



Registration of a Charge

Company name: **S.A.BRAIN & COMPANY,LIMITED**

Company number: **00052099**



X7E9YRCA

Received for Electronic Filing: **11/09/2018**

Details of Charge

Date of creation: **31/08/2018**

Charge code: **0005 2099 0034**

Persons entitled: **LLOYDS BANK PLC**

Brief description: **COURTNEY HOUSE, UNIT 7 PACIFIC PARK NORTH, PACIFIC ROAD, CARDIFF CF24 5HL (NOW KNOWN AS DRAGON BREWERY, PACIFIC ROAD, CARDIFF, UNITED KINGDOM CF24 5HJ) AND REGISTERED AT HM LAND REGISTRY WITH TITLE NUMBER CYM264715**

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 THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by:

GELDARDS LLP



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 52099

Charge code: 0005 2099 0034

The Registrar of Companies for England and Wales hereby certifies that a charge dated 31st August 2018 and created by S.A.BRAIN & COMPANY,LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 11th September 2018 .

Given at Companies House, Cardiff on 13th September 2018

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

Dated: 31st August

2018

- (1) S.A. BRAIN & COMPANY, LIMITED
- (2) LLOYDS BANK PLC
-

Legal Mortgage

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This Deed is made on

between:

- (1) **S.A. BRAIN & COMPANY, LIMITED**, a company incorporated in England and Wales, with registration number 0052099, and whose registered office is at Dragon Brewery, Pacific Road, Cardiff, United Kingdom, CF24 5HJ (the "**Company**"); and
- (2) **LLOYDS BANK PLC** of 25 Gresham Street, London EC2V 7HN (the "**Lender**").

1. INTERPRETATION

1.1 Definitions

In this Deed:

"Agreement for Lease" means an agreement to grant an Occupational Lease of all or part of the Company's Mortgaged Property.

"Associated Benefits" means, in respect of any asset:

- (a) all monies including (where relevant) all rent, dividends, distributions, profits, compensation, damages, income, or interest paid or payable relating to that asset; and
- (b) all Authorisations, rights, benefits, claims or property at any time relating to that asset.

"Charged Property" means the assets of the Company which from time to time are, or are expressed to be, the subject of any Security created by this Deed.

"Delegate" means any delegate, agent, attorney or co-trustee appointed by the Lender.

"Event of Default" has the meaning given to that term in the Facility Agreement.

"Facility Agreement" means the facilities agreement originally dated 24 September 2015 as varied by a deed of variation dated 29 September 2017 and as amended and restated on 29 December 2017 between, amongst others, the Company and the Lender.

"Finance Document" has the meaning given to that term in the Facility Agreement and includes any other document designated as such by the Lender and the Company.

"Insolvency Act" means the Insolvency Act 1986.

"Insurances" means all contracts or policies of insurance of whatever nature which, from time to time, are taken out or maintained by or on behalf of the Company or in which the Company has an interest, in respect of the Charged Property.

"Lease Document" means an Agreement for Lease, Occupational Lease or any other document designated as such by the Lender or the Company.

"LPA" means the Law of Property Act 1925.

"Mortgaged Property" means the property listed in Part 1 of Schedule 1 (*Details of Mortgaged Property*).

"Occupational Lease" means any lease or licence or other right of occupation or right to receive rent to which the Charged Property may at any time be subject and includes any guarantee of a tenant's obligations under the same.

"Property Report" means, in respect of any Charged Property, any certificate of or report on title supplied to the Lender in connection with the Security over the Charged Property in accordance with the terms of this Deed or the Facility Agreement.

"Receiver" means a receiver or receiver and manager or administrative receiver of the whole or any part of the Charged Property.

"Secured Obligations" means all present and future liabilities and obligations at any time due, owing or incurred by any member of the Group to the Lender from time to time, both actual and contingent and whether incurred solely or jointly and as principal or surety or in any other capacity.

"Valuation" means a valuation of any or all of the Charged Property on terms and in a form acceptable to the Lender, supplied in accordance with Clause 3.6. ~~23-6~~ (*Valuation*), addressed to the Lender and prepared on the basis of market value as that term is defined in the then current Statements of Asset Valuation Practice and Guidance Notes issued by the Royal Institution of Chartered Surveyors.

"Valuer" means Bilfinger GVA or any other surveyor or valuer appointed by the Lender.

1.2 Construction

1.2.1 Unless a contrary indication appears in this Deed:

1.2.1.1 terms defined in the Facility Agreement have the same meaning in this Deed;

1.2.1.2 the provisions of clause 1.2 (*Construction*) of the Facility Agreement (with the exception of clause 1.2.4) apply to this Deed as if set out in full in this Deed except that references to the Facility Agreement shall be construed as references to this Deed; and

1.2.1.3 all provisions in the Facility Agreement that are deemed to apply to the Finance Documents apply to this Deed as if set out in full in this Deed.

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

1.2.2.1 any asset includes present and future properties, revenues and rights of every description, all proceeds of sale of such asset, all rights under any agreement for the sale, lease or licence of such asset and any monies paid or payable in respect of such asset;

1.2.2.2 a **"Finance Document"** or any other agreement or instrument is a reference to that Finance Document or other agreement or instrument as validly amended, novated, supplemented, extended, restated or replaced from time to time;

1.2.2.3 an **"account"** is a reference to that account as re-designated, renumbered, substituted or replaced from time to time.

1.2.3 Where this Deed includes the words **"including"**, **"in particular"** or **"or otherwise"** (or similar words or phrases), the intention is to state examples and not to be exhaustive.

1.2.4 References to any Security **"created by this Deed"** are to be deemed to include such Security created or intended to be created, constituted, given, made or extended by, under or evidenced by this Deed.

1.3 Incorporation of other terms

The terms of the other Finance Documents and of any other agreement or document between any of the parties to this Deed are incorporated into this Deed to the extent required to comply with section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.

1.4 Third party rights

- 1.4.1 Unless expressly provided to the contrary in this Deed, a person who is not a party to this Deed has no right under the Contracts (Rights of Third Parties) Act 1999 (the "**Third Parties Act**") to enforce or enjoy the benefit of any term of this Deed.
- 1.4.2 Notwithstanding any term of this Deed, the consent of any person who is not a party to this Deed is not required to rescind or vary this Deed at any time.
- 1.4.3 Any Receiver, Delegate or any person described in the Facility Agreement may, subject to this Clause 1.4 (*Third party rights*) and the Third Parties Act, rely on any clause of this Deed which expressly confers rights on it.

2. COVENANT TO PAY

The Company, as principal debtor and not just as surety, covenants with the Lender to pay or discharge the Secured Obligations.

3. GRANT OF SECURITY

3.1 Mortgage

The Company charges by way of first legal mortgage, the Mortgaged Property.

3.2 Fixed charges

The Company charges by way of first fixed charge:

- 3.2.1 to the extent not effectively mortgaged under Clause 3.1 (*Mortgage*), the Mortgaged Property;
- 3.2.2 all its fixtures, fittings, plant and machinery, situated on or forming part of the Mortgaged Property, excluding stock in trade, to the extent not otherwise effectively mortgaged or charged under this Deed; and
- 3.2.3 save to the extent assigned under Clause 3.3 (*Assignment*), all Associated Benefits relating to any of the Charged Property.

3.3 Assignment

The Company assigns absolutely all its Insurances, including any listed in Part 2 of Schedule 1 (*Insurances*), together with all Associated Benefits relating to the Charged Property.

3.4 General

All Security created by this Deed:

- 3.4.1 is created in favour of the Lender;
- 3.4.2 unless specifically stated otherwise, is created over the present and future assets of the Company to the extent of its right, title and interest in, under and to such assets at any time; and
- 3.4.3 is created with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994.

3.5 Continuing security

The Security created by this Deed is continuing security for the payment and discharge of the Secured Obligations. The provisions of this Deed will apply at all times:

- 3.5.1 regardless of the date on which any of the Secured Obligations were incurred;
- 3.5.2 notwithstanding any intermediate payment or discharge; and
- 3.5.3 in respect of the full amount of the Secured Obligations at the relevant time even if the amount of the Secured Obligations had previously been less than that amount or had been nil at any time.

3.6 Valuation

- 3.6.1 The Lender may request a Valuation at any time.
- 3.6.2 The Company shall promptly on demand pay to the Lender the costs of:
 - 3.6.2.1 one Valuation obtained by the Lender in each 36 month period following the date of this Deed;
 - 3.6.2.2 a Valuation obtained by the Lender in connection with a disposal of all or part of the Mortgaged Property;
 - 3.6.2.3 a Valuation obtained by the Lender in connection with the compulsory purchase of all or part of the Mortgaged Property; and
 - 3.6.2.4 a Valuation obtained by the Lender at any time when a Default is continuing.
- 3.6.3 The Company must supply to the Lender a copy of any valuation of the Mortgaged Property obtained by the Company promptly upon obtaining it.
- 3.6.4 Any Valuation not referred to in Clause 3.6.2 will be at the cost of the Lender.

3.7 Independent Security

The Security created by this Deed is in addition to and is not in any way prejudiced by any other guarantee or Security now or subsequently held by the Lender. No prior Security held by the Lender over the whole or any part of the Charged Property will merge with the Security created by this Deed.

4. REPRESENTATIONS

4.1 Title and value of security

(Other than as disclosed in the relevant Property Report) The Company makes the representations and warranties set out in this Clause 4 (*Representations*) to the Lender.

- 4.1.1 The Charged Property is not subject to any Security or restriction (other than the Permitted Security Interests).
- 4.1.2 There has been no breach of any law, regulation or covenant materially adversely affects or might materially adversely affect the value, saleability or use of the Charged Property.
- 4.1.3 There are no covenants, agreements, stipulations, reservations, conditions, interests, rights, restrictions, easements or other matters adversely affecting the Charged Property.

- 4.1.4 Nothing has arisen or has been created or is subsisting which would be an overriding interest, or an unregistered interest which overrides first registration or registered dispositions, over the Charged Property.
- 4.1.5 All facilities necessary for the peaceful enjoyment and use of the Charged Property (including those necessary for carrying on its or, if different, the current user's business at the Charged Property) are enjoyed by the Charged Property and none of those facilities are subject to terms which entitle any person to terminate or curtail its use or enjoyment, nor conflict with or restrict use of the Charged Property.
- 4.1.6 It has not received notice of any adverse claims by any person in respect of the ownership of its Charged Property or any interest in it, nor has it acknowledged any such claim.
- 4.1.7 There are no leases or licences affecting the Charged Property, other than as permitted under Clause 5.3 (*Occupational Leases*).
- 4.1.8 All deeds and documents necessary to show good and marketable title to the Charged Property (including all Occupational Leases) are (a) in the possession of the Lender, (b) held at the Land Registry, or (c) held to the order of the Lender by a firm of solicitors approved by the Lender for that purpose.

4.2 Valuation

- 4.2.1 All information supplied by it or on its behalf to the Valuer for the purposes of each Valuation was true and accurate as at the date it was given or (if appropriate) as at the date (if any) at which it is stated to be given.
- 4.2.2 Any financial projections contained in the information referred to in Clause 4.2.1 have been prepared, as at their date, on the basis of recent historical information and on the basis of reasonable assumptions.
- 4.2.3 It has not omitted to supply any information to the Valuer which, if disclosed, would adversely affect a Valuation.
- 4.2.4 Nothing has occurred since the date the information referred to in Clause 4.2.1 was supplied which, if it had occurred prior to the date of the relevant Valuation, would have adversely affected such Valuation.

4.3 Property Reports

- 4.3.1 The information supplied by it or on its behalf to the lawyers who prepared any Property Report for the purpose of that Property Report was true and accurate as at the date of the Property Report or (if appropriate) as at the date (if any) at which it is stated to be given.
- 4.3.2 The information referred to in Clause 4.3.1 was, at the date it was expressed to be given, complete and did not omit any information which, if disclosed, would make that information untrue or misleading in any material respect.
- 4.3.3 Nothing has occurred since the date of any information referred to in Clause 4.3.1 which, if disclosed, would make that information untrue or misleading in any material respect.

4.4 Repetition

Each of the representations given in this Clause 4 (*Representations*) are deemed to be made by the Company by reference to the facts and circumstances then existing, on the date of delivery of this Deed, on the date of each Utilisation Request, on each Utilisation Date and on the first day of each Interest Period, unless otherwise specified in this Clause 4 (*Representations*).

5. PROPERTY UNDERTAKINGS

5.1 Registration

- 5.1.1 The Company shall ensure that a restriction in the following terms is entered on the register of the title of any of its Charged Property 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] in favour of [LENDER] referred to in the charges register, or its conveyancer."

together with, where applicable, notice of any obligation on the Lender to make further advances under the terms of the Finance Documents. The Company shall pay, when due and payable, all fees, costs and expenses incurred in connection with such applications.

- 5.1.2 The Company shall promptly take all such steps as may be necessary or desirable to enable the Security created by this Deed to be registered, where appropriate, at the Land Registry.
- 5.1.3 If the title to the Charged Property is not registered at the Land Registry, the Company shall ensure that no person (other than itself) will be registered under the Land Registration Act 2002 as the proprietor of all or any part of the Charged Property, without the prior written consent of the Lender.
- 5.1.4 Whether or not title to the Charged Property is registered at the Land Registry, if any caution against first registration or any notice (whether agreed or unilateral) is registered against the Company's title to the Charged Property, the Company shall immediately provide the Lender with full particulars of the circumstances relating to such caution or notice, and if such caution or notice was registered to protect a purported interest the creation of which is not permitted under this Deed, the Company shall immediately, and at its own expense, take such steps as the Lender requires to ensure that the caution or notice, as applicable, is withdrawn or cancelled.

5.2 Title

- 5.2.1 The Company must exercise its rights and comply in all respects with any covenant, stipulation or obligation (restrictive or otherwise) at any time affecting the Charged Property.
- 5.2.2 The Company may not agree to any amendment, supplement, waiver, surrender or release of any covenant, stipulation or obligation (restrictive or otherwise) at any time affecting the Charged Property.

5.3 Occupational Leases

- 5.3.1 The Company may not, without the prior written consent of the Lender:
- 5.3.1.1 enter into any Agreement for Lease;
 - 5.3.1.2 other than under an Agreement for Lease, grant or agree to grant any new Occupational Lease;
 - 5.3.1.3 in respect of any Lease Document, agree to any amendment, supplement, extension, waiver, surrender or release, nor exercise any right to break, determine or extend, or commence any forfeiture proceedings;

5.3.1.4 grant any licence or right to use or occupy any part of the Charged Property nor consent to any sublease or assignment of any tenant's interest under any Lease Document;

5.3.1.5 agree to any change of use under, or (except where required to do so under the terms of the relevant Lease Document) rent review in respect of, any Lease Document nor serve any notice on any former tenant under any Lease Document (or on any guarantor of that former tenant) which would entitle it to a new lease or tenancy; or

5.3.1.6 grant or agree to grant any Lease Document without including in the alienation covenant a provision for the proposed assignor on any assignment to guarantee the obligations of the proposed assignee until that assignee is released as tenant under the terms of the Landlord and Tenant (Covenants) Act 1995.

5.3.2 The Company must exercise its rights and comply with its obligations under each Lease Document and use its reasonable endeavours to ensure that each tenant complies with its obligations under each Lease Document, in each case, in a proper and timely manner.

5.3.3 The Company must supply to the Lender each Lease Document, each amendment, supplement or extension to a Lease Document and each document recording any rent review in respect of a Lease Document promptly upon entering into the same.

5.4 Maintenance

The Company must ensure that all buildings, plant, machinery, fixtures and fittings on the Charged Property are in, and maintained in, good and substantial repair and condition and, as appropriate, in good working order, and such repair, condition and order as to enable them to be let in accordance with all applicable laws and regulations. For this purpose, a law or regulation will be regarded as applicable if it is either in force or it is expected to come into force and a prudent property owner in the same business as the Company would ensure that its buildings, plant, machinery, fixtures and fittings were in such condition, repair and order in anticipation of that law or regulation coming into force.

5.5 Development

5.5.1 The Company may not, without the prior written consent of the Lender:

5.5.1.1 make or allow to be made any application for planning permission in respect of any part of the Charged Property; or

5.5.1.2 carry out, or allow to be carried out, any demolition, construction, structural alterations or additions, development or other similar operations in respect of any part of the Charged Property,

provided that this provision will not apply to the maintenance of the buildings, plant, machinery, fixtures and fittings or the carrying out of non-structural improvements or alterations which affect only the interior of any building on the Charged Property.

5.5.2 The Company must comply in all respects with all planning laws, permissions, agreements and conditions to which the Charged Property may be subject.

5.6 Managing Agent

The Company may not appoint any managing agent in respect of any part of the Charged Property.

5.7 Insurance

- 5.7.1 The Company must ensure that, at all times, there are maintained in full force and effect Insurances which provide cover:
 - 5.7.1.1 for full replacement value (being the total cost of entirely rebuilding, reinstating or replacing the relevant asset if it is completely destroyed, together with all related fees and demolition costs);
 - 5.7.1.2 against loss or damage by fire, storm, tempest, flood, earthquake, lightning, explosion, impact, aircraft and other aerial devices and articles dropped from them, riot, civil commotion and malicious damage, bursting or overflowing of water tanks, apparatus or pipes and all other normally insurable risks of loss or damage; and
 - 5.7.1.3 for site clearance, shoring or propping up, professional fees and value added tax together with adequate allowance for inflation.
- 5.7.2 The Company must procure that it is free to assign all amounts payable to it under each of its Insurances and all its rights in connection with those amounts in favour of the Lender.
- 5.7.3 The Company must use all reasonable endeavours to ensure that the Lender receives copies of the Insurances and any information in connection with such Insurance and claims under them, in each case which the Lender may reasonably require.
- 5.7.4 The Company must promptly notify the Lender of:
 - 5.7.4.1 any termination, avoidance or cancellation of any of the Insurances or which, to its knowledge, is threatened or pending;
 - 5.7.4.2 any claim, and any actual or threatened refusal of any claim relating to the Charged Property, under any of the Insurances; and
 - 5.7.4.3 any event or circumstance which has led or may lead to a breach by it of any term of this Clause.
- 5.7.5 The Company must:
 - 5.7.5.1 comply with the terms of the Insurances;
 - 5.7.5.2 not do or permit anything to be done which may make void or voidable any of the Insurances; and
 - 5.7.5.3 not without the prior consent of the Lender terminate, rescind or cancel any of the Insurances.
- 5.7.6 The Company must ensure that each premium for the Insurances is paid promptly and in any event prior to the commencement of the period of insurance for which that premium is payable, and that all other things necessary are done so as to keep each of the Insurances in force.
- 5.7.7 If the Company fails to comply with any term of this Clause 5.7 (*Insurance*), then the Lender may, at the expense of the Company, effect any insurance and generally do such things and take such other action as the Lender may reasonably consider necessary or desirable to prevent or remedy any breach of this Clause 5.7 (*Insurance*).

5.8 Environmental Indemnity

The Company indemnifies the Lender against any loss or liability which that Lender incurs as a result of any actual or alleged breach of any Environmental Law or Environmental Licence by any person and which would not have arisen if a Finance Document had not been entered into, unless it is caused by that Lender's gross negligence or wilful misconduct.

6. GENERAL UNDERTAKINGS

6.1 Negative pledge and restriction on dealing

The Company may not (and may not agree to):

- 6.1.1 create or permit to subsist any Security over; nor
- 6.1.2 sell, assign, factor, discount, transfer, lease, release, terminate or otherwise dispose of any of; nor
- 6.1.3 permit any variation, waiver or termination of the rights attaching to the whole or any part of;

the Charged Property.

6.2 Notice of charge or assignment

- 6.2.1 The Company shall serve notice of each charge or assignment of its rights under each of its Insurances by sending a notice substantially in such form of Schedule 2 (*Form of notice relating to Insurances*) to the relevant insurer, on the date of this Deed (for any Insurances existing on the date of this Deed) and on the date of entry into any other Insurances (in the case of any Insurances entered into after the date of this Deed).
- 6.2.2 The Company shall use all reasonable endeavours procure that any notice served by it under Clause 6.2.1 is acknowledged by the recipient in the form attached to such notice.

6.3 Charged Property

The Company shall, promptly upon request by the Lender at any time:

- 6.3.1 deposit with the Lender all documents of title or other evidence of ownership, together with such deeds, certificates and documents as the Lender may require, relating to the Charged Property;
- 6.3.2 affix to and maintain on such of its plant, machinery, fixtures, fittings or other equipment as the Lender may require a clearly legible identification plate stating that the asset has been charged to the Lender, in a form acceptable to the Lender; and
- 6.3.3 provide the Lender with all information it may reasonably request in relation to the Charged Property.

6.4 Further assurance

The Company shall promptly take all such actions, including executing all such documents, notices and instructions in such form as the Lender may reasonably require:

- 6.4.1 to create, perfect, protect and (if necessary) maintain the Security created or intended to be created over any of its assets under this Deed or for the exercise of any rights, powers and remedies of the Lender provided by or under this Deed or by law or regulation; and

- 6.4.2 to facilitate the realisation of the assets which are, or are intended to be, the subject of Security created by this Deed.

6.5 Power to remedy

If the Company fails to comply with any of its obligations under this Deed, the Lender (or its nominee) may (at the Company's expense) take such action as is necessary to protect any assets against the consequences of the Company's non-compliance and to ensure compliance with such obligations. The Lender is not obliged to perform any obligation of the Company or to take any action which it may be entitled to take under this Deed.

6.6 Power of attorney

- 6.6.1 As security for the performance of its obligations under this Deed, the Company irrevocably and severally appoints the Lender, each Receiver and each Delegate to be its attorney, with full power of substitution.

- 6.6.2 The attorney may, in the Company's name and at its expense, do anything which the Company is obliged to but has failed to do or which the Lender, Receiver or Delegate may in their absolute discretion consider appropriate in connection with the exercise of any of their rights, powers, authorities or discretions in relation to the Charged Property or under or otherwise for the purposes of any Finance Document or any law or regulation.

- 6.6.3 The Company ratifies and confirms anything done by any attorney under this Clause 6.6. The Company agrees to indemnify the attorney against all actions, claims, demands and proceedings taken or made against it and all costs, damages, expenses, liabilities and losses incurred by the attorney as a result of or in connection with anything lawfully done by it under or in connection with this power of attorney.

7. RIGHTS OF ENFORCEMENT

7.1 Secured Obligations deemed payable

For the purposes of all rights and powers implied by statute, the Secured Obligations are due and payable on the date of this Deed.

7.2 When Security enforceable

The Security created by this Deed is enforceable at any time while an Event of Default is continuing.

7.3 Enforcement powers

At any time (a) when the Security created by this Deed is enforceable or (b) following a request by the Company, the Lender may, without further notice:

- 7.3.1 sell, appropriate, realise or transfer, including to itself or to any person, all or any part of the Charged Property;
- 7.3.2 appoint one or more persons to be a Receiver of all or any part of the Charged Property;
- 7.3.3 exercise any of the powers conferred on mortgagees, administrators or receivers, under the LPA, the Insolvency Act, any other legislation or regulation or under this Deed;
- 7.3.4 exercise any of the powers, authorities and discretions conferred on mortgagees, administrators or receivers, under the LPA, the Insolvency Act, any other legislation or regulation or under this Deed; and

- 7.3.5 take such further action as it sees fit to enforce all or any part of the Security created by Deed.

7.4 Rights in relation to a Receiver

The Lender may remove any Receiver appointed under this Deed, appoint another person as Receiver or appoint additional Receivers. Each Receiver will be the agent of the Company who alone will be responsible for the acts and defaults of the Receiver and for any liabilities incurred by the Receiver. The Lender may fix the remuneration of a Receiver which will be payable by the Company and form part of the Secured Obligations.

7.5 Redemption of prior Security

Where there is any Security created over any of the Charged Property which ranks in priority to the Security created by this Deed and:

- 7.5.1 the Security created by this Deed becomes enforceable; and

- 7.5.2 the holder of such other Security takes any steps to enforce that security,

the Lender or any Receiver may, at its sole discretion and at the cost and expense of the Company, redeem, take a transfer of and repay the indebtedness secured by such other Security. All amounts paid by the Lender or a Receiver under this Clause will form part of the Secured Obligations.

7.6 Demands

Any demand for payment made by the Lender shall be valid and effective even if it contains no statement of the relevant Secured Obligations or an inaccurate or incomplete statement of them.

8. POWERS OF A RECEIVER

8.1 General powers

Any Receiver will have:

- 8.1.1 the rights, powers, privileges and immunities conferred on receivers, receivers and managers and mortgagees in possession under the LPA;
- 8.1.2 the rights, powers, privileges and immunities conferred on administrative receivers (whether or not the Receiver is an administrative receiver) under the Insolvency Act; and
- 8.1.3 all other rights, powers, privileges and immunities conferred by law or regulation on receivers, receivers and managers, mortgagees in possession and administrative receivers.

8.2 Specific powers

The rights, powers and remedies provided in this Deed are in addition to any rights powers and remedies under law or regulation. Any Receiver will have the following additional powers:

- 8.2.1 the power to do or omit to do anything which the Company could do or omit to do in relation to the Charged Property which is the subject of the appointment;
- 8.2.2 the power to do all other acts and things which the Receiver may consider desirable or necessary for realising any of the Charged Property or incidental or conducive to any of the rights, powers and discretions conferred on a Receiver under this Deed or by law or regulation; and

8.2.3 the power to use the Company's name for all the above purposes.

8.3 Variation of statutory powers

The following statutory provisions do not apply to this Deed or any Security created by this Deed:

- 8.3.1 the restriction on the consolidation of mortgages in section 93 LPA;
- 8.3.2 the restrictions on the power to grant or accept the surrender of leases in sections 99 and 100 LPA;
- 8.3.3 the conditions to the exercise of a power of sale in section 103 LPA;
- 8.3.4 the restrictions on the application of proceeds by a mortgagee or receiver in sections 105, 107(2) and 109(8) LPA; and
- 8.3.5 the restrictions on the appointment of a receiver in section 109(1) LPA and the provisions regarding a receiver's remuneration in section 109(6) LPA.

9. APPLICATION OF PROCEEDS

9.1 Order of priority

All amounts received by the Lender or a Receiver in connection with the enforcement of the Security created under this Deed will be applied, to the extent permitted by applicable law, in the following order of priority:

- 9.1.1 in discharging any costs and expenses incurred by the Lender, any Receiver or any Delegate under or in connection with this Deed or any Finance Document;
- 9.1.2 in or towards discharging the Secured Obligations; and
- 9.1.3 in payment of the surplus (if any) to the Company or other person entitled to it.

9.2 Suspense account

The Lender may credit any monies at any time received or realised under this Deed to an interest-bearing suspense account, for so long and on such terms as the Lender may determine pending their application towards discharging the Secured Obligations.

9.3 New accounts

If the Lender receives or is deemed to have received notice of subsequent Security over the Charged Property, then the Lender may open a new account with the Company. If the Lender does not open a new account, it will be treated as having done so at the time when such notice was received and as from that time all payments made by or on behalf of the Company to the Lender will be credited or be treated as having been credited to the relevant new account and not as having been applied in discharge of the Secured Obligations.

9.4 Release of Charged Property

If the Lender is satisfied that all the Secured Obligations have, subject to Clauses 12.1 (*Reinstatement*) and 12.2 (*Avoidable payments*), been unconditionally and irrevocably paid and discharged in full and all facilities which might give rise to Secured Obligations terminated, the Lender will, at the request and cost of the Company, execute such documents and take such steps as may be necessary to release the Charged Property from the Security created by this Deed.

10. PROTECTION OF THIRD PARTIES

No buyer from, or other person dealing with the Lender or a Receiver will be concerned to enquire whether:

- 10.1.1 any money remains due;
- 10.1.2 any power which the Lender or Receiver is purporting to exercise has arisen or become exercisable; or
- 10.1.3 the Lender or any Receiver is validly appointed and acting within its powers in accordance with this Deed.

10.2 The receipt of the Lender, any Receiver or any Delegate will be an absolute and conclusive discharge to a purchaser of any of the Charged Property who will have no obligation to enquire how any monies are applied.

11. PROTECTION OF LENDER

11.1 No liability as mortgagee in possession

Neither the Lender nor any Receiver will be liable to account to the Company as mortgagee in possession by reason of entering into possession of any of the Charged Property, or for any cost, loss or liability on realisation, nor for any default or omission for which a mortgagee in possession might be liable.

11.2 Tacking

The Security created by this Deed is intended to secure any further advances which the Lender is obliged to make.

11.3 Lender discretion

The Lender is entitled to exercise its rights, powers and discretions under this Deed in accordance with the terms of the Facility Agreement and the Company has no right to control or restrict the Lender's exercise of any of its rights, powers or discretions under this Deed.

12. SAVINGS PROVISIONS

12.1 Reinstatement

If, at any time, there has been a release, settlement or discharge of any of the Company's obligations under this Deed and, as a consequence of any insolvency (or analogous) proceedings or for any other reason:

- 12.1.1 any payment made to any person in respect of any of the Secured Obligations is required to be repaid; and
- 12.1.2 any Security (or other right) held by the Lender in respect of any of the Secured Obligations (whether under this Deed or otherwise) is declared void, is set aside or is otherwise affected,

then the Company's obligations under this Deed will continue in effect as if there had been no such release, settlement or discharge and as if the relevant payment had not been made and (as applicable) the relevant obligation or Security (or other right) had not been so affected; and accordingly (but without limiting the Lender's other rights under this Deed) the Lender will be entitled to recover from the Company the value which the Lender has placed upon such Security (or other right) or the amount of any such payment as if such release, settlement or discharge had not occurred.

12.2 Avoidable payments

If the Lender, acting reasonably, considers that any amount paid by the Company in respect of the Secured Obligations is capable of being avoided, set aside or ordered to be refunded or reduced for any reason, then for the purposes of this Deed such amount will not be considered to have been irrevocably paid.

13. CHANGES TO THE PARTIES

13.1 No assignment by the Company

The Company may not assign any of its rights or transfer any of its rights or obligations under this Deed.

13.2 Assignment by Lender

The Lender may assign any of its rights or transfer any of its rights or obligations under this Deed in accordance with the terms of the Facility Agreement.

14. COUNTERPARTS

This Deed may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of the Deed.

15. GOVERNING LAW

This Deed and any non-contractual obligations arising out of or in connection with it are governed by the law of England and Wales.

16. JURISDICTION

16.1 The courts of England and Wales have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute regarding the existence, validity or termination of this Deed) and any non-contractual obligations arising out of or in connection with it (a "**Dispute**").

16.2 The parties to this Deed agree that the courts of England and Wales are the most appropriate and convenient courts to settle any Dispute and accordingly no party to this Deed will argue to the contrary.

This Deed is executed as a deed and delivered on the date stated at the beginning of this Deed.

SCHEDULE 1

Details of Charged Property

Part 1 - Details of Mortgaged Property

Registered Land		
Address/description of the property	Title Number	Freehold/Leasehold
Courtney House, Unit 7 Pacific Park North, Pacific Road, Cardiff CF24 5HL (now known as Dragon Brewery, Pacific Road, Cardiff, United Kingdom, CF24 5HJ)	CYM264715	Freehold

Part 2 - Insurances

Brief description of policy, including policy number	Date of policy	Insurance Company/broker (include addresses for service of notices)
Royal & Sun Alliance Insurance Plc - UMR - 16927C18	05/06/18	Willis Towers Watson 6th Floor 5 Callaghan Square Cardiff CF10 5BT F.A.O. Annabelle Cervera Annabelle.Cervera@willistowerswatson.com

SCHEDULE 2

Notices

Form of notice relating to Insurances

To: [NAME AND ADDRESS OF INSURANCE COMPANY / UNDERWRITER]

Dated: [DATE]

Dear Sirs,

Notice of Security

1. We refer to [SPECIFY POLICY], policy number [NUMBER] between us and you (the "Policy").
1. We give you notice that, under a mortgage dated [DATE], we have assigned to Lloyds Bank PLC (the "**Lender**") all of our present and future rights, title and interest in, under and to the Policy in so far as it relates to Courtney House, Unit 7 Pacific Park North, Pacific Road, Cardiff CF24 5HL (now known as Dragon Brewery, Pacific Road, Cardiff, United Kingdom, CF24 5HJ) ("the Charged Property") and all proceeds and claims arising from the Policy relating to the Charged Property. The terms of this letter apply only to the Policy in so far as it relates to the Charged Property.
2. We may not agree to terminate the Policy without the prior written consent of the Lender.
3. Until you receive written notice to the contrary from the Lender, you may continue to deal with us in relation to the Policy. After you receive such notice, we will cease to have any right to deal with you in relation to the Policy and you must deal directly with or upon the written instructions of the Lender.
4. With effect from the date of this notice, we irrevocably and unconditionally authorise and instruct you:
 - 4.1 to disclose such information relating to the Policy and to give such acknowledgements and undertakings relating to the Policy as the Lender may from time to time request; to make all payments under or in connection with the Policy as directed by the Lender;
 - 4.2 to give at least 30 days' notice to the Lender if you propose to:
 - 4.2.1 repudiate, rescind or cancel the Policy;
 - 4.2.2 treat the Policy as avoided in whole or in part;
 - 4.2.3 treat the Policy as expired due to non-payment of premium (and in such notice you must give the Lender the opportunity to rectify any such non-payment of premium within the notice period); or
 - 4.2.4 otherwise decline any claim under the Policy by or on behalf of any insured party.
5. This notice and the authority and instructions it contains may only be revoked or amended with the written consent of the Lender.
6. This notice and any non-contractual obligations arising out of or in connection with it are governed by the law of England and Wales.
7. Please confirm your agreement to the above by signing the enclosed copy of this notice and returning it to the Lender (with a copy to us).

Yours faithfully,

For and on behalf of S.A. Brain & Company, Limited

[To be included on copy notice:]

To: [NAME, ADDRESS AND DEPARTMENT OF LENDER]

Copy to: [NAME AND ADDRESS OF COMPANY]

Dated: [DATE]

Dear Sirs

Acknowledgement of notice of security

We acknowledge receipt of the above notice. Terms defined in the notice apply to this acknowledgement. We confirm that we:

1. have not received notice of any previous assignment of or charge over the Policy and will promptly notify you if we receive any such notice in the future;
2. will comply with the terms of the notice; and
3. will not claim or exercise any right of set-off, counterclaim or other similar right in relation to amounts payable in connection with the Policy in so far as it relates to the Charged Property.

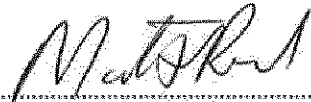
Yours faithfully,

For and on behalf of
[INSURANCE COMPANY / UNDERWRITER]


EXECUTION

The Company

Executed as a deed by
S.A. BRAIN & COMPANY LIMITED,
acting by one director in the presence of:

)
)
) 
.....
Director

Name: *MARTIN REED*

Witness signature: 

Witness name: *CHARLES BRAIN*

Witness address: *63A Brain & Co Ltd, Dragon Brewery, Pacific Road, Cardiff, CF24 5HS*

The Lender

Executed as a deed by
attorney for **LLOYDS BANK PLC,**
in the presence of:

, as)
)
)
)
.....
as attorney for **LLOYDS BANK PLC**

Witness signature:

Witness name:

Witness address:

Eversheds Sutherland
(International) LLP
1 Callaghan Square
Cardiff
CF10 5BT
United Kingdom

T: +44 20 7497 9797
F: +44 20 7919 4919
DX 33016 Cardiff

eversheds-sutherland.com

Dated: 31st AUGUST 2018

(1) S.A. BRAIN & COMPANY, LIMITED

(2) LLOYDS BANK PLC

Legal Mortgage

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This Deed is made on

31st AUGUST

between:

- (1) **S.A. BRAIN & COMPANY, LIMITED**, a company incorporated in England and Wales, with registration number 0052099, and whose registered office is at Dragon Brewery, Pacific Road, Cardiff, United Kingdom, CF24 5HJ (the "**Company**"); and
- (2) **LLOYDS BANK PLC** of 25 Gresham Street, London EC2V 7HN (the "**Lender**").

1. **INTERPRETATION**

1.1 **Definitions**

In this Deed:

"**Agreement for Lease**" means an agreement to grant an Occupational Lease of all or part of the Company's Mortgaged Property.

"**Associated Benefits**" means, in respect of any asset:

- (a) all monies including (where relevant) all rent, dividends, distributions, profits, compensation, damages, income, or interest paid or payable relating to that asset; and
- (b) all Authorisations, rights, benefits, claims or property at any time relating to that asset.

"**Charged Property**" means the assets of the Company which from time to time are, or are expressed to be, the subject of any Security created by this Deed.

"**Delegate**" means any delegate, agent, attorney or co-trustee appointed by the Lender.

"**Event of Default**" has the meaning given to that term in the Facility Agreement.

"**Facility Agreement**" means the facilities agreement originally dated 24 September 2015 as varied by a deed of variation dated 29 September 2017 and as amended and restated on 29 December 2017 between, amongst others, the Company and the Lender.

"**Finance Document**" has the meaning given to that term in the Facility Agreement and includes any other document designated as such by the Lender and the Company.

"**Insolvency Act**" means the Insolvency Act 1986.

"**Insurances**" means all contracts or policies of insurance of whatever nature which, from time to time, are taken out or maintained by or on behalf of the Company or in which the Company has an interest, in respect of the Charged Property.

"**Lease Document**" means an Agreement for Lease, Occupational Lease or any other document designated as such by the Lender or the Company.

"**LPA**" means the Law of Property Act 1925.

"**Mortgaged Property**" means the property listed in Part 1 of Schedule 1 (*Details of Mortgaged Property*).

"**Occupational Lease**" means any lease or licence or other right of occupation or right to receive rent to which the Charged Property may at any time be subject and includes any guarantee of a tenant's obligations under the same.

"**Property Report**" means, in respect of any Charged Property, any certificate of or report on title supplied to the Lender in connection with the Security over the Charged Property in accordance with the terms of this Deed or the Facility Agreement.

"Receiver" means a receiver or receiver and manager or administrative receiver of the whole or any part of the Charged Property.

"Secured Obligations" means all present and future liabilities and obligations at any time due, owing or incurred by any member of the Group to the Lender from time to time, both actual and contingent and whether incurred solely or jointly and as principal or surety or in any other capacity.

"Valuation" means a valuation of any or all of the Charged Property on terms and in a form acceptable to the Lender, supplied in accordance with Clause 3.6.23.6 (*Valuation*), addressed to the Lender and prepared on the basis of market value as that term is defined in the then current Statements of Asset Valuation Practice and Guidance Notes issued by the Royal Institution of Chartered Surveyors.

"Valuer" means Bilfinger GVA or any other surveyor or valuer appointed by the Lender.

1.2 Construction

1.2.1 Unless a contrary indication appears in this Deed:

- 1.2.1.1 terms defined in the Facility Agreement have the same meaning in this Deed;
- 1.2.1.2 the provisions of clause 1.2 (*Construction*) of the Facility Agreement (with the exception of clause 1.2.4) apply to this Deed as if set out in full in this Deed except that references to the Facility Agreement shall be construed as references to this Deed; and
- 1.2.1.3 all provisions in the Facility Agreement that are deemed to apply to the Finance Documents apply to this Deed as if set out in full in this Deed.

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

- 1.2.2.1 any asset includes present and future properties, revenues and rights of every description, all proceeds of sale of such asset, all rights under any agreement for the sale, lease or licence of such asset and any monies paid or payable in respect of such asset;
- 1.2.2.2 a **"Finance Document"** or any other agreement or instrument is a reference to that Finance Document or other agreement or instrument as validly amended, novated, supplemented, extended, restated or replaced from time to time;
- 1.2.2.3 an **"account"** is a reference to that account as re-designated, renumbered, substituted or replaced from time to time.

1.2.3 Where this Deed includes the words **"including"**, **"in particular"** or **"or otherwise"** (or similar words or phrases), the intention is to state examples and not to be exhaustive.

1.2.4 References to any Security **"created by this Deed"** are to be deemed to include such Security created or intended to be created, constituted, given, made or extended by, under or evidenced by this Deed.

1.3 Incorporation of other terms

The terms of the other Finance Documents and of any other agreement or document between any of the parties to this Deed are incorporated into this Deed to the extent required to comply with section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.

1.4 Third party rights

- 1.4.1 Unless expressly provided to the contrary in this Deed, a person who is not a party to this Deed has no right under the Contracts (Rights of Third Parties) Act 1999 (the "**Third Parties Act**") to enforce or enjoy the benefit of any term of this Deed.
- 1.4.2 Notwithstanding any term of this Deed, the consent of any person who is not a party to this Deed is not required to rescind or vary this Deed at any time.
- 1.4.3 Any Receiver, Delegate or any person described in the Facility Agreement may, subject to this Clause 1.4 (*Third party rights*) and the Third Parties Act, rely on any clause of this Deed which expressly confers rights on it.

2. COVENANT TO PAY

The Company, as principal debtor and not just as surety, covenants with the Lender to pay or discharge the Secured Obligations.

3. GRANT OF SECURITY

3.1 Mortgage

The Company charges by way of first legal mortgage, the Mortgaged Property.

3.2 Fixed charges

The Company charges by way of first fixed charge:

- 3.2.1 to the extent not effectively mortgaged under Clause 3.1 (*Mortgage*), the Mortgaged Property;
- 3.2.2 all its fixtures, fittings, plant and machinery, situated on or forming part of the Mortgaged Property, excluding stock in trade, to the extent not otherwise effectively mortgaged or charged under this Deed; and
- 3.2.3 save to the extent assigned under Clause 3.3 (*Assignment*), all Associated Benefits relating to any of the Charged Property.

3.3 Assignment

The Company assigns absolutely all its Insurances, including any listed in Part 2 of Schedule 1 (*Insurances*), together with all Associated Benefits relating to the Charged Property.

3.4 General

All Security created by this Deed:

- 3.4.1 is created in favour of the Lender;
- 3.4.2 unless specifically stated otherwise, is created over the present and future assets of the Company to the extent of its right, title and interest in, under and to such assets at any time; and
- 3.4.3 is created with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994.

3.5 Continuing security

The Security created by this Deed is continuing security for the payment and discharge of the Secured Obligations. The provisions of this Deed will apply at all times:

- 3.5.1 regardless of the date on which any of the Secured Obligations were incurred;
- 3.5.2 notwithstanding any intermediate payment or discharge; and
- 3.5.3 in respect of the full amount of the Secured Obligations at the relevant time even if the amount of the Secured Obligations had previously been less than that amount or had been nil at any time.

3.6 Valuation

- 3.6.1 The Lender may request a Valuation at any time.
- 3.6.2 The Company shall promptly on demand pay to the Lender the costs of:
 - 3.6.2.1 one Valuation obtained by the Lender in each 36 month period following the date of this Deed;
 - 3.6.2.2 a Valuation obtained by the Lender in connection with a disposal of all or part of the Mortgaged Property;
 - 3.6.2.3 a Valuation obtained by the Lender in connection with the compulsory purchase of all or part of the Mortgaged Property; and
 - 3.6.2.4 a Valuation obtained by the Lender at any time when a Default is continuing.
- 3.6.3 The Company must supply to the Lender a copy of any valuation of the Mortgaged Property obtained by the Company promptly upon obtaining it.
- 3.6.4 Any Valuation not referred to in Clause 3.6.2 will be at the cost of the Lender.

3.7 Independent Security

The Security created by this Deed is in addition to and is not in any way prejudiced by any other guarantee or Security now or subsequently held by the Lender. No prior Security held by the Lender over the whole or any part of the Charged Property will merge with the Security created by this Deed.

4. REPRESENTATIONS

4.1 Title and value of security

(Other than as disclosed in the relevant Property Report) The Company makes the representations and warranties set out in this Clause 4 (*Representations*) to the Lender.

- 4.1.1 The Charged Property is not subject to any Security or restriction (other than the Permitted Security Interests).
- 4.1.2 There has been no breach of any law, regulation or covenant materially adversely affects or might materially adversely affect the value, saleability or use of the Charged Property.
- 4.1.3 There are no covenants, agreements, stipulations, reservations, conditions, interests, rights, restrictions, easements or other matters adversely affecting the Charged Property.

- 4.1.4 Nothing has arisen or has been created or is subsisting which would be an overriding interest, or an unregistered interest which overrides first registration or registered dispositions, over the Charged Property.
- 4.1.5 All facilities necessary for the peaceful enjoyment and use of the Charged Property (including those necessary for carrying on its or, if different, the current user's business at the Charged Property) are enjoyed by the Charged Property and none of those facilities are subject to terms which entitle any person to terminate or curtail its use or enjoyment, nor conflict with or restrict use of the Charged Property.
- 4.1.6 It has not received notice of any adverse claims by any person in respect of the ownership of its Charged Property or any interest in it, nor has it acknowledged any such claim.
- 4.1.7 There are no leases or licences affecting the Charged Property, other than as permitted under Clause 5.3 (*Occupational Leases*).
- 4.1.8 All deeds and documents necessary to show good and marketable title to the Charged Property (including all *Occupational Leases*) are (a) in the possession of the Lender, (b) held at the Land Registry, or (c) held to the order of the Lender by a firm of solicitors approved by the Lender for that purpose.

4.2 Valuation

- 4.2.1 All information supplied by it or on its behalf to the Valuer for the purposes of each Valuation was true and accurate as at the date it was given or (if appropriate) as at the date (if any) at which it is stated to be given.
- 4.2.2 Any financial projections contained in the information referred to in Clause 4.2.1 have been prepared, as at their date, on the basis of recent historical information and on the basis of reasonable assumptions.
- 4.2.3 It has not omitted to supply any information to the Valuer which, if disclosed, would adversely affect a Valuation.
- 4.2.4 Nothing has occurred since the date the information referred to in Clause 4.2.1 was supplied which, if it had occurred prior to the date of the relevant Valuation, would have adversely affected such Valuation.

4.3 Property Reports

- 4.3.1 The information supplied by it or on its behalf to the lawyers who prepared any Property Report for the purpose of that Property Report was true and accurate as at the date of the Property Report or (if appropriate) as at the date (if any) at which it is stated to be given.
- 4.3.2 The information referred to in Clause 4.3.1 was, at the date it was expressed to be given, complete and did not omit any information which, if disclosed, would make that information untrue or misleading in any material respect.
- 4.3.3 Nothing has occurred since the date of any information referred to in Clause 4.3.1 which, if disclosed, would make that information untrue or misleading in any material respect.

4.4 Repetition

Each of the representations given in this Clause 4 (*Representations*) are deemed to be made by the Company by reference to the facts and circumstances then existing, on the date of delivery of this Deed, on the date of each Utilisation Request, on each Utilisation Date and on the first day of each Interest Period, unless otherwise specified in this Clause 4 (*Representations*).

5. PROPERTY UNDERTAKINGS

5.1 Registration

- 5.1.1 The Company shall ensure that a restriction in the following terms is entered on the register of the title of any of its Charged Property 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] in favour of [LENDER] referred to in the charges register, or its conveyancer."

together with, where applicable, notice of any obligation on the Lender to make further advances under the terms of the Finance Documents. The Company shall pay, when due and payable, all fees, costs and expenses incurred in connection with such applications.

- 5.1.2 The Company shall promptly take all such steps as may be necessary or desirable to enable the Security created by this Deed to be registered, where appropriate, at the Land Registry.
- 5.1.3 If the title to the Charged Property is not registered at the Land Registry, the Company shall ensure that no person (other than itself) will be registered under the Land Registration Act 2002 as the proprietor of all or any part of the Charged Property, without the prior written consent of the Lender.
- 5.1.4 Whether or not title to the Charged Property is registered at the Land Registry, if any caution against first registration or any notice (whether agreed or unilateral) is registered against the Company's title to the Charged Property, the Company shall immediately provide the Lender with full particulars of the circumstances relating to such caution or notice, and if such caution or notice was registered to protect a purported interest the creation of which is not permitted under this Deed, the Company shall immediately, and at its own expense, take such steps as the Lender requires to ensure that the caution or notice, as applicable, is withdrawn or cancelled.

5.2 Title

- 5.2.1 The Company must exercise its rights and comply in all respects with any covenant, stipulation or obligation (restrictive or otherwise) at any time affecting the Charged Property.
- 5.2.2 The Company may not agree to any amendment, supplement, waiver, surrender or release of any covenant, stipulation or obligation (restrictive or otherwise) at any time affecting the Charged Property.

5.3 Occupational Leases

- 5.3.1 The Company may not, without the prior written consent of the Lender:
- 5.3.1.1 enter into any Agreement for Lease;
 - 5.3.1.2 other than under an Agreement for Lease, grant or agree to grant any new Occupational Lease;
 - 5.3.1.3 in respect of any Lease Document, agree to any amendment, supplement, extension, waiver, surrender or release, nor exercise any right to break, determine or extend, or commence any forfeiture proceedings;

- 5.3.1.4 grant any licence or right to use or occupy any part of the Charged Property nor consent to any sublease or assignment of any tenant's interest under any Lease Document;
- 5.3.1.5 agree to any change of use under, or (except where required to do so under the terms of the relevant Lease Document) rent review in respect of, any Lease Document nor serve any notice on any former tenant under any Lease Document (or on any guarantor of that former tenant) which would entitle it to a new lease or tenancy; or
- 5.3.1.6 grant or agree to grant any Lease Document without including in the alienation covenant a provision for the proposed assignor on any assignment to guarantee the obligations of the proposed assignee until that assignee is released as tenant under the terms of the Landlord and Tenant (Covenants) Act 1995.
- 5.3.2 The Company must exercise its rights and comply with its obligations under each Lease Document and use its reasonable endeavours to ensure that each tenant complies with its obligations under each Lease Document, in each case, in a proper and timely manner.
- 5.3.3 The Company must supply to the Lender each Lease Document, each amendment, supplement or extension to a Lease Document and each document recording any rent review in respect of a Lease Document promptly upon entering into the same.

5.4 Maintenance

The Company must ensure that all buildings, plant, machinery, fixtures and fittings on the Charged Property are in, and maintained in, good and substantial repair and condition and, as appropriate, in good working order, and such repair, condition and order as to enable them to be let in accordance with all applicable laws and regulations. For this purpose, a law or regulation will be regarded as applicable if it is either in force or it is expected to come into force and a prudent property owner in the same business as the Company would ensure that its buildings, plant, machinery, fixtures and fittings were in such condition, repair and order in anticipation of that law or regulation coming into force.

5.5 Development

- 5.5.1 The Company may not, without the prior written consent of the Lender:
 - 5.5.1.1 make or allow to be made any application for planning permission in respect of any part of the Charged Property; or
 - 5.5.1.2 carry out, or allow to be carried out, any demolition, construction, structural alterations or additions, development or other similar operations in respect of any part of the Charged Property,

provided that this provision will not apply to the maintenance of the buildings, plant, machinery, fixtures and fittings or the carrying out of non-structural improvements or alterations which affect only the interior of any building on the Charged Property.
- 5.5.2 The Company must comply in all respects with all planning laws, permissions, agreements and conditions to which the Charged Property may be subject.

5.6 Managing Agent

The Company may not appoint any managing agent in respect of any part of the Charged Property.

5.7 Insurance

- 5.7.1 The Company must ensure that, at all times, there are maintained in full force and effect Insurances which provide cover:
- 5.7.1.1 for full replacement value (being the total cost of entirely rebuilding, reinstating or replacing the relevant asset if it is completely destroyed, together with all related fees and demolition costs);
 - 5.7.1.2 against loss or damage by fire, storm, tempest, flood, earthquake, lightning, explosion, impact, aircraft and other aerial devices and articles dropped from them, riot, civil commotion and malicious damage, bursting or overflowing of water tanks, apparatus or pipes and all other normally insurable risks of loss or damage; and
 - 5.7.1.3 for site clearance, shoring or propping up, professional fees and value added tax together with adequate allowance for inflation.
- 5.7.2 ~~The Company must procure that it is free to assign all amounts payable to it under each of its Insurances and all its rights in connection with those amounts in favour of the Lender.~~
- 5.7.3 The Company must use all reasonable endeavours to ensure that the Lender receives copies of the Insurances and any information in connection with such Insurance and claims under them, in each case which the Lender may reasonably require.
- 5.7.4 The Company must promptly notify the Lender of:
- 5.7.4.1 any termination, avoidance or cancellation of any of the Insurances or which, to its knowledge, is threatened or pending;
 - 5.7.4.2 any claim, and any actual or threatened refusal of any claim relating to the Charged Property, under any of the Insurances; and
 - 5.7.4.3 any event or circumstance which has led or may lead to a breach by it of any term of this Clause.
- 5.7.5 The Company must:
- 5.7.5.1 comply with the terms of the Insurances;
 - 5.7.5.2 not do or permit anything to be done which may make void or voidable any of the Insurances; and
 - 5.7.5.3 not without the prior consent of the Lender terminate, rescind or cancel any of the Insurances.
- 5.7.6 The Company must ensure that each premium for the Insurances is paid promptly and in any event prior to the commencement of the period of insurance for which that premium is payable, and that all other things necessary are done so as to keep each of the Insurances in force.
- 5.7.7 If the Company fails to comply with any term of this Clause 5.7 (*Insurance*), then the Lender may, at the expense of the Company, effect any insurance and generally do such things and take such other action as the Lender may reasonably consider necessary or desirable to prevent or remedy any breach of this Clause 5.7 (*Insurance*).

Comment [A1]: The property is not insured against acts of terrorism.

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5.8 Environmental Indemnity

The Company indemnifies the Lender against any loss or liability which that Lender incurs as a result of any actual or alleged breach of any Environmental Law or Environmental Licence by any person and which would not have arisen if a Finance Document had not been entered into, unless it is caused by that Lender's gross negligence or wilful misconduct.

6. GENERAL UNDERTAKINGS

6.1 Negative pledge and restriction on dealing

The Company may not (and may not agree to):

- 6.1.1 create or permit to subsist any Security over; nor
- 6.1.2 sell, assign, factor, discount, transfer, lease, release, terminate or otherwise dispose of any of; nor
- 6.1.3 permit any variation, waiver or termination of the rights attaching to the whole or any part of;

the Charged Property.

6.2 Notice of charge or assignment

- 6.2.1 The Company shall serve notice of each charge or assignment of its rights under each of its Insurances by sending a notice substantially in such form of Schedule 2 (*Form of notice relating to Insurances*) to the relevant insurer, on the date of this Deed (for any Insurances existing on the date of this Deed) and on the date of entry into any other Insurances (in the case of any Insurances entered into after the date of this Deed).
- 6.2.2 The Company shall use all reasonable endeavours procure that any notice served by it under Clause 6.2.1 is acknowledged by the recipient in the form attached to such notice.

6.3 Charged Property

The Company shall, promptly upon request by the Lender at any time:

- 6.3.1 deposit with the Lender all documents of title or other evidence of ownership, together with such deeds, certificates and documents as the Lender may require, relating to the Charged Property;
- 6.3.2 affix to and maintain on such of its plant, machinery, fixtures, fittings or other equipment as the Lender may require a clearly legible identification plate stating that the asset has been charged to the Lender, in a form acceptable to the Lender; and
- 6.3.3 provide the Lender with all information it may reasonably request in relation to the Charged Property.

6.4 Further assurance

The Company shall promptly take all such actions, including executing all such documents, notices and instructions in such form as the Lender may reasonably require:

- 6.4.1 to create, perfect, protect and (if necessary) maintain the Security created or intended to be created over any of its assets under this Deed or for the exercise of any rights, powers and remedies of the Lender provided by or under this Deed or by law or regulation; and

6.4.2 to facilitate the realisation of the assets which are, or are intended to be, the subject of Security created by this Deed.

6.5 Power to remedy

If the Company fails to comply with any of its obligations under this Deed, the Lender (or its nominee) may (at the Company's expense) take such action as is necessary to protect any assets against the consequences of the Company's non-compliance and to ensure compliance with such obligations. The Lender is not obliged to perform any obligation of the Company or to take any action which it may be entitled to take under this Deed.

6.6 Power of attorney

6.6.1 As security for the performance of its obligations under this Deed, the Company irrevocably and severally appoints the Lender, each Receiver and each Delegate to be its attorney, with full power of substitution.

6.6.2 The attorney may, in the Company's name and at its expense, do anything which the Company is obliged to but has failed to do or which the Lender, Receiver or Delegate may in their absolute discretion consider appropriate in connection with the exercise of any of their rights, powers, authorities or discretions in relation to the Charged Property or under or otherwise for the purposes of any Finance Document or any law or regulation.

6.6.3 The Company ratifies and confirms anything done by any attorney under this Clause 6.6. The Company agrees to indemnify the attorney against all actions, claims, demands and proceedings taken or made against it and all costs, damages, expenses, liabilities and losses incurred by the attorney as a result of or in connection with anything lawfully done by it under or in connection with this power of attorney.

7. RIGHTS OF ENFORCEMENT

7.1 Secured Obligations deemed payable

For the purposes of all rights and powers implied by statute, the Secured Obligations are due and payable on the date of this Deed.

7.2 When Security enforceable

The Security created by this Deed is enforceable at any time while an Event of Default is continuing.

7.3 Enforcement powers

At any time (a) when the Security created by this Deed is enforceable or (b) following a request by the Company, the Lender may, without further notice:

7.3.1 sell, appropriate, realise or transfer, including to itself or to any person, all or any part of the Charged Property;

7.3.2 appoint one or more persons to be a Receiver of all or any part of the Charged Property;

7.3.3 exercise any of the powers conferred on mortgagees, administrators or receivers, under the LPA, the Insolvency Act, any other legislation or regulation or under this Deed;

7.3.4 exercise any of the powers, authorities and discretions conferred on mortgagees, administrators or receivers, under the LPA, the Insolvency Act, any other legislation or regulation or under this Deed; and

- 7.3.5 take such further action as it sees fit to enforce all or any part of the Security created by Deed.

7.4 Rights in relation to a Receiver

The Lender may remove any Receiver appointed under this Deed, appoint another person as Receiver or appoint additional Receivers. Each Receiver will be the agent of the Company who alone will be responsible for the acts and defaults of the Receiver and for any liabilities incurred by the Receiver. The Lender may fix the remuneration of a Receiver which will be payable by the Company and form part of the Secured Obligations.

7.5 Redemption of prior Security

Where there is any Security created over any of the Charged Property which ranks in priority to the Security created by this Deed and:

- 7.5.1 the Security created by this Deed becomes enforceable; and

- 7.5.2 the holder of such other Security takes any steps to enforce that security,

the Lender or any Receiver may, at its sole discretion and at the cost and expense of the Company, redeem, take a transfer of and repay the indebtedness secured by such other Security. All amounts paid by the Lender or a Receiver under this Clause will form part of the Secured Obligations.

7.6 Demands

Any demand for payment made by the Lender shall be valid and effective even if it contains no statement of the relevant Secured Obligations or an inaccurate or incomplete statement of them.

8. POWERS OF A RECEIVER

8.1 General powers

Any Receiver will have:

- 8.1.1 the rights, powers, privileges and immunities conferred on receivers, receivers and managers and mortgagees in possession under the LPA;
- 8.1.2 the rights, powers, privileges and immunities conferred on administrative receivers (whether or not the Receiver is an administrative receiver) under the Insolvency Act; and
- 8.1.3 all other rights, powers, privileges and immunities conferred by law or regulation on receivers, receivers and managers, mortgagees in possession and administrative receivers.

8.2 Specific powers

The rights, powers and remedies provided in this Deed are in addition to any rights powers and remedies under law or regulation. Any Receiver will have the following additional powers:

- 8.2.1 the power to do or omit to do anything which the Company could do or omit to do in relation to the Charged Property which is the subject of the appointment;
- 8.2.2 the power to do all other acts and things which the Receiver may consider desirable or necessary for realising any of the Charged Property or incidental or conducive to any of the rights, powers and discretions conferred on a Receiver under this Deed or by law or regulation; and

8.2.3 the power to use the Company's name for all the above purposes.

8.3 **Variation of statutory powers**

The following statutory provisions do not apply to this Deed or any Security created by this Deed:

- 8.3.1 the restriction on the consolidation of mortgages in section 93 LPA;
- 8.3.2 the restrictions on the power to grant or accept the surrender of leases in sections 99 and 100 LPA;
- 8.3.3 the conditions to the exercise of a power of sale in section 103 LPA;
- 8.3.4 the restrictions on the application of proceeds by a mortgagee or receiver in sections 105, 107(2) and 109(8) LPA; and
- 8.3.5 the restrictions on the appointment of a receiver in section 109(1) LPA and the provisions regarding a receiver's remuneration in section 109(6) LPA.

9. **APPLICATION OF PROCEEDS**

9.1 **Order of priority**

All amounts received by the Lender or a Receiver in connection with the enforcement of the Security created under this Deed will be applied, to the extent permitted by applicable law, in the following order of priority:

- 9.1.1 in discharging any costs and expenses incurred by the Lender, any Receiver or any Delegate under or in connection with this Deed or any Finance Document;
- 9.1.2 in or towards discharging the Secured Obligations; and
- 9.1.3 in payment of the surplus (if any) to the Company or other person entitled to it.

9.2 **Suspense account**

The Lender may credit any monies at any time received or realised under this Deed to an interest-bearing suspense account, for so long and on such terms as the Lender may determine pending their application towards discharging the Secured Obligations.

9.3 **New accounts**

If the Lender receives or is deemed to have received notice of subsequent Security over the Charged Property, then the Lender may open a new account with the Company. If the Lender does not open a new account, it will be treated as having done so at the time when such notice was received and as from that time all payments made by or on behalf of the Company to the Lender will be credited or be treated as having been credited to the relevant new account and not as having been applied in discharge of the Secured Obligations.

9.4 **Release of Charged Property**

If the Lender is satisfied that all the Secured Obligations have, subject to Clauses 12.1 (*Reinstatement*) and 12.2 (*Avoidable payments*), been unconditionally and irrevocably paid and discharged in full and all facilities which might give rise to Secured Obligations terminated, the Lender will, at the request and cost of the Company, execute such documents and take such steps as may be necessary to release the Charged Property from the Security created by this Deed.

10. PROTECTION OF THIRD PARTIES

No buyer from, or other person dealing with the Lender or a Receiver will be concerned to enquire whether:

- 10.1.1 any money remains due;
 - 10.1.2 any power which the Lender or Receiver is purporting to exercise has arisen or become exercisable; or
 - 10.1.3 the Lender or any Receiver is validly appointed and acting within its powers in accordance with this Deed.
- 10.2 The receipt of the Lender, any Receiver or any Delegate will be an absolute and conclusive discharge to a purchaser of any of the Charged Property who will have no obligation to enquire how any monies are applied.

11. PROTECTION OF LENDER

11.1 No liability as mortgagee in possession

Neither the Lender nor any Receiver will be liable to account to the Company as mortgagee in possession by reason of entering into possession of any of the Charged Property, or for any cost, loss or liability on realisation, nor for any default or omission for which a mortgagee in possession might be liable.

11.2 Tacking

The Security created by this Deed is intended to secure any further advances which the Lender is obliged to make.

11.3 Lender discretion

The Lender is entitled to exercise its rights, powers and discretions under this Deed in accordance with the terms of the Facility Agreement and the Company has no right to control or restrict the Lender's exercise of any of its rights, powers or discretions under this Deed.

12. SAVINGS PROVISIONS

12.1 Reinstatement

If, at any time, there has been a release, settlement or discharge of any of the Company's obligations under this Deed and, as a consequence of any insolvency (or analogous) proceedings or for any other reason:

- 12.1.1 any payment made to any person in respect of any of the Secured Obligations is required to be repaid; and
- 12.1.2 any Security (or other right) held by the Lender in respect of any of the Secured Obligations (whether under this Deed or otherwise) is declared void, is set aside or is otherwise affected,

then the Company's obligations under this Deed will continue in effect as if there had been no such release, settlement or discharge and as if the relevant payment had not been made and (as applicable) the relevant obligation or Security (or other right) had not been so affected; and accordingly (but without limiting the Lender's other rights under this Deed) the Lender will be entitled to recover from the Company the value which the Lender has placed upon such Security (or other right) or the amount of any such payment as if such release, settlement or discharge had not occurred.

12.2 Avoidable payments

If the Lender, acting reasonably, considers that any amount paid by the Company in respect of the Secured Obligations is capable of being avoided, set aside or ordered to be refunded or reduced for any reason, then for the purposes of this Deed such amount will not be considered to have been irrevocably paid.

13. CHANGES TO THE PARTIES

13.1 No assignment by the Company

The Company may not assign any of its rights or transfer any of its rights or obligations under this Deed.

13.2 Assignment by Lender

The Lender may assign any of its rights or transfer any of its rights or obligations under this Deed in accordance with the terms of the Facility Agreement.

14. COUNTERPARTS

This Deed may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of the Deed.

15. GOVERNING LAW

This Deed and any non-contractual obligations arising out of or in connection with it are governed by the law of England and Wales.

16. JURISDICTION

16.1 The courts of England and Wales have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute regarding the existence, validity or termination of this Deed) and any non-contractual obligations arising out of or in connection with it (a "**Dispute**").

16.2 The parties to this Deed agree that the courts of England and Wales are the most appropriate and convenient courts to settle any Dispute and accordingly no party to this Deed will argue to the contrary.

This Deed is executed as a deed and delivered on the date stated at the beginning of this Deed.

SCHEDULE 1

Details of Charged Property

Part 1 - Details of Mortgaged Property

Registered Land		
Address/description of the property	Title Number	Freehold/Leasehold
Courtney House, Unit 7 Pacific Park North, Pacific Road, Cardiff CF24 5HL (now known as Dragon Brewery, Pacific Road, Cardiff, United Kingdom, CF24 5HJ)	CYM264715	Freehold

Part 2 - Insurances

Brief description of policy, including policy number	Date of policy	Insurance Company/broker (include addresses for service of notices)
Royal & Sun Alliance Insurance Plc - UMR - 16927C18	05/06/18	Willis Towers Watson 6 th Floor 5 Callaghan Square Cardiff CF10 5BT F.A.O. Annabelle Cervera Annabelle.Cervera@willistowerswatson.com

SCHEDULE 2

Notices

Form of notice relating to Insurances

To: [NAME AND ADDRESS OF INSURANCE COMPANY / UNDERWRITER]

Dated: [DATE]

Dear Sirs,

Notice of Security

1. We refer to [SPECIFY POLICY], policy number [NUMBER] between us and you (the "Policy").
1. We give you notice that, under a mortgage dated [DATE], we have assigned to Lloyds Bank PLC (the "**Lender**") all of our present and future rights, title and interest in, under and to the Policy in so far as it relates to Courtney House, Unit 7 Pacific Park North, Pacific Road, Cardiff CF24 5HL (now known as Dragon Brewery, Pacific Road, Cardiff, United Kingdom, CF24 5HL) ("the Charged Property") and all proceeds and claims arising from the Policy relating to the Charged Property. The terms of this letter apply only to the Policy in so far as it relates to the Charged Property.
2. We may not agree to terminate the Policy without the prior written consent of the Lender.
3. Until you receive written notice to the contrary from the Lender, you may continue to deal with us in relation to the Policy. After you receive such notice, we will cease to have any right to deal with you in relation to the Policy and you must deal directly with or upon the written instructions of the Lender.
4. With effect from the date of this notice, we irrevocably and unconditionally authorise and instruct you:
 - 4.1 to disclose such information relating to the Policy and to give such acknowledgements and undertakings relating to the Policy as the Lender may from time to time request; to make all payments under or in connection with the Policy as directed by the Lender;
 - 4.2 to give at least 30 days' notice to the Lender if you propose to:
 - 4.2.1 repudiate, rescind or cancel the Policy;
 - 4.2.2 treat the Policy as avoided in whole or in part;
 - 4.2.3 treat the Policy as expired due to non-payment of premium (and in such notice you must give the Lender the opportunity to rectify any such non-payment of premium within the notice period); or
 - 4.2.4 otherwise decline any claim under the Policy by or on behalf of any insured party.
5. This notice and the authority and instructions it contains may only be revoked or amended with the written consent of the Lender.
6. This notice and any non-contractual obligations arising out of or in connection with it are governed by the law of England and Wales.
7. Please confirm your agreement to the above by signing the enclosed copy of this notice and returning it to the Lender (with a copy to us).

Yours faithfully,

For and on behalf of S.A. Brain & Company, Limited

[To be included on copy notice:]

To: [NAME, ADDRESS AND DEPARTMENT OF LENDER]

Copy to: [NAME AND ADDRESS OF COMPANY]

Dated: [DATE]

Dear Sirs

Acknowledgement of notice of security

We acknowledge receipt of the above notice. Terms defined in the notice apply to this acknowledgement. We confirm that we:

1. have not received notice of any previous assignment of or charge over the Policy and will promptly notify you if we receive any such notice in the future;
2. will comply with the terms of the notice; and
3. will not claim or exercise any right of set-off, counterclaim or other similar right in relation to amounts payable in connection with the Policy in so far as it relates to the Charged Property.

Yours faithfully,

For and on behalf of
[INSURANCE COMPANY / UNDERWRITER]

EXECUTION

The Company

Executed as a deed by
S.A. BRAIN & COMPANY LIMITED,
acting by one director in the presence of:

)
)
)

.....
Director

Name:

Witness signature:

Witness name:

Witness address:

The Lender

Executed as a deed by **ANDREW HART**, as
attorney for **LLOYDS BANK PLC**,
in the presence of:

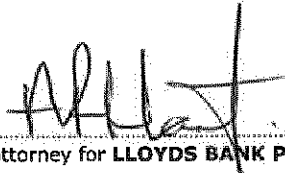

)
)
)

.....
as attorney for **LLOYDS BANK PLC**

Witness signature:

Witness name:

Witness address:


.....

TOM BLACKMORE
CANONS HOUSE
CANONS WAY
BRISTOL
BS1 5LL