry to register the whole or any part of its Land as commonhold land or establish a commonhold association in respect of any of its Land; or
- (e) make a material change to the use of any of its Land.

9 General undertakings

9.1 Each Chargor shall take all steps as are necessary to preserve the value and marketability of its Charged Assets.

9.2 Each Chargor shall notify the Chargee as soon as it becomes aware of any matter which might reasonably be expected to have an adverse effect on the Rights of the Chargee under the Chargee Security. Those matters include a claim by any person to an interest in a Charged Asset.

9.3 Each Chargor shall provide to the Chargee:

- (a) such information about its Charged Assets;
- (b) such information about the extent to which it has complied with its obligations under this Deed; and
- (c) copies of such documents which create, evidence or relate to its Charged Assets,

as the Chargee may from time to time reasonably request.

9.4 If a Chargor does not comply with its obligations under this Deed, the Chargee may do so on that Chargor's behalf on such basis as the Chargee may reasonably decide. That Chargor shall indemnify the Chargee on demand against the amount certified by the Chargee to be the cost, loss or liability suffered by it as a result of doing so.

- 9.5 Provision by the Parent to the Chargee of any notice, communication or other information required to be given by a Chargor to the Chargee pursuant to clauses 8 to 9 (inclusive) shall satisfy the obligation of such Chargor to provide that notice, communication or information.

MISCELLANEOUS

10 Guarantee protections

Waiver of defences

- 10.1 The obligations of each Chargor under its Guarantee shall not be affected by an act, omission, matter or thing which, but for this clause, would reduce, release or prejudice any of its obligations under its Guarantee (without limitation and whether or not known to it or to the Chargee), including:
- (a) any time, waiver or consent granted to, or composition with, RBH, any Chargor or other person;
 - (b) the release of RBH, any other Chargor or any other person;
 - (c) 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, RBH, any 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;
 - (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of RBH, a Chargor or any other person;
 - (e) any amendment (however fundamental) or replacement of a Hotel Landlord Document or any other document or security;
 - (f) any unenforceability, illegality or invalidity of any obligation of any person under any Hotel Landlord Document or any other document or security; or
 - (g) any insolvency or similar proceedings.

Immediate recourse

- 10.2 Each Chargor waives any right it may have of first requiring the Chargee (or any trustee or agent on its behalf) to proceed against or enforce any other rights or security or claim payment from any person before claiming from that Chargor under its Guarantee. This waiver applies irrespective of any law or any provision of a Hotel Landlord Document to the contrary.

Appropriations

- 10.3 Until the Secured Obligations have been irrevocably and unconditionally discharged in full, the Chargee (or any trustee or agent on its behalf) or a Receiver may:
- (a) refrain from applying or enforcing any other money, security or Rights held or received by it (or any trustee or agent on its behalf) in respect of the Secured Obligations, or apply and enforce the same in the manner and order it thinks fit (whether against those amounts or otherwise) and no Chargor shall be entitled to the benefit of the same; and
 - (b) hold in an interest-bearing suspense account any money received from any Chargor or on account of any Chargor's liability under its Guarantee.

Deferral of Chargors' rights

- 10.4 Unless the Chargee otherwise directs, no Chargor shall exercise any Rights (including rights of set-off) which it may have by reason of performance by it of its obligations under the Hotel Landlord Documents or by reason of any amount being payable, or liability arising, under this Deed:

- (a) to be indemnified or reimbursed by RBH or a Chargor;
 - (b) to claim any contribution from any other guarantor of any Chargor's obligations under the Hotel Landlord Documents;
 - (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Chargee under the Hotel Landlord Documents or of any other guarantee or security taken under, or in connection with, the Hotel Landlord Documents by the Chargee;
 - (d) to bring legal or other proceedings for an order requiring any Chargor to make any payment, or perform any obligation, in respect of which any Chargor has given a guarantee, undertaking or indemnity under this Deed;
 - (e) to exercise any right of set-off against RBH or any Chargor; and/or
 - (f) to claim or prove as a creditor of RBH or any Chargor in competition with the Chargee.
- 10.5 If a Chargor receives any benefit, payment or distribution in relation to such Rights it shall promptly pay an equal amount to the Chargee for application in accordance with this Deed.
- 10.6 Clauses 10.4 and 10.5 only apply until all the Secured Obligations have been irrevocably and unconditionally discharged in full.

11 Duration of the security

- 11.1 The Obligations of each Chargor under the Hotel Landlord Documents and the security created by the Chargee Security shall continue until the Secured Obligations have been irrevocably and unconditionally paid or discharged in full, regardless of any intermediate payment or discharge in whole or in part.
- 11.2 If any payment by a Chargor or any other security provider or any release given by the Chargee (whether in respect of the Secured Obligations or any security for them or otherwise) is avoided or reduced as a result of insolvency or any similar event:
- (a) the liability of such Chargor under this Deed shall continue as if the payment, release, avoidance or reduction had not occurred; and
 - (b) the Chargee shall be entitled to recover the value or amount of that security or payment from that Chargor, as if the payment, release, avoidance or reduction had not occurred.
- 11.3 When the Secured Obligations have been irrevocably and unconditionally paid or discharged in full, the Chargee shall, at the request and cost of the Parent, execute such documents and/or take such action as requested by Parent and as is necessary to release and re-assign (where applicable) to the relevant Chargor the Chargee Security and its rights arising under this Deed and return to the Parent all original documents or other deeds of title delivered to the Chargee under this Deed.
- 11.4 Section 93 of the Law of Property Act 1925 shall not apply to the Chargee Security.

12 Expenses, liability and indemnity

- 12.1 Each Chargor shall promptly on demand pay the Chargee on an indemnity basis all costs, claims, demands and expenses reasonably incurred by the Chargee:
- (a) in connection with the negotiation, preparation, printing, execution of the Hotel Landlord Documents (save to the extent that the Chargee has taken these into account in calculating the Variable Rent) and any documents referred therein and any Hotel Landlord Documents entered into after the date of this Deed;

- (b) in connection with any request from RBH or any Chargor for an amendment, waiver or consent under any of the Hotel Landlord Documents and the Chargee's consideration and/or evaluation thereof;
 - (c) in contemplation of or in relation to or as a result of any breach of any obligation of RBH or any Chargor under any Hotel Landlord Document (including without limitation, investigations by the Chargor of any event which it reasonably believes is a Potential Option Event).
- 12.2 Each Chargor shall, on demand, pay all legal and other costs and expenses (including any stamp duty, registration or other similar taxes) incurred by the Chargee or by any Receiver in connection with the Chargee Security. This includes any costs and expenses relating to the enforcement or preservation of the Chargee Security or the Charged Assets and to any amendment, waiver, consent or release required in connection with the Chargee Security.
- 12.3 Subject to clause 12.4, each Chargor shall indemnify the Chargee and each Relevant Person and keep each of them indemnified from and against all Losses whatsoever or howsoever arising which are incurred as a result of the Chargee entering into the Hotel Landlord Documents or any of them (and whether before or after the date of this agreement) or as a result (whether alone or in connection with any other matter or circumstance) of anything done pursuant to the Hotel Landlord Documents or as a result of the occupation or use of or any works carried out on the Property by RBH or sub-tenants or their respective licensees or agents or by reason of the Chargee having an interest in the Property including (without prejudice to the generality of and without limiting the foregoing in any way) Losses resulting from:
- (a) the state of repair or condition of the Property including the presence in on or under the Property of any Hazardous Matter or other contamination or pollution;
 - (b) any act omission or default of RBH, the Parent or any other Chargor or any of their respective undertenants or their respective agents servants invitees licensees or visitors;
 - (c) works of repair construction improvement or alteration carried out by RBH or its sub-tenants or their respective licensees or agents on to or at the Property from time to time including (in particular but without limitation) the Development (whether carried out before or after the date of this Deed);
 - (d) the use of the Property or any change in the use of the Property;
 - (e) third party claims and claims or requirements of any Competent Authority save to the extent that the same are covered by the proceeds of insurance effected pursuant to the RBH Hotel and Spa Underlease and of which the Relevant Person takes the benefit;
 - (f) anything now or hereafter attached to or brought onto the Property;
 - (g) the use or operation of any vehicle on the Property or the carriage to from or across the Property of any person goods or substance
 - (h) any omission of RBH to give written notice to the Chargee of any defect or item requiring repair;
 - (i) any breach by RBH or any Chargor of any obligation on the part of RBH or that Chargor arising from Legislation or any condition contained in this Deed or the RBH Hotel and Spa Underlease;
 - (j) all Environmental Liabilities arising in relation to the Property or any use of it or any activities carried out on it;
 - (k) any failure to comply with a Material Notice;

- (l) any injury to or accident involving any person or property on the Property or any adjoining or nearby property;
- (m) any claim against the Chargee by a third party resulting directly or indirectly from the ownership or demise of the Property or the carrying out of the Development or because of any design article or material therein or relating thereto or arising from infringement or alleged infringement of copyright intellectual property or other rights;
- (n) any claim against a Relevant Person by insurers exercising rights of subrogation in relation to any claim of the kind referred to in sub-clauses 12.3(e) or 12.3(m).

PROVIDED THAT:

- (i) where the Relevant Person is not the Chargee, the Chargee shall hold the right of such Relevant Person to be indemnified by each Chargor under this Deed on trust for such Relevant Person and the Chargors shall be entitled to assume, unless and until notified in writing to the contrary, that the Chargee is the agent of such Relevant Person for the purposes of this Deed;
- (ii) without prejudice to, or constituting a precondition to, the right of any Relevant Person to be indemnified pursuant to the provisions of this agreement, the Chargee and/or any Relevant Person shall, upon receiving a claim in respect of which such Relevant Person is or may become entitled to an indemnity under this clause 12.3:
 - (A) notify RBH and any relevant Chargor;
 - (B) make itself available for consultation with RBH and each relevant Chargor with regard thereto; and
 - (C) (provided such Relevant Person is indemnified and secured to its reasonable satisfaction against all Losses which may thereby be incurred) take such actions as RBH or such Chargor may reasonably request to mitigate, defend or avoid any such claim or to recover the same from any third party.

12.4 No Chargor shall have any liability under clause 12.3 in respect of:

- (a) Losses which are settled or reimbursed by the receipt by the Relevant Person of a payment made unconditionally under any insurances or from another source except if and for so long as such payment may be set aside or recovered by any person or generates an entitlement to claim against the Relevant Person pursuant to rights of subrogation or otherwise;
- (b) Losses taken into account in calculating the Variable Rent, Termination Rent or the Option Payment;
- (c) payments made by the Chargee in the performance by the Chargee of its express obligations under the Development Agreement.

12.5 Neither the Chargee nor a Receiver nor any of their Officers shall be in any way liable or responsible to any Chargor for any loss or liability of any kind arising from any act or omission by it of any kind (whether as mortgagee in possession or otherwise) in relation to the Charged Assets or the Chargee Security, except to the extent caused by its wilful misconduct.

12.6 Each Chargor shall, on demand, indemnify each of the Chargee, a Receiver and their Officers in respect of all costs, expenses, losses or liabilities of any kind which it incurs or suffers in connection with:

- (a) anything done or omitted in the exercise of the powers conferred on it under the Chargee Security, unless it was caused by its wilful misconduct;

(b) a claim of any kind (whether relating to the environment or otherwise) made against it which would not have arisen if the Chargee Security had not been granted and which was not caused by its wilful misconduct; or

(c) any breach by that Chargor of the Hotel Landlord Documents.

13 Payments

- 13.1 All payments by a Chargor under the Chargee Security Documents shall be made in full, without any set-off or other deduction.
- 13.2 If any tax or other sum must be deducted from any amount payable by a Chargor under the Chargee Security Documents, the Chargor concerned shall pay such additional amounts as are necessary to ensure that the recipient receives a net amount equal to the full amount it would have received before such deductions.
- 13.3 All amounts payable by a Chargor under the Chargee Security Documents are exclusive of VAT. Each Chargor shall, in addition, pay any applicable VAT on those amounts.
- 13.4 If a Chargor fails to make a payment to a person under the Chargee Security Documents, it shall pay interest to that person on the amount concerned at the Prescribed Rate from the date it should have made the payment until the date of payment (after, as well as before, judgment).
- 13.5 No payment by a Chargor (whether under a court order or otherwise) shall discharge the Obligation of that Chargor unless and until the Chargee has received payment in full in the currency in which the Obligation is denominated. If, on conversion into that currency, the amount of the payment falls short of the amount of the Obligation concerned, the Chargee shall have a separate cause of action against the Chargor for the shortfall.
- 13.6 Any certification or determination by the Chargee of an amount payable by a Chargor under this Deed is, in the absence of manifest error, conclusive evidence of that amount.

14 Remedies

- 14.1 The Rights created by this Deed are in addition to any other Rights of the Chargee against the Chargors or any other security provider under any other documentation, the general law or otherwise. They shall not merge with or limit those other Rights, and are not limited by them.
- 14.2 No failure by the Chargee to exercise any Right under this Deed shall operate as a waiver of that Right. Nor shall a single or partial exercise of a Right by the Chargee preclude its further exercise.
- 14.3 If, at any time, any provision of this Deed is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of that provision in any other respect or under the law of any other jurisdiction shall be affected or impaired in any way.

15 Power of attorney

Each Chargor, by way of security, irrevocably appoints each of the Chargee and any Receiver severally to be its attorney:

- (a) to do anything which that Chargor is obliged to do under the Chargee Security Documents; or
- (b) to exercise any of the Rights conferred on the attorney by the Chargee Security Documents or by law.

16 Chargors

- 16.1 Each Chargor which executes this Deed shall be bound by it even if other intended Chargors do not do so or are not effectively bound by it.
- 16.2 The Parent shall procure that any new material Subsidiary of a Chargor shall, promptly upon becoming a Subsidiary, become a party to this Deed by executing a Supplemental Deed in form and substance satisfactory to the Chargee.

17 Notices

- 17.1 Any notice or other communication to a party to this Deed must be in writing. It must be addressed for the attention of such person, and sent to such address or email address as that party may from time to time notify to the other parties.
- 17.2 Any such notice sent by first class recorded letter shall be deemed to have been received two Business Days after posting in the United Kingdom. Any such matter sent by hand or email shall, provided that it is received in readable form, be deemed to have been received one hour after the commencement of normal business hours on the next Business Day following the date of despatch.
- 17.3 The Chargors shall indemnify the Landlord against any cost, claim, loss, expense or liability together with any VAT thereon which the Landlord may sustain or incur as a consequence of any email communication purporting to originate from a Chargor or any other party being made or delivered fraudulently or without proper authorisation (unless such cost, claim, loss, expense or liability is the direct result of the gross negligence or wilful misconduct of the Chargee).
- 17.4 The initial administrative details of the parties are contained in Schedule 2 (*Initial administrative details of the parties*) but a party may amend its own details at any time by notice to the other parties.
- 17.5 Any notice to a Chargor may alternatively be sent to its registered office or to any of its places of business or to any of its directors or its company secretary; and it shall be deemed to have been received when delivered to any such places or persons.

18 Law

This Deed and any non-contractual obligations connected with it are governed by English law.

This Deed has been executed as a deed, and it has been delivered on the date stated at the beginning of this Deed.

**Schedule 1
The Original Chargors**

Name		Registered Number
1	Ageas Bowl Experience Limited	06541937
2	Hampshire Cricket Limited	04343355
3	RB Lease Company Limited Ltd	00041254
4	Elite International Sports Academy Limited	08690703
5	RB Events and Promotions Limited	04691668
6	Southern Vipers Ltd	09981981

Paris Smith
LLP
[Signature]
EVS

Paris Smith
LLP
[Signature]
EVS

Schedule 2
Initial administrative details of the parties

Party	Address	Fax number	Attention
Each Chargor	The Ageas Bowl, Botley Road, West End, Southampton, Hampshire SO 30 3XH	023 8047 2122	The Directors
Chargee	Eastleigh House Upper Market Street Eastleigh SO50 9YN	023 8064 3952	Corporate Director

Schedule 3

Not used

Schedule 4

Land

Part A Registered Land

RB Lease Company Limited (Company No 00041254)

County / District	Address / Description	Document	Title number
Southampton	Golf Course, Botley Road, West End	Underlease dated 6 September 2012 and made between Eastleigh Borough Council (1) RB Lease Company Limited (formerly Hampshire County Cricket Ground Company Limited (The)) (2) and RB Sport & Leisure Holdings plc (formerly Rose Bowl plc) (3)	HP754207
Southampton	land on the west side of the M27, Hedge End	Not applicable	HP725875
Southampton	land on the west side of the M27, Hedge End	Underlease dated 6 September 2012 and made between Eastleigh Borough Council (1) RB Lease Company Limited (formerly Hampshire County Cricket Ground Company Limited (The)) (2) and RB Sport & Leisure Holdings plc (formerly Rose Bowl plc) (3)	HP725875
Southampton	Golf Club House, West End	Underlease dated 6 September 2012 and made between Eastleigh Borough Council (1) RB Lease Company Limited (formerly Hampshire County Cricket Ground Company Limited (The)) (2) and RB Sport & Leisure Holdings plc (formerly Rose Bowl plc) (3)	HP754212
Southampton	The Ageas Bowl (formerly Rose Bowl), County Cricket Ground, West End	Underlease dated 6 September 2012 and made between Eastleigh Borough Council (1) RB Lease Company Limited (formerly Hampshire County Cricket Ground Company Limited (The)) (2) and RB Sport & Leisure Holdings plc (formerly Rose Bowl plc) (3)	HP754201

Hampshire Cricket Limited (Company No 04343355)

County / District	Address / Description	Document	Title number
Southampton	Golf Course, Botley Road, West End	Sub-underlease dated 6 September 2012 and made between RB Lease Company Limited (formerly Hampshire County Cricket Ground Company Limited (The)) (1) and Hampshire Cricket Limited (2)	HP754210
Southampton	land on the west side of the M27, Hedge End	Sub-underlease dated 6 September 2012 and made between RB Lease Company Limited (formerly Hampshire County Cricket Ground Company Limited (The)) (1) and Hampshire Cricket Limited (2)	HP754217
Southampton	Golf Club House, West End	Sub-underlease dated 6 September 2012 and made between RB Lease Company Limited (formerly Hampshire County Cricket Ground Company Limited (The)) (1) and Hampshire Cricket Limited (2)	HP754214
Southampton	The Ageas Bowl (formerly Rose Bowl), County Cricket Ground, West End	Sub-underlease dated 6 September 2012 and made between RB Lease Company Limited (formerly Hampshire County Cricket Ground Company Limited (The)) (1) and Hampshire Cricket Limited (2)	HP754202

**Part B
Unregistered Land**

None

THE CHARGORS

EXECUTED as a DEED)
by RB SPORT & LEISURE)
HOLDINGS PLC)
acting by a director in the presence of:)

Director

Witness signature:

Witness name:

Witness address:

CTIMSON
AGEAS BOWL, BOTLEY ROAD
WEST END, SOUTHAMPTON SO30 3XH

EXECUTED as a DEED)
by AGEAS BOWL)
EXPERIENCE LIMITED)
acting by a director in the presence of:)

Director

Witness signature:

Witness name:

Witness address:

CTIMSON
AGEAS BOWL, BOTLEY ROAD
WEST END, SOUTHAMPTON SO30 3XH

EXECUTED as a DEED)
by HAMPSHIRE CRICKET LIMITED)
acting by a director in the presence of:)

Director

Witness signature:

Witness name:

Witness address:

CTIMSON
AGEAS BOWL, BOTLEY ROAD
WEST END, SOUTHAMPTON SO30 3XH

EXECUTED as a DEED LTD)
by RB LEASE COMPANY LIMITED)
acting by a director in the presence of:)

Director

Witness signature:

Witness name:

Witness address:

CTIMSON
AGEAS BOWL, BOTLEY ROAD
WEST END, SOUTHAMPTON SO30 3XH

EXECUTED as a DEED)
by ELITE INTERNATIONAL SPORTS)
ACADEMY LIMITED)
acting by a director in the presence of:)

Director

Witness signature:

Witness name: C TIMSON

Witness address: AGENTS BOWL, BOTLEY ROAD
WEST END, SOUTHAMPTON SO30 3XH

EXECUTED as a DEED)
By RB EVENTS & PROMOTIONS)
LIMITED)
acting by a director in the presence of:)

Director

Witness signature:

Witness name: C TIMSON

Witness address: AGENTS BOWL, BOTLEY ROAD
WEST END, SOUTHAMPTON SO30 3XH

EXECUTED as a DEED)
by SOUTHERN VIPERS LTD)
acting by a director in the presence of:)

Director

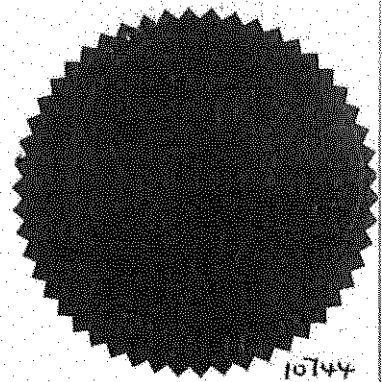
Witness signature:

Witness name: C TIMSON

Witness address: AGENTS BOWL, BOTLEY ROAD
WEST END, SOUTHAMPTON SO30 3XH

THE CHARGE

EXECUTED as a DEED)
by EASTLEIGH BOROUGH COUNCIL)
by the affixing of its Common Seal)
in the presence of:)



10744

Autonomous Signatures