



Registration of a Charge

Company name: **LOMONDO LIMITED**

Company number: **02793825**



X5BIK1C2

Received for Electronic Filing: **18/07/2016**

Details of Charge

Date of creation: **14/07/2016**

Charge code: **0279 3825 0010**

Persons entitled: **LLOYDS BANK PLC AS SECURITY TRUSTEE**

Brief description:

Contains fixed charge(s).

Contains negative pledge.

Authentication of Form

This form was authorised by: **a person with an interest in the registration of the charge.**

Authentication of Instrument

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

Certified by: **NATASHA HEALD, CMS CAMERON MCKENNA LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 2793825

Charge code: 0279 3825 0010

The Registrar of Companies for England and Wales hereby certifies that a charge dated 14th July 2016 and created by LOMONDO LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 18th July 2016 .

Given at Companies House, Cardiff on 19th July 2016

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



Companies House



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES

DATE: 14 July 2016

DEED OF GUARANTEE AND SECURITY

Between

LOMONDO LIMITED

(as Chargor)

and

LLOYDS BANK PLC

(as Security Trustee for the Finance Parties)

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THIS DEED is made on the 14 day of July 2016

BETWEEN:

- (1) **LOMONDO LIMITED**, registered in England and Wales with company number 02793825, whose registered office is situate at Hotel Melia, The White House, Albany Street, Regents Park, London, NW1 3UP (the "**Chargor**"); and
- (2) **LLOYDS BANK PLC** of 25 Gresham Street, London, EC2V 7HN as security trustee for the Finance Parties (as defined below) (the "**Security Trustee**").

WHEREAS:

- (A) The Chargor enters into this Deed in connection with the obligations and liabilities of the Opco to the Finance Parties under the Finance Documents.
- (B) The Board of Directors of the Chargor is satisfied that the giving of the guarantee and security contained or provided for in this Deed is in the interests of the Chargor and has passed a resolution to that effect.
- (C) The shareholders of the Chargor are satisfied that the giving of the guarantee and security contained or provided for in this Deed is in the interests of the Chargor and have passed a resolution to that effect.

NOW IT IS AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

Definitions

- 1.1 Terms defined in the Facility Agreement, unless otherwise defined in this Deed, have the same meanings when used in this Deed and in addition in this Deed:

"Account":

- (a) each Existing Barclays Account;
- (b) the interest bearing current account in the name of the Chargor held with Lloyds Bank plc with reference "Lomondo Ltd", sort code 30-65-41 and account number 35969568;
- (c) any other bank account with the Security Trustee or any other bank or financial institution other than the Excluded Barclays Rental Guarantee Account; and/or

in each case, any account from time to time substituted for or additional to the same (including in each case such account as redesignated and/or renumbered from time to time).

"Auditors": means PricewaterhouseCoopers or any other firm approved in advance by the Security Trustee (such approval not to be unreasonably withheld or delayed).

"Charged Property": means all the assets of the Chargor which from time to time are the subject of any security created or expressed to be created in favour of the Security Trustee by or pursuant to this Deed.

"Debt Proceeds": means any proceeds of any book debts and other debts or monetary claims (including any chose in action which may give rise to a monetary claim) owing to the Chargor (including, without limitation, any sums of money received by the Chargor from any of the assets charged under clause 3.1.2 (*Book debts*) and/or clause 3.1.1 (*Bank accounts and deposits*)).

“Delegate”: means any person appointed by the Security Trustee or any Receiver pursuant to clauses 12.2 to 12.4 (*Delegation*) and any person appointed as attorney of the Security Trustee and/or any Receiver or Delegate.

“Existing Barclays Accounts”: means the following bank accounts in the name of the Chargor held with Barclays Bank PLC:

- (a) the account with reference “Lomondo Limited T/A White House”, sort code 206759 and account number 10948632;
- (b) account with reference “Lomondo Limited T/A Ininside Manchester”, sort code 206759 and account number 73780732; and
- (c) account with reference “Lomondo Limited (EUR)”, sort code 206759 and account number 67903777.

“Existing Accounts Period”: means the period commencing on the date of this Deed and ending on 31 July 2016.

“Excluded Barclays Rental Guarantee Account”: means the guarantee deposit bank account in the name of the Chargor held with Barclays Bank PLC with sort code 203532 and account number 80179051.

“Expenses”: means all costs (including legal fees), charges, expenses and damages sustained or incurred by the Security Trustee or any Receiver or Delegate at any time in connection with the Charged Property or the Secured Liabilities or in taking, holding or perfecting this Deed or in protecting, preserving, defending or enforcing the security constituted by this Deed or in exercising any rights, powers or remedies provided by or pursuant to this Deed (including any right or power to make payments on behalf of the Chargor under the terms of this Deed) or by law in each case on a full indemnity basis.

“Facility Agreement”: means a term facility agreement dated 22 May 2013 and as amended and restated on or about the date of this Deed entered into by, among others, the Opco as guarantor thereunder and Lloyds Bank plc as original lender.

“Land”: has the same meaning as it has in section 205(1) of the LPA.

“Liability Period”: means the period beginning on the date of this Deed and ending on the date on which the Security Trustee is satisfied, acting in good faith, that all the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full.

“LPA”: means the Law of Property Act 1925.

“Melia White House Budget”: means in each Financial Year, budget estimates on a monthly basis of Melia White House Revenue, Melia Whitehouse Total Overheads, Capital Expenditure in respect of the Melia White House Hotel, Melia White House Trading Profits and EBITDA in respect of the Melia White House Hotel and the Melia White House Property for that Financial Year including in respect of, but without limitation, contingencies for:

- (a) repairs and maintenance;
- (b) expenditure for Melia White House FF&E and Melia White House Operating Assets; and
- (c) other operating expenditure;

together also with:

- (i) the Melia White House Essential Capex Plan;
- (ii) if required and to the extent not covered by the Melia White House Essential Capex Plan, capital expenditure for renovations, replacements and improvements to the land, buildings and other structures for that Financial Year and the amounts to be agreed for that purpose;
- (iii) a projected balance sheet;
- (iv) a projected profit and loss account; and
- (v) projected occupancy levels and average room rates to be achieved.

“Melia White House Essential Capex”: means the essential refurbishment works relating to the Melia White House Hotel and the Melia White House Property as set out in the Melia White House Essential Capex Plan for each Financial Year.

“Melia White House Essential Capex Plan”: means a plan for the carrying out of and expenditure on Melia White House Essential Capex in each Financial Year and set out in the Melia White House Budget for such Financial Year.

“Melia White House FF&E”: means plant, machinery, fixtures, fittings, furniture, furnishings, computers and equipment including all equipment required for the operation of kitchens, bars, restaurants, laundries, recreation facilities, office equipment including any telephone system, material handling equipment and cleaning, electrical and engineering equipment used in the operation of the Melia White House Hotel.

“Melia White House Hotel”: means the hotel currently known as the “Melia White House Hotel” situated on the Melia White House Property.

“Melia White House Hotel Management Agreement”: means a hotel management agreement dated 25 February 2000 and made between (1) Melia Hotels International S.A. and (2) the Chargor in respect of the Melia White House Hotel.

“Melia White House Operating Assets”: means all uniforms, tools, kitchen utensils, china, glassware, linens, silverware and other similar items used or intended for use in connection with the operation of the Melia White House Hotel.

“Melia White House Revenue”: means all revenues and income received by the Chargor of any kind derived directly or indirectly from the operation of the Melia Whitehouse Hotel, but not limited to, total room sales, food and beverage sales and other charges, rentals, laundry sales, telephone, internet, telex and fax charges and all other revenues (including payments under the Melia White House Hotel Management Agreement), whether on a cash basis or on credit, paid or unpaid, collected or uncollected, excluding however:

- (a) excise, sales, use or admission taxes or similar taxes or impositions collected directly from patrons or guests or included as part of the sale price of any goods or services (including, but without limitation, value added tax);
- (b) insurance proceeds; and
- (c) tips or gratuities to employees.

“Melia White House Property”: the Land of the Melia White House Hotel, Albany Street, Regents Park, London, NW1 3UP with registered title number LN203082, together with all buildings and erections situated on or forming part of such land.

“Melia White House Total Overheads”: means, in respect of the Melia White House Hotel, the following in so far as they relate to (or are apportioned to on a just and fair basis) the operation of the Melia White House Hotel (as applicable):

- (a) the cost of salaries, wages, uniforms and other costs relating to the employment of staff;
- (b) the cost of training staff;
- (c) costs of goods sold, including food, beverages, guest expenses, travel agents and other commissions and all credit card charges, consumable materials and other expenses of a like nature;
- (d) administrative and general expenses, including crockery, consumables, all laundering costs and cleaning materials;
- (e) advertising and sales promotion expenses;
- (f) rates and like property occupation expenses;
- (g) heat, light, water, power, telephone, telex and fax expenses;
- (h) repairs and maintenance expenses;
- (i) the cost of replacement of and additions to Melia White House Operating Assets;
- (j) insurance, legal and accounting costs;
- (k) travel and motor expenses;
- (l) all other expenses and liabilities incurred in respect of the operation of the Melia White House Hotel;
- (m) proper provisions for bad and doubtful debts in such amounts as the Chargor in consultation with its Auditors may reasonably determine;
- (n) the cost of the marketing services, the selling services and the administration services;
- (o) audit costs;
- (p) the management fees or other costs payable in connection with the Hotel including in respect of Melia White House Hotel Management Agreement and/or any other hotel management or operator document in place from time to time,

BUT excluding:

- (q) Depreciation.

“Melia White House Trading Profits”: means in relation to any period, the excess of Melia White House Revenues from the operation of the Melia White House Hotel over the Total Overheads of the Melia White House Hotel.

“Opco”: means London XXI Limited, a company registered in England and Wales with company number 08303817, whose registered office is 336-337 The Strand, London WC2R 1HA.

“Original Chargor Financial Statements”: means the audited financial statements of the Chargor for the year ending 31 December 2014.

“Receiver”: means a receiver, receiver and manager or administrative receiver of the whole or any part or parts of the Charged Property.

“Secured Liabilities”: means all present and future indebtedness, moneys, obligations and liabilities of the Opco and the Chargor to the Finance Parties under the Finance Documents (including this Deed), in whatever currency denominated, whether actual or contingent and whether owed jointly or severally or as principal or as surety or in some other capacity, including any liability in respect of any further advances made under the Finance Documents, together with all Expenses and all interest under clause 2.3 (*Interest*).

Construction

1.2 Any reference in this Deed to:

1.2.1 the **“Security Trustee”**, the **“Chargor”**, the **“Opco”**, the **“Finance Parties”**, the **“Borrower”**, any **“Obligor”** or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees and, in the case of the Security Trustee, shall include any person for the time being appointed as additional security trustee pursuant to the Facility Agreement;

1.2.2 **“assets”** includes present and future properties, revenues and rights of every description;

1.2.3 **“indebtedness”** includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;

1.2.4 a **“person”** includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium or partnership (whether or not having separate legal personality);

1.2.5 a **“regulation”** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation; and

1.2.6 a provision of law is a reference to that provision as amended or re-enacted.

1.3 Clause and schedule headings are for ease of reference only.

1.4 Any reference in this Deed to a charge of any asset shall be construed so as to include:

1.4.1 the benefit of any covenants for title given or entered into by any predecessor in title of the Chargor in respect of that asset and all other rights, benefits, claims, contracts, warranties, remedies, security or indemnities in respect of that asset; and

1.4.2 the proceeds of sale of any part of that asset and any other moneys paid or payable in respect of or in connection with that asset.

1.5 Each term in the any Finance Document is, to the extent not set out in or otherwise incorporated into this Deed, deemed to be incorporated into this Deed insofar as is necessary to comply with section 2 of the Law of Property (Miscellaneous Provisions) Act 1989 but, except where stated otherwise, if there is any conflict between that incorporated term and any other term of this Deed that other term shall prevail.

1.6 Any reference in this Deed to any Finance Document or any other agreement or other document shall be construed as a reference to that Finance Document or that other agreement or document as the same may have been, or may from time to time be, restated, varied, amended,

supplemented, extended, substituted, novated or assigned, whether or not as a result of any of the same:

- 1.6.1 there is an increase or decrease in any facility made available under that Finance Document or other agreement or document or an increase or decrease in the period for which any facility is available or in which it is repayable;
 - 1.6.2 any additional, further or substituted facility to or for such facility is provided;
 - 1.6.3 any rate of interest, commission or fees or relevant purpose is changed;
 - 1.6.4 the identity of the parties is changed;
 - 1.6.5 the identity of the providers of any security is changed;
 - 1.6.6 there is an increased or additional liability on the part of any person; or
 - 1.6.7 a new agreement is effectively created or deemed to be created.
- 1.7 Any reference in this Deed to “**this Deed**” shall be deemed to be a reference to this Deed as a whole and not limited to the particular clause, schedule or provision in which the relevant reference appears and to this Deed as amended, novated, assigned, supplemented, extended, substituted or restated from time to time and any reference in this Deed to a “**clause**” or a “**schedule**” is, unless otherwise provided, a reference to a clause or a schedule of this Deed.
- 1.8 Unless the context otherwise requires, words denoting the singular number only shall include the plural and vice versa.
- 1.9 Where any provision of this Deed is stated to include one or more things, that shall be by way of example or for the avoidance of doubt only and shall not limit the generality of that provision.
- 1.10 It is intended that this document shall take effect as and be a deed of the Chargor notwithstanding the fact that the Security Trustee may not execute this document as a deed.
- 1.11 Any change in the constitution of the Security Trustee or its absorption of or amalgamation with any other person or the acquisition of all or part of its undertaking by any other person shall not in any way prejudice or affect its rights under this Deed.

Third Party Rights

- 1.12 Nothing in this Deed is intended to confer on any person any right to enforce or enjoy the benefit of any provision of this Deed which that person would not have had but for the Contracts (Rights of Third Parties) Act 1999.

2. COVENANT TO PAY AND GUARANTEE

Covenant to Pay

- 2.1 The Chargor covenants with the Security Trustee (as trustee for the Finance Parties) that it shall pay, perform and discharge the Secured Liabilities as and when the same fall due for payment, performance or discharge in accordance with the terms of the Finance Documents or, in the absence of any such express terms, on demand.

Guarantee and Indemnity

- 2.2 The Chargor irrevocably and unconditionally:
- 2.2.1 guarantees to the Security Trustee (as trustee for the Finance Parties) punctual payment, performance and discharge by the Opco of the Secured Liabilities;

- 2.2.2 undertakes with the Security Trustee (as trustee for the Finance Parties) that whenever the Opco does not pay any amount of the Secured Liabilities when due, the Chargor shall immediately on demand pay that amount or perform or discharge that obligation as if it was the principal obligor; and
- 2.2.3 agrees with the Security Trustee (whether for its own account or as trustee for the Finance Parties) or any of the other Finance Parties, that if, for any reason, any amount claimed by the Security Trustee (whether for its own account or as trustee for the Finance Parties) or any of the other Finance Parties under this clause 2.2 is not recoverable on the basis of a guarantee, it will be liable as a principal debtor and primary obligor to indemnify the Security Trustee on demand against any cost, loss or liability the Security Trustee (whether for its own account or as trustee of the Finance Parties) and/or any for the other Finance Parties incurs as a result of the Opco not paying any amount expressed to be payable in respect of the Secured Liabilities on the date when it is expressed to be due. The amount payable by the Chargor under this indemnity will not exceed the amount it would have had to pay under this clause 2.2 if the amount claimed had been recoverable on the basis of a guarantee.

Interest

- 2.3 The Chargor covenants with the Security Trustee to pay interest on any amounts due under clause 2.1 (*Covenant to Pay*) and/or clause 2.2 (*Guarantee and Indemnity*) from day to day until full discharge (whether before or after judgment, liquidation, winding-up or administration of the Chargor) at the rate and in the manner specified in clause 10.3 to 10.5 (*Default Interest*) of the Facility Agreement, **provided that**, in the case of any Expense, such interest shall accrue and be payable as from the date on which the relevant Expense arose without the necessity for any demand being made for payment.

3. FIXED SECURITY

Charges

- 3.1 The Chargor, as security for the payment, performance and discharge of all the Secured Liabilities, charges in favour of the Security Trustee (as trustee for the Finance Parties) by way of first fixed charge all of its right, title and interest in and to the following assets, both present and future:
- 3.1.1 each Account and all moneys in any currency from time to time deposited in or standing to the credit of any Account (including, without limitation, all monies in any currency representing the renewal or replacement of or for such deposits, any rent deposit given to secure liabilities in relation to land and any retention or similar sum arising out of a construction contract or any other contract (and, in each case, any cheque, bill, note, negotiable instrument or other document representing the same)), all interest from time to time accrued or accruing on all such monies, all or any moneys payable or repayable pursuant to such deposits in respect of each Account and in each case debts represented thereby; and
- 3.1.2 all Melia White House Revenue, book debts and all other debts or monetary claims (including all choses in action which may give rise to a debt or monetary claim), all proceeds thereof and, in each case, any cheque, bill, note, negotiable instrument or other document representing the same (other than any amounts owing to it by way of

rent, licence fee, service charge, dilapidations, ground rent and/or rent charge in respect of the Melia White House Property).

4. PERFECTION OF SECURITY

Notices of Charge

- 4.1 The Chargor shall, promptly upon the request of the Security Trustee from time to time, give or join the Security Trustee in giving:
- 4.1.1 a notice in the form set out in part I of schedule 1 (*Form of Notice of Charge – Accounts not with the Security Trustee*) or in such other form as the Security Trustee may reasonably require to each bank or financial institution (other than the Security Trustee) in respect of each account of the Chargor opened or maintained with it; and
- 4.1.2 in respect of any other asset which is charged pursuant to clause 3 (*Fixed Security*), a notice of charge in such form as the Security Trustee may reasonably require to the relevant obligor, debtor or other third party (as the case may be).
- 4.2 Each such notice shall be duly signed by or on behalf of the Chargor and it shall use all reasonable endeavours to procure that each of the persons on whom any such notice is served promptly provides to the Security Trustee a duly signed acknowledgement of that notice in the form set out in part II of schedule 1 or in such other form in any case as the Security Trustee may reasonably require.

Acknowledgement of Notice

- 4.3 The execution of this Deed by the Chargor and the Security Trustee shall constitute notice to the Security Trustee of the charge created by this Deed over any account opened or maintained by the Chargor with the Security Trustee.

5. FURTHER ASSURANCE

Further Assurance

- 5.1 The Chargor shall promptly do all such acts and execute all such documents (including assignments, transfers, charges, notices and instructions) as the Security Trustee or any Receiver may reasonably specify in writing (and in such form as the Security Trustee or any Receiver may reasonably require in favour of the Security Trustee or its nominee(s)) to:
- 5.1.1 perfect the security created or intended to be created in respect of the Charged Property (which may include the execution by the Chargor of a mortgage, charge, assignment or other Security over all or any of the assets forming part of, or which are intended to form part of, the Charged Property);
- 5.1.2 confer on the Security Trustee Security over any property and assets of the Chargor located in any jurisdiction equivalent or similar to the Charged Property and to the security intended to be conferred by or pursuant to this Deed;
- 5.1.3 facilitate the exercise of any rights, powers and remedies of the Security Trustee or any Receiver or Delegate provided by or pursuant to this Deed or by law; and/or
- 5.1.4 facilitate the realisation of the assets which form part of, or are intended to form part of, the Charged Property.

Necessary Action

- 5.2 The Chargor shall take all such action as is available to it (including making all filings and registrations) as may be necessary for the purpose of the creation, perfection, protection or maintenance of any security conferred or intended to be conferred on the Security Trustee by or pursuant to this Deed.

Implied Covenants for Title

- 5.3 Each of the charges granted by the Chargor under this Deed are granted with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994.

6. REPRESENTATIONS

General

- 6.1 The Chargor makes the representations and warranties set out in this clause 6 to the Security Trustee on the date of this Deed.

Status

- 6.2 It is a limited liability corporation, duly incorporated and validly existing under the law of its jurisdiction of incorporation and it has the power to own its assets and carry on its business as it is being conducted.

Binding Obligations

- 6.3 The obligations expressed to be assumed by it in this Deed are legal, valid, binding and enforceable obligations and (without limiting the generality of the foregoing) this Deed creates the security which it purports to create and that security is valid and effective.

Power and Authority

- 6.4 It has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, this Deed and the transactions contemplated by this Deed.
- 6.5 No limit on its powers will be exceeded as a result of the grant of security contemplated by this Deed.

Non-conflict with Other Obligations

- 6.6 The entry into and performance by it of, and the transactions contemplated by, this Deed and the granting of the security under this Deed do not and will not conflict with:

- 6.6.1 any law or regulation applicable to it;
 - 6.6.2 its constitutional documents; or
 - 6.6.3 any agreement or instrument binding upon it or any of its assets or constitute a default or termination event (however described) under any such agreement or instrument,
- nor (except as provided in this Deed) result in the existence or imposition of, or oblige it to create, any Security in favour of any person over all or any of its assets.

Insolvency and Centre of Main Interests and Establishments

- 6.7 No corporate action, legal proceeding or other procedure or step in relation to:

- 6.7.1 the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise);
 - 6.7.2 a composition, compromise, assignment or arrangement with any creditor; or
 - 6.7.3 the appointment of a liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer,
- (or any analogous procedure or step in any jurisdiction) has been taken or, to its knowledge, threatened in relation to it or any of its assets.
- 6.8 No expropriation, attachment, sequestration, distress or execution (or any analogous process in any jurisdiction) affecting any of its assets has been taken or, to its knowledge, threatened in relation to it.
 - 6.9 It is not unable and has not admitted its inability to pay its debts as they fall due (and has not been deemed to or declared to be unable to pay its debts under applicable law) and it has not suspended or threatened to suspend making payments on any of its debts or, by reason of actual or anticipated financial difficulties, commenced negotiations with one or more of its creditors with a view to rescheduling any of its indebtedness and the value of its assets is not less than its liabilities (taking into account contingent and prospective liabilities).
 - 6.10 For the purposes of The Council of the European Union Regulation No. 1346/2000 on Insolvency Proceedings (the “**Regulation**”), its centre of main interest (as that term is used in Article 3(1) of the Regulation) is situated in its jurisdiction of incorporation and it has no “**establishment**” (as that term is used in Article 2(h) of the Regulation) in any other jurisdiction.

Validity and Admissibility in Evidence

- 6.11 All Authorisations required or desirable to:
 - 6.11.1 enable it lawfully to enter into, exercise its rights and comply with its obligations in this Deed;
 - 6.11.2 make this Deed admissible in evidence in its jurisdiction of incorporation; and
 - 6.11.3 enable it to create any security expressed to be created by it by or pursuant to, or, as the case may be, any security expressed to have been created by it and to be evidenced in, this Deed and to ensure that such security has the priority and ranking it is expressed to have,

have been obtained or effected and are in full force and effect, except for any registrations and filings referred to in clause 6.15 below.

Governing Law and Enforcement

- 6.12 The choice of English law as the governing law of this Deed will be recognised and enforced in its jurisdiction of incorporation.
- 6.13 Any judgment obtained in the courts of England in relation to this Deed (or, in the case that this Deed confers jurisdiction to settle disputes on any other courts, any judgment obtained in those other courts) will be recognised and enforced in its jurisdiction of incorporation.
- 6.14 It has entered into this Deed for private, commercial purposes and, in any proceedings taken in its jurisdiction of incorporation in relation to this Deed, it will not be entitled to claim for itself or any of its assets immunity from suit, execution, attachment or other legal process.

No Filing or Stamp Taxes

- 6.15 Under the law of its jurisdiction of incorporation it is not necessary that this Deed be filed, recorded or enrolled with any court or other authority in that jurisdiction or that any stamp, registration, notarial or similar Taxes or fees be paid on or in relation to this Deed or the transactions contemplated by this Deed, except registration of a certified copy of this Deed at Companies House under section 859A of the Companies Act 2006 and payment of associated fees, which registrations and fees will be made and paid promptly after the date of this Deed.

No Breach of Law or Default

- 6.16 It has not breached any law or regulation which breach has or would be reasonably likely to have a material adverse effect on its ability to perform its obligations under this Deed
- 6.17 No event or circumstance is outstanding which constitutes a default under any agreement or instrument binding on it, or any of its assets which has or would be reasonably likely to have a material adverse effect on its ability to perform its obligations under this Deed.

No Misleading Information

- 6.18 Any financial projection or forecast supplied by a member of the Group, Melia or the Chargor to any Finance Party in connection with this Deed has been prepared on the basis of recent historical information and on the basis of assumptions believed by its directors to be reasonable and was fair (as at the date of the relevant report or document containing the projection or forecast) and arrived at after careful consideration.
- 6.19 Any expressions of opinion or intention supplied by a member of the Group, Melia or the Chargor to any Finance Party in connection with this Deed were made after careful consideration and (as at the date of the relevant report or document containing the expression of opinion or intention) were fair and based on grounds believed by its directors to be reasonable.
- 6.20 As at the date of this Deed, no event or circumstance has occurred or arisen and no information has been omitted and no information has been given or withheld that results in the information, opinions, intentions, forecasts or projections referred to in Clauses 6.18 to 6.19 above being untrue or misleading in any material respect.
- 6.21 All other financial and other information provided by it (including its advisers) to the Security Trustee was true, complete and accurate in all material respects as at the date it was provided and is not misleading in any respect and no information was omitted as at that date which, if disclosed would make that information untrue or misleading in any material respect.

No Proceedings Pending or Threatened

- 6.22 No litigation, arbitration or administrative proceedings or investigations of, or before, any court, arbitral body or agency which, if adversely determined, could or might result in any material adverse change in its financial condition, business or assets have (to the best of its knowledge and belief (having made due and careful enquiry)) been started or threatened against it.

Creation of Security

- 6.23 This Deed creates or, as applicable, evidences in favour of the Security Trustee the security which it purports to create or evidence with the ranking and priority which it is expressed to have.

6.24 Without limiting clause 6.23 above, its payment obligations under this Deed rank at least *pari passu* with the claims of all its other unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law applying to companies generally.

6.25 No Security exists over all or any of the Charged Property (other than the Security constituted by this Deed).

Good Title to Assets

6.26 It has a good, valid and marketable title to, or valid leases or licences of, and all appropriate Authorisations to use, the assets necessary to carry on its business as it is being conducted.

6.27 It is the sole legal and beneficial owner of the assets over which it purports to grant security under this Deed.

Accounts

6.28 The Chargor does not have any account with any bank or financial in any jurisdiction other than England and Wales.

Original Chargor Financial Statements

6.29 Its Original Chargor Financial Statements were prepared in accordance with the Accounting Principles consistently applied.

6.30 Its Original Chargor Financial Statements give a true and fair view of (if audited) or fairly represent (if unaudited) its financial condition and results of operations for the relevant period.

6.31 As at the date of this Deed, there has been no material adverse change in its assets, business or financial condition since the date of the Original Chargor Financial Statements.

6.32 Its most recent financial statements delivered pursuant to Clause 7.24 (*Financial Statements*):

1.1.1 have been prepared in accordance with the Accounting Principles as applied to the Original Chargor Financial Statements; and

1.1.2 give a true and fair view of (if audited) or fairly present (if unaudited) its consolidated financial condition as at the end of, and consolidated results of operations for, the period to which they relate.

6.33 The most recent Melia White House Budget and forecasts supplied under this Deed were arrived at after careful consideration and have been prepared in good faith on the basis of recent historical information and on the basis of assumptions believed by its directors to be reasonable as at the date they were prepared and supplied.

6.34 Subject to any relevant prior written disclosure by the Borrower, since the date of the most recent financial statements delivered pursuant to Clause 7.24 (*Financial Statements*), there has been no material adverse change in its business, assets or financial condition (of the business or consolidated financial condition of the Group, in the case of the Borrower).

Reliance

6.35 The Chargor acknowledges that the Security Trustee has accepted this Deed in full reliance on the representations and warranties in this clause 7.

Continuing Representations

- 6.36 The Chargor undertakes with the Security Trustee that the representations and warranties in this clause 6 will be true and accurate throughout the continuance of this Deed by reference to the facts and circumstances existing from time to time.

7. UNDERTAKINGS

General

- 7.1 The undertakings in this clause 7 remain in force from the date of this Deed for so long as any amount is outstanding under this Deed.

Negative Pledge

- 7.2 The Chargor shall not create or extend or permit to arise or subsist any Security over the whole or any part of the Charged Property or to enter into any arrangements or transactions as described in clause 23.20 (*Negative Pledge*) of the Facility Agreement in respect of any asset forming part of, or intended to form part of, the Charged Property, other than any Permitted Security or with the prior written consent of the Security Trustee.

Restriction on Disposals

- 7.3 The Chargor shall not enter into a single transaction or a series of transactions (whether related or not) and whether voluntary or involuntary to sell, lease, transfer or otherwise dispose of the whole or any part of the Charged Property, other than:
- 7.3.1 of cash in accordance with Clauses 7.14 to 7.18 (*Bank Accounts*) of this Deed;
 - 7.3.2 allowing the management of the Melia White House Hotel in accordance with the terms of the Melia White House Hotel Management Agreement and the terms of this Deed;
 - 7.3.3 of any asset made in order to comply with an order of any agency of state, authority, other regulatory body or any applicable law or regulation; or
 - 7.3.4 with the prior consent of the Security Trustee.

Insurance

- 7.4 The Chargor shall must ensure that at all times Business Interruption Insurances are maintained in full force and effect which provide at all times not less than 12 months' loss of income or equivalent business interruption insurance and be in an amount, and in form, and with an insurance company or underwrites, in each case acceptable at all times to the Security Trustee (acting reasonably).
- 7.5 The Chargor shall promptly pay all premiums and other moneys payable under or in respect of each policy of insurance effected or maintained by it or any person on its behalf in accordance with clause 7.4 above and do all other things necessary to keep each such policy in full force and effect and shall, promptly upon request, produce to the Security Trustee receipts showing the payment of such moneys within seven days of their becoming due and payable.
- 7.6 The Chargor shall, on written demand by the Security Trustee, produce to the Security Trustee the policy, certificate or cover note relating to any such insurance as is required by clause 7.4 above.

- 7.7 The Chargor shall not do or cause or permit to be done or, as the case may be, not done, and shall not fail to disclose, any matter or thing which may make any such insurance as is required by clause 7.4 above void or voidable.

Remedying Insurance Defaults

- 7.8 If default shall be made by the Chargor in complying with clause 7.4 above, the Security Trustee may (but shall not be obliged to) effect or renew any such insurance as is required by that clause on such terms, in such name(s) and in such amount(s) as the Security Trustee reasonably considers appropriate. All moneys expended by the Security Trustee in so doing shall be reimbursed by the Chargor to the Security Trustee on demand and until so reimbursed shall carry interest at the rate specified in clause 2.3 (*Interest*) from the date of payment by the Security Trustee until reimbursed (after as well as before any judgment).

Authorisations

- 7.9 The Chargor shall promptly obtain, comply with and do all that is necessary to maintain in full force and effect, and upon request supply certified copies to the Security Trustee of, any Authorisation required under any law or regulation of its jurisdiction of incorporation to enable it to perform its obligations under this Deed, to ensure the legality, validity, enforceability or admissibility in evidence in its jurisdiction of incorporation of this Deed and to own its assets, and carry on its business where a failure to do so has or is reasonably likely to result in any material adverse change in the Chargor's financial condition, business or assets.

Compliance with Laws and Regulations

- 7.10 The Chargor shall comply in all respects with all laws and regulations to which it or any Charged Property may be subject, if failure so to comply would materially impair its ability to perform its obligations under this Deed or has or is reasonably likely to result in any material adverse change in its financial condition, business or assets.

Book Debts and Other Debts

- 7.11 The Chargor shall not at any time deal with its book debts and other debts and monetary claims except by getting in and realising them in the ordinary and usual course of its business and paying all Debt Proceeds into the relevant current Account of the Chargor with the Security Trustee or into such other account as the Security Trustee may from time to time agree or direct. The Chargor shall, pending such payment in, hold all such Debt Proceeds upon trust for the Security Trustee (as trustee for the Finance Parties).
- 7.12 The Chargor and the Security Trustee agree that, if any credit balance arises on any account of the Chargor with the Security Trustee as a result of Debt Proceeds being credited or transferred to such account, the Security Trustee shall, subject to Clause 7.13 below, have an absolute discretion whether to permit or to refuse to permit such credit balance to be received, utilised, transferred or withdrawn by the Chargor and the Security Trustee may in its sole discretion at any time transfer all or any part of such credit balance to a separate account of the Chargor with the Security Trustee.
- 7.13 At any time before the Security constituted by this Deed has become enforceable, the Chargor shall be entitled to receive, withdraw or otherwise transfer any credit balance which arises on any account of the Chargor with any bank or financial institution referred to in clause 7.11 above as a result of Debt Proceeds being credited or transferred to that account from time to time in accordance with Clauses 7.14 to 7.19 (*Bank Accounts*) below.

Bank Accounts

- 7.14 The Chargor shall promptly deliver to the Security Trustee, on the date of this Deed and, if any change occurs thereafter, on the date of such change, details of each account maintained by it with any bank or financial institution (other than the Security Trustee). The Chargor undertakes that it shall not, without the Security Trustee's prior written consent, permit or agree to any variation of the rights attaching to any such account or close any such account (other than closing the Existing Barclays Accounts in accordance with Clause 7.17 below and/or the Excluded Barclays Rental Guarantee Account).
- 7.15 The Chargor agrees with the Security Trustee that it shall not be entitled to receive, utilise, transfer or withdraw any credit balance from time to time on any Account with any bank or financial institution (other than the Security Trustee) except, in any case, with the prior written consent of the Security Trustee, other than any credit balance on any Existing Barclays Accounts during the Existing Accounts Period.
- 7.16 At any time after the Security constituted by this Deed has become enforceable, the Chargor shall not be entitled to receive, utilise, transfer or withdraw any credit balance from time to time on any Account except with the prior written consent of the Security Trustee.
- 7.17 The Chargor undertakes to close the Existing Barclays Accounts and open equivalent replacement accounts to be held with the Security Trustee on or before the expiry of the Existing Accounts Period.
- 7.18 The Chargor undertakes to ensure that:
- 7.18.1 all Melia White House Revenue and other amounts received by it or on behalf of it in relation to the Melia White House Hotel and/or the Charged Property; and
- 7.18.2 any amounts to be paid or transferred to it under the Melia White House Hotel Management Agreement,
- are paid or transferred into such Accounts as the Security Trustee agrees or otherwise directs from time to time.
- 7.19 The Chargor shall not (save with the prior written consent of the Security Trustee) have any account with any bank or financial in any jurisdiction other than England and Wales.

Information

- 7.20 The Chargor shall promptly supply to the Security Trustee such information as the Security Trustee may reasonably require about the Charged Property and its compliance with the terms of this Deed and such further information regarding its financial condition, assets and operations as the Security Trustee may reasonably request.
- 7.21 The Chargor shall promptly notify the Security Trustee in writing of any action, claim or demand made by or against it in connection with all or any part of the Charged Property or of any fact, matter or circumstance which may with the passage of time give rise to such an action, claim or demand, together with the Chargor's proposals for settling, liquidating, compounding or contesting the same and shall, subject to the Security Trustee's approval of such proposals, implement them at its own expense.

Notices relating to Charged Property

- 7.22 The Chargor shall, within 14 days after the receipt by it of any application, requirement, order or notice served or given by any public or local or any other authority with respect to the whole or any part of the Charged Property:
- 7.22.1 deliver a copy to the Security Trustee;
 - 7.22.2 inform the Security Trustee of the steps taken or proposed to be taken by it to comply with the relevant application, requirement, order or notice; and
 - 7.22.3 comply with any reasonable request by the Security Trustee to take such action as the Security Trustee may believe necessary to preserve or protect the Charged Property or the security constituted or intended to be constituted by this Deed.

Not Jeopardise Security

- 7.23 The Chargor shall not do or cause or permit to be done anything which would in any way depreciate, jeopardise or otherwise prejudice the value to the Security Trustee of the security constituted or intended to be constituted by this Deed, except to the extent expressly permitted by the terms of this Deed.

Financial Statements

- 7.24 The Chargor shall supply to the Security Trustee in sufficient copies for all Finance Parties:
- 7.24.1 as soon as the same become available, but in any event within 180 days after the end of each of its Financial Years, its audited financial statements for that Financial Year (each being “**Annual Financial Statements**”) accompanied by any letter addressed to the management of the Chargor by the Auditors and accompanying and qualifying those Annual Financial Statements;
 - 7.24.2 as soon as they are available but in any event within 45 days after the end of each Financial Quarter (or 60 days in respect of the Financial Quarter that finishes at the end of each Financial Year) the Chargor’s unaudited management accounts (including a balance sheet and statement of profit and loss and a forward looking cash flow forecast for the Chargor for the remainder of that Financial Year with details of any proposed capital expenditure and proposed expenditure on Melia White House FF&E) for that period;
 - 7.24.3 as soon as they are available, but in any event within 30 days after the end of each month in each of its Financial Years the Chargor’s financial statements for that period in form and substance as shall be agreed the Chargor and the Security Trustee to disclose with reasonable accuracy the Chargor’s financial position save for immaterial adjustments and which shall include, without limitation, the following information in respect of each such period or as otherwise specified below:
 - (i) a statement of profit and loss showing the results of the operation of the Melia White House Hotel for such period and for the Financial Year to date; and
 - (ii) an analysis of average occupancy rates, room rates, sale figures for the period and a brief management commentary on the financial performance of the Melia White House Hotel during such period.

Requirements as to Financial Statements

7.25 The Chargor shall ensure that each set of Annual Financial Statements required to be audited in accordance with Clause 7.24 (*Financial Statements*) are audited by the Auditors.

7.26 Each set of financial statements delivered pursuant to:

7.26.1 Clause 7.24 (*Financial Statements*), shall be certified by a director of the Chargor as giving a true and fair view of (in the case of audited Annual Financial Statements for any Financial Year), or fairly representing (in other cases), its financial condition and operations as at the date as at which those financial statements were drawn up;

7.26.2 Clause 7.24.3 (*Financial Statements*), shall be accompanied by a statement comparing actual performance for the period to which the financial statements relate to:

- (a) the projected performance for that period set out in the Melia White House Budget; and
- (b) the actual performance for the corresponding period in the preceding Financial Year of the Chargor; and

7.26.3 Clause 7.24 (*Financial Statements*), shall be prepared using the Accounting Principles, accounting practices and financial reference periods consistent with those applied in the preparation of the Original Chargor Financial Statements, unless, in relation to any set of financial statements, the Chargor notifies the Security Trustee that there has been a change in the Accounting Principles or the accounting practices and its Auditors deliver to the Security Trustee:

- (a) a description of any change necessary for those financial statements to reflect the Accounting Principles or accounting practices upon which the Original Chargor Financial Statements were prepared; and
- (b) sufficient information, in form and substance as may be reasonably required by the Security Trustee, to enable the Finance Parties to make an accurate comparison between the financial position indicated in those financial statements and the Original Chargor Financial Statements.

Any reference in this Agreement to any financial statements shall be construed as a reference to those financial statements as adjusted to reflect the basis upon which the Original Financial Statements were prepared.

7.27 If the Security Trustee (acting reasonably) wishes the financial position of the Chargor to be discussed with the Auditors, the Security Trustee will notify the Chargor stating the questions or issues that it wishes the Chargor to discuss with the Auditors. In this event, the Chargor will ensure that it raises such questions or issues with the Auditors (at the reasonable expense of the Chargor) and the Chargor shall promptly provide the responses from the Auditors to the Security Trustee and shall ensure that the Auditors (at the reasonable expense of the Chargor) discloses to the Security Trustee any information which the Security Trustee may reasonably request through the Chargor.

Melia White House Budget

7.28 The Chargor shall provide to the Security Trustee, in sufficient copies for all the Finance Parties, as soon as the same become available but in any event not later than 30 days before the commencement of each Financial Year, the annual Melia White House Budget for that

Financial Year (including, for the avoidance of doubt, a Melia White House Essential Capex Plan).

7.29 The Chargor shall ensure that each Melia White House Budget required to be supplied under Clause 7.28 above:

7.29.1 is in a form and substance acceptable to the Security Trustee (acting reasonably);

7.29.2 is prepared in accordance with the Accounting Principles and the accounting practices and financial reference periods applied to financial statements under Clause 7.24 (*Financial Statements*); and

7.29.3 has been approved by the Chargor's board of directors.

7.30 If the Chargor updates or changes the Melia White House Budget, the Chargor shall promptly deliver to the Security Trustee, in sufficient copies for all the Finance Parties, such updated or changed Melia White House Budget together with a written explanation of the main changes in that Melia White House Budget.

Information: Miscellaneous

7.31 The Borrower shall supply to the Security Trustee in sufficient copies for all the Finance Parties:

7.31.1 copies of all reports provided to Lomondo produced with regard to the operation of the Melia White House Hotel as any Finance Party through the Security Trustee may reasonably require, including any other plan, document or report produced under the Melia White House Hotel Management Agreement or any similar document in place from time to time in respect of the Melia White House Hotel;

7.31.2 promptly, such information as the Security Trustee may reasonably require about the Charged Property and compliance of the Chargor the terms of this Deed; and

7.31.3 promptly on request, such further information regarding the the Melia White House Hotel, the Melia White House Property, the financial condition, assets and operations of the Chargor (including any requested amplification or explanation of any item in the financial statements, budgets or other material provided by the Chargor under this Deed) as any Finance Party through the Security Trustee may reasonably request.

7.32 The Chargor shall (not more than once in every Financial Year unless the Security Trustee reasonably believes a Default is continuing) permit the Agent and/or the Security Trustee and/or any professional person (being an accountant, auditor, solicitor, valuer or other professional adviser of a Finance Party) authorised by the Agent or the Security Trustee access at all reasonable times and on reasonable notice to its premises, assets, books, accounts and records for any purpose in connection with the Facility and this Deed.

8. ENFORCEMENT OF SECURITY

When Security becomes Enforceable

8.1 The security constituted by this Deed shall become immediately enforceable and the power of sale and other powers conferred by section 101 of the LPA, as varied or extended by this Deed, shall be immediately exercisable upon and at any time after the occurrence of an Event of Default which is continuing.

- 8.2 After the Security constituted by this Deed has become enforceable, the Security Trustee may in its absolute discretion enforce all or any part of that security at the times, in the manner and on the terms it thinks fit and take possession of and hold or dispose of all or any part of the Charged Property.

Right of Appropriation

- 8.3 To the extent that any of the Charged Property constitutes “**financial collateral**” and this Deed and the obligations of the Chargor under this Deed constitute a “**security financial collateral arrangement**” (in each case as defined in, and for the purposes of, the Financial Collateral Arrangements (No. 2) Regulations 2003 (the “**FCA Regulations**”)), the Security Trustee shall have the right, at any time after the Security constituted by this Deed has become enforceable, to appropriate all or any part of such financial collateral in or towards discharge of the Secured Liabilities. For this purpose, the parties agree that the value of such financial collateral shall be (in the case of cash) the amount standing to the credit of each bank account of the Chargor, together with any accrued but unpaid interest, at the time the right of appropriation is exercised and (in the case of Securities) the market price of such Securities determined by the Security Trustee by reference to a public index or by such other process as the Security Trustee may select, including independent valuation. In each case, the parties agree that the manner of valuation provided for in this clause 8.3 shall constitute a commercially reasonable manner of valuation for the purposes of the FCA Regulations.

Redemption of Prior Security

- 8.4 At any time after the Security constituted by this Deed has become enforceable, the Security Trustee or any Receiver may:
- 8.4.1 redeem any prior Security over any Charged Property; or
 - 8.4.2 procure the transfer of that Security to the Security Trustee; or
 - 8.4.3 settle and pass the accounts of the person or persons entitled to such Security (and any accounts so settled and passed shall be conclusive and binding on the Chargor).
- 8.5 All principal moneys, interest, costs, charges and expenses of and incidental to any such redemption or transfer shall be paid by the Chargor to the Security Trustee and every Receiver on demand and shall be secured by this Deed.

9. EXTENSION AND VARIATION OF THE LPA

General

- 9.1 For the purposes of all powers implied by the LPA, such powers shall arise (and the Secured Liabilities shall be deemed to have become due and payable for that purpose) on the date of this Deed and will be exercisable at any time after the Security constituted by this Deed has become enforceable.
- 9.2 Section 103 of the LPA (restricting the power of sale) and section 93 of the LPA (restricting the right of consolidation) shall not apply to the security constituted by this Deed.

Privileges

- 9.3 Each Receiver and the Security Trustee is entitled to all the rights, powers, privileges and immunities conferred by the LPA on mortgagees and receivers.

10. APPOINTMENT OF RECEIVER AND ADMINISTRATOR

Appointment

10.1 At any time after the Security constituted by this Deed has become enforceable or if an application is presented for the making of an administration order in relation to the Chargor or any person who is entitled to do so gives written notice of its intention to appoint an administrator of the Chargor or files such a notice with the court or if the Chargor so requests the Security Trustee in writing (in which case, in each such case, the security constituted by this Deed shall become immediately enforceable), the Security Trustee may without prior notice to the Chargor:

10.1.1 appoint free from the restrictions imposed by section 109(1) of the LPA either under seal or in writing under its hand any one or more persons to be a Receiver of the whole or any part or parts of the Charged Property in like manner in every respect as if the Security Trustee had become entitled under the LPA to exercise the power of sale conferred under the LPA; or

10.1.2 appoint one or more persons to be an administrator of the Chargor.

Removal

10.2 The Security Trustee may by writing under its hand (or by an application to the court where required by law):

10.2.1 remove any Receiver appointed by it; and

10.2.2 appoint, whenever it deems it expedient, any one or more persons to be a new Receiver in the place of or in addition to any Receiver.

Statutory Powers of Appointment

10.3 The powers of appointment of a Receiver conferred by this Deed shall be in addition to all statutory and other powers of appointment of the Security Trustee under the LPA (as extended by this Deed) or otherwise and such powers shall be and remain exercisable from time to time by the Security Trustee in respect of any part or parts of the Charged Property.

Capacity of Receiver

10.4 Each Receiver shall be deemed to be the agent of the Chargor for all purposes. The Chargor alone shall be responsible for a Receiver's contracts, engagements, acts, omissions, defaults and losses and for liabilities incurred by him.

10.5 The agency of each Receiver shall continue until the Chargor goes into liquidation and after that the Receiver shall act as principal and shall not become the agent of the Security Trustee.

10.6 If there is more than one Receiver holding office at the same time, each Receiver shall (unless the document appointing him states otherwise) be entitled to act (and to exercise all of the powers conferred on a Receiver under this Deed) individually or together with any other person appointed or substituted as Receiver.

Remuneration of Receiver

10.7 The Security Trustee may fix the remuneration of any Receiver appointed by it without any restriction imposed by section 109(6) of the LPA and the remuneration of the Receiver shall be a debt secured by this Deed, which shall be due and payable immediately upon its being paid by the Security Trustee.

11. POWERS OF RECEIVER

General

- 11.1 Each Receiver has, and is entitled to exercise, all of the rights, powers and discretions set out below in this clause 11 in addition to those conferred by law.
- 11.2 Without prejudice to the generality of this clause 11, each Receiver shall have all the rights, powers and discretions of an administrative receiver under schedule 1 to the Insolvency Act 1986 whether he falls within the statutory definition of an administrative receiver or not.

Specific Powers

- 11.3 Each Receiver shall have the following powers (and every reference in this clause 11.3 to the “**Charged Property**” shall be read as a reference to that part or parts of the Charged Property in respect of which that Receiver was appointed):
- 11.3.1 power to purchase or acquire land and purchase, acquire or grant any interest in or right over land as he thinks fit;
- 11.3.2 power to take immediate possession of, get in and collect any Charged Property;
- 11.3.3 power to carry on the business of the Chargor as he thinks fit;
- 11.3.4 power (but without any obligation to do so) to:
- (a) make and effect all repairs, alterations, additions and insurances and do all other acts which the Chargor might do in the ordinary conduct of its business as well for the protection as for the improvement of the Charged Property;
 - (b) commence or complete any building operations on the Charged Property;
 - (c) apply for and maintain any approval or any other permission, consent or licence in respect of the Charged Property; and
 - (d) negotiate for compensation with any authority which may intend to acquire or be in the process of acquiring all or any part of the Charged Property and make objections to any order for the acquisition of all or any part of the Charged Property and represent the Chargor at any enquiry to be held to consider such objections or otherwise relating to any such acquisition,
- in each case as he thinks fit;
- 11.3.5 power to appoint and discharge managers, officers, agents, advisers, accountants, servants, workmen, contractors, surveyors, architects, lawyers and others for the purposes of this Deed upon such terms as to remuneration or otherwise as he thinks fit and power to discharge any such persons appointed by the Chargor (and the costs incurred by any Receiver in carrying out such acts or doing such things shall be reimbursed to that Receiver by the Chargor on demand and until so reimbursed shall carry interest at the rate specified in clause 2.3 (*Interest*) from the date of payment by the Receiver until reimbursed (after as well as before any judgment));
- 11.3.6 power to raise and borrow money either unsecured or (with the prior consent of the Security Trustee) on the security of any Charged Property either in priority to the security constituted by this Deed or otherwise and generally on any terms and for whatever purpose he thinks fit;

- 11.3.7 power to sell, exchange, convert into money and realise any Charged Property by public auction or private contract and generally in any manner and on any terms as he thinks fit;
- 11.3.8 power to sever and sell separately any fixtures from the property containing them without the consent of the Chargor;
- 11.3.9 power to let any Charged Property for any term and at any rent (with or without a premium) as he thinks fit and power to accept a surrender of any lease or tenancy of any Charged Property on any terms which he thinks fit (including the payment of money to a lessee or tenant on a surrender);
- 11.3.10 power to settle, adjust, refer to arbitration, compromise and arrange any claims, accounts, disputes, questions and demands with or by any person who is or claims to be a creditor of the Chargor or relating in any way to any Charged Property;
- 11.3.11 power to bring, prosecute, enforce, defend and abandon all actions, suits and proceedings in relation to any Charged Property or in relation to the Chargor which may seem to him to be expedient;
- 11.3.12 power to give valid receipts for all moneys and execute all assurances and things which may be proper or desirable for realising any Charged Property;
- 11.3.13 power to form a subsidiary of the Chargor and transfer to that subsidiary any Charged Property;
- 11.3.14 power to do all such acts as may seem to him to be necessary or desirable in order to initiate or continue any development of any Charged Property and for these purposes to appoint and to enter into such contracts with such building and engineering contractors or other contractors and professional advisers as he may think fit;
- 11.3.15 power to call any meeting of the members or directors of the Chargor in order to consider such resolutions or other business as he thinks fit;
- 11.3.16 power to exercise in relation to any Charged Property all the powers and rights which he would be capable of exercising if he were the absolute beneficial owner of the same;
- 11.3.17 power to do all other acts and things which he may consider desirable or necessary for realising any Charged Property or incidental or conducive to any of the rights, powers or discretions conferred on a Receiver under or by virtue of this Deed; and
- 11.3.18 power to exercise any of the above powers in the name of or on behalf of the Chargor or in his own name and, in each case, at the cost of the Chargor.

Security Trustee's Powers

- 11.4 To the fullest extent permitted by law, any right, power or discretion conferred by this Deed (either expressly or impliedly) upon a Receiver may, after the Security constituted by this Deed has become enforceable, be exercised by the Security Trustee in relation to any Charged Property, irrespective of whether or not it has taken possession of any Charged Property and without first appointing a Receiver or notwithstanding the appointment of a Receiver.

12. DISCRETIONS AND DELEGATION

Discretion

- 12.1 Any liberty or power which may be exercised or any determination which may be made under this Deed by the Security Trustee or any Receiver may, subject to clause 22 (*Certificates and Determinations*) of this Deed), be exercised or made in its absolute and unfettered discretion without any obligation to give reasons.

Delegation

- 12.2 Each of the Security Trustee and any Receiver may delegate (either generally or specifically) by power of attorney or in any other manner to any person any right, power, authority or discretion conferred on it by this Deed (including the power of attorney).
- 12.3 Any such delegation may be made upon such terms and conditions (including the power to sub-delegate) as the Security Trustee or any Receiver (as the case may be) shall think fit.
- 12.4 Neither the Security Trustee nor any Receiver shall be in any way liable or responsible to the Chargor for any loss or liability arising from any act, default, omission or misconduct (save for any loss or liability arising as a result of fraud, gross negligence or wilful misconduct) on the part of any Delegate.

13. POWER OF ATTORNEY

Appointment and Powers

- 13.1 The Chargor, by way of security, irrevocably appoints the Security Trustee, every Receiver and every Delegate severally and independently to be its attorney and in its name, on its behalf and as its act and deed to execute, deliver and perfect all documents and do all things which the attorney may consider (acting reasonably) to be required for:
- 13.1.1 carrying out any obligation imposed on the Chargor by this Deed; and/or
- 13.1.2 enabling the Security Trustee or any Receiver or Delegate to exercise, or delegate the exercise of, any of the rights, powers, authorities and discretions conferred on it or him by or pursuant to this Deed or by law (including the exercise of any right of an absolute legal or beneficial owner of the Charged Property).
- 13.2 The power of attorney granted by the Chargor in favour of the Security Trustee, every Receiver and every Delegate in Clause 14.1 above may only be exercised at any time after the security constituted by this Deed has become enforceable.

Ratification

- 13.3 The Chargor shall ratify and confirm whatever any attorney does or purports to do pursuant to its appointment under clause 13.1 (*Appointment and Powers*).

14. PROTECTION OF PURCHASERS

Consideration

- 14.1 The receipt of the Security Trustee or any Receiver or Delegate shall be a conclusive discharge to a purchaser and, in making any sale or other disposal of any of the Charged Property (including a disposal by a Receiver or Delegate to any subsidiary of the Chargor) or in making any acquisition in the exercise of their respective powers, the Security Trustee, every Receiver

and every Delegate may do so for such consideration, in such manner and on such terms as it or he thinks fit.

Protection of Third Parties

- 14.2 No person (including a purchaser) dealing with the Security Trustee, any Receiver or any Delegate shall be bound to enquire:

- 14.2.1 whether the Secured Liabilities have become payable; or
- 14.2.2 whether any power which the Security Trustee or any Receiver or Delegate is purporting to exercise has arisen or become exercisable; or
- 14.2.3 whether any money remains due under the Finance Documents; or
- 14.2.4 how any money paid to the Security Trustee or to any Receiver or Delegate is to be applied,

or shall be concerned with any propriety, regularity or purpose on the part of the Security Trustee or any Receiver or Delegate in such dealings or in the exercise of any such power.

15. APPLICATION OF PROCEEDS

Order of Application

- 15.1 All moneys received or recovered by the Security Trustee, any Receiver or any Delegate pursuant to this Deed, after the Security constituted by this Deed has become enforceable, shall (subject to the claims of any person having prior rights thereto and by way of variation of the provisions of the LPA) be applied in the following order (but without prejudice to the right of the Security Trustee to recover any shortfall from the Chargor):

- 15.1.1 in or towards payment of all costs, losses, liabilities and expenses of and incidental to the appointment of any Receiver or Delegate and the exercise of any of his rights and powers, including his remuneration, and all outgoings paid by him;
- 15.1.2 in or towards payment of all other Expenses;
- 15.1.3 in or towards payment of all other Secured Liabilities or such part of them as is then due and payable to the Finance Parties in accordance with the order of application set out in clauses 34.8 to 34.10 (*Partial Payments*) of the Facility Agreement; and
- 15.1.4 in payment of the surplus (if any) to the Chargor or other person entitled to it.

- 15.2 Clause 15.1 (*Order of Application*) will override any appropriation made by the Chargor.

New Accounts

- 15.3 If the Security Trustee (acting in its capacity as trustee for the Finance Parties or otherwise) or any other Finance Party at any time receives, or is deemed to have received, notice of any subsequent Security or other interest affecting any Charged Property, the Security Trustee and/or any other relevant Finance Party may open a new account with the Chargor.
- 15.4 If the Security Trustee and/or any other relevant Finance Party does not open a new account, it shall nevertheless be treated as if it had done so at the time when it made such demand or as the case may be, the Security Trustee and/or any other Finance Party received, or was deemed to have received, such notice. As from that time all payments made by or on behalf of the Chargor to the Security Trustee (whether acting in its capacity as trustee for the Finance Parties or otherwise) and/or any other Finance Party shall be credited or be treated as having been credited

to the new account of the Chargor and not as having been applied in reduction of the Secured Liabilities.

Currency Conversion

- 15.5 For the purpose of or pending the discharge of any of the Secured Liabilities, the Security Trustee (acting in its capacity as trustee for the Finance Parties or otherwise) or any other Finance Party may (in its absolute discretion) convert any moneys received or recovered by it or any Receiver or Delegate pursuant to this Deed or any moneys subject to application it or any Receiver or Delegate pursuant to this Deed from one currency to another and any such conversion shall be made at the Security Trustee's or that Finance Party's spot rate of exchange for the time being for obtaining such other currency with the first currency and the Secured Liabilities shall be discharged only to the extent of the net proceeds of such conversion realised by the Security Trustee or that Finance Party. Nothing in this Deed shall require the Security Trustee to make, or shall impose any duty of care on the Security Trustee or any other Finance Party in respect of, any such currency conversion.

16. NO LIABILITY

- 16.1 Neither the Security Trustee nor any Receiver or Delegate shall in any circumstances (either by reason of entering into or taking possession of any Charged Property or for any other reason) be liable to account to the Chargor for anything, except actual receipts, or be liable to the Chargor for any costs, charges, losses, liabilities or expenses arising from the realisation of any Charged Property or from any act, default or omission of the Security Trustee, any Receiver, any Delegate or any of their respective officers, agents or employees in relation to the Charged Property or from any exercise or purported exercise or non-exercise by the Security Trustee or any Receiver or Delegate of any power, authority or discretion provided by or pursuant to this Deed or by law or for any other loss of any nature whatsoever in connection with the Charged Property or the Finance Documents.

17. SET-OFF

- 17.1 Without limiting any other rights conferred on the Security Trustee and/or any other Finance Party by law or by any other agreements entered into with the Chargor, the Security Trustee and each other Finance Party may (but shall not be obliged to) set off any matured obligation due from the Chargor under this Deed (to the extent beneficially owned by the Security Trustee or, as the case may be, that Finance Party) against any obligation (whether matured or not) owed by the Security Trustee, or as the case may be, that Finance Party, to the Chargor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Security Trustee, or as the case may be, that Finance Party may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off. If the obligation owed by the Security Trustee and/or any other Finance Party is unliquidated or unascertained, the Security Trustee, or as the case may be that Finance Party, may set off in an amount estimated by it in good faith to be the amount of that obligation.

18. EFFECTIVENESS OF GUARANTEE AND SECURITY

Continuing Guarantee and Security

- 18.1 The guarantee and security constituted by this Deed shall remain in full force and effect as a continuing guarantee and security for the Secured Liabilities, unless and until discharged by the

Security Trustee, and will extend to the ultimate balance of all the Secured Liabilities, regardless of any intermediate payment or discharge in whole or in part.

Cumulative Rights

- 18.2 The guarantee and security constituted by this Deed and all rights, powers and remedies of the Security Trustee provided by or pursuant to this Deed or by law shall be cumulative and in addition to, and independent of and not prejudiced by, any other guarantee or Security now or subsequently held by the Security Trustee (whether in its capacity as trustee or otherwise) or any of the other Finance Parties for the Secured Liabilities or any other obligations or any rights, powers and remedies provided by law. No prior Security held by the Security Trustee (whether in its capacity as trustee or otherwise) or any of the other Finance Parties or any contractual or other legal rights of the Security Trustee or any other Finance Party over the whole or any part of the Charged Property shall be superseded by, or supersede or merge into, the security constituted by this Deed.

Reinstatement

- 18.3 If any discharge, release or arrangement (whether in respect of the obligations of the Opco, any Obligor or another member of the Group or any Security for those obligations or otherwise) is made by the Security Trustee or any other Finance Party in whole or in part on the faith of any payment, Security or other disposition which is avoided or must be restored in insolvency, liquidation, administration or otherwise, without limitation, then the liability of the Chargor under, the guarantee and security constituted by this Deed will continue or be reinstated as if the discharge, release or arrangement had not occurred.
- 18.4 The Security Trustee may concede or compromise any claim that any payment or any discharge is liable to avoidance or restoration.
- 18.5 This Deed will remain the property of the Security Trustee after any payment by the Chargor or any discharge given by the Security Trustee (whether in respect of the obligations of the Opco or the Chargor for any Security for those obligations or otherwise).

Waiver of Defences

- 18.6 Neither the obligations of the Chargor under this Deed nor the security constituted by this Deed nor the rights, powers and remedies of the Security Trustee provided by or pursuant to this Deed or by law will be affected by an act, omission, matter or thing which, but for this clause 18.6, would reduce, release or prejudice any of its obligations under this Deed, any of that security or any of those rights, powers and remedies (without limitation and whether or not known to it or the Security Trustee or any other Finance Party) including:
- 18.6.1 any time, waiver or consent granted to, or composition with, the Opco, an Obligor or any other member of the Group or any other person;
- 18.6.2 the release of the Opco, any Obligor or any other member of the Group or any other person under the terms of any composition or arrangement with any creditor of any member of the Group;
- 18.6.3 the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or Security over assets of, the Opco, any Obligor or any other member of the Group or any 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;

- 18.6.4 any incapacity or lack of power, authority or legal personality of, or dissolution or change in the members or status of, the Opco, an Obligor or any other member of the Group or any other person;
- 18.6.5 any amendment, novation, supplement, extension (whether of maturity or otherwise), restatement (in each case, however fundamental and of whatsoever nature and whether or not more onerous) or replacement of the Finance Documents or any other document or Security including without limitation any change in the purpose of, any extension of or any increase in, any facility or the addition of any new facility under any Finance Document or any other document or Security;
- 18.6.6 any unenforceability, illegality or invalidity of any obligation of the Opco, an Obligor or any other member of the Group or any other person under the Finance Documents or any other document or Security; or
- 18.6.7 any insolvency or similar proceedings.

Guarantor Intent

- 18.7 Without prejudice to the generality of clause 18.6 (*Waiver of Defences*), the Chargor expressly confirms that it intends that the guarantee constituted by this Deed shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any facility or amount made available under any Finance Documents including, without limitation, any of the same which are for the purposes of or in connection with any of the following: business acquisitions of any nature; increasing working capital; enabling investor distributions to be made; carrying out restructurings; refinancing existing facilities; refinancing any other indebtedness; making facilities available to new borrowers; and/or any other variation or extension of the purposes for which any such facility or amount might be made available from time to time, together with any fees, costs and/or expenses associated with any of the foregoing.

Immediate Recourse

- 18.8 The Chargor waives any right it may have of first requiring the Security Trustee or any other Finance Party to proceed against or enforce any other rights or Security or claim payment from the Opco or any person or file any proof or claim in any insolvency, administration, winding up or liquidation proceedings relating to the Opco or any person before claiming from it under this Deed. This waiver applies irrespective of any law or any provision of the Finance Documents or other document or Security to the contrary.

Appropriations

- 18.9 Until all the Secured Liabilities and all amounts which may be or become payable by the Chargor under or in connection with this Deed have been irrevocably paid, performed and discharged in full, the Security Trustee may:
 - 18.9.1 without affecting the liability of the Chargor under this Deed:
 - (a) refrain from applying or enforcing any other moneys, Security or rights held or received by it in respect of the Secured Liabilities; or
 - (b) apply and enforce the same in such manner and order as it sees fit (whether against the Secured Liabilities or otherwise) and the Chargor shall not be entitled to direct the appropriation of any such moneys, Security or rights or to enjoy the benefit of the same; and/or

- 18.9.2 hold in a suspense account any moneys received from or on behalf of the Chargor or on account of the Chargor's liability in respect of the Secured Liabilities. Amounts standing to the credit of any such suspense account shall bear interest at a rate considered by the Security Trustee to be a fair market rate.

Deferral of Chargor's Rights

- 18.10 Until the Secured Liabilities, and all amounts which may be or become due and payable in respect of the Secured Liabilities, have been irrevocably paid, performed or discharged in full and unless the Security Trustee otherwise directs, the Chargor shall not exercise any rights which it may have by reason of performance by it of its obligations under this Deed or by reason of any amount being payable, or liability arising under, clause 2.2 (*Guarantee and Indemnity*):
- 18.10.1 to be indemnified by the Opco, an Obligor or any other member of the Group;
- 18.10.2 to claim any contribution from any other guarantor of the Opco, an Obligor or any other member of the Group's obligations under the Finance Documents;
- 18.10.3 to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Security Trustee (whether for its own account or as trustee for the Finance Parties) the Finance Documents or of any other guarantee or Security taken pursuant to, or in connection with, the Finance Documents by the Security Trustee (whether for its own account or as trustee for the Finance Parties) and/or any of the Finance Parties;
- 18.10.4 to bring legal or other proceedings for an order requiring the Opco, an Obligor or any other member of the Group to make any payment, or perform any obligation, in respect of which the Chargor has given a guarantee, undertaking or indemnity under clause 2.2 (*Guarantee and Indemnity*);
- 18.10.5 to exercise any right of set-off against the Opco, an Obligor or any other member of the Group; and/or
- 18.10.6 to claim or prove as a creditor of the Opco, an Obligor or any other member of the Group or in its estate in competition with the Security Trustee (or any trustee or agent on its behalf) and/or any of the Finance Parties.
- 18.11 The rights of the Security Trustee and/or any of the other Finance Parties under clause 18.10 above shall be free from any right of quasi-retainer or other rule or principle of fund ascertainment arising either at law or in equity.
- 18.12 If the Chargor receives any benefit, payment or distribution in relation to any rights referred to in clause 18.10 above, it shall hold that benefit, payment or distribution to the extent necessary to enable all the Secured Liabilities, and all amounts which may be or become due and payable in respect of the Secured Liabilities, to be repaid in full on trust for the Security Trustee (as trustee for the Finance Parties) and shall promptly pay or transfer the same to the Security Trustee or as the Security Trustee (as trustee for the Finance Parties) may direct for application in accordance with clause 15.1 (*Order of Application*).

No Security held by Chargor

- 18.13 The Chargor shall not take or receive any Security from the Opco, any Obligor or any other member of the Group or any other person in connection with its liability under this Deed. However, if any such Security is so taken or received by the Chargor:

18.13.1 it shall be held by the Chargor on trust for the Security Trustee (as trustee for the Finance Parties), together with all moneys at any time received or held in respect of such Security, for application in or towards payment and discharge of the Secured Liabilities; and

18.13.2 on demand by the Security Trustee, the Chargor shall promptly transfer, assign or pay to the Security Trustee all Security and all moneys from time to time held on trust by the Chargor under this clause 18.13.

19. PAYMENTS

Manner of Payments

19.1 The Chargor shall make all payments required to be made by it under this Deed available to the Security Trustee (unless a contrary indication appears in this Deed) for value on the due date at the time and in such funds specified by the Security Trustee as being customary at the time for settlement of transactions in the relevant currency in the place of payment. Payment shall be made in the currency in which the relevant indebtedness is denominated or, if different, is expressed to be payable and to such account in the principal financial centre of the country of that currency with such bank as the Security Trustee specifies.

No Set-Off by Chargor

19.2 All payments to be made by the Chargor under this Deed shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim.

Tax Gross-Up

19.3 The Chargor shall make all payments to be made by it under this Deed without any deduction or withholding for or on account of Tax, unless such a deduction or withholding is required by law. The Chargor, promptly upon becoming aware that it must make such a deduction or withholding (or that there is any change in the rate or the basis of such a deduction or withholding), shall notify the Security Trustee accordingly. Similarly, the Security Trustee shall notify the Chargor on becoming so aware in respect of any payment payable to the Security Trustee.

19.4 If a deduction or withholding for or on account of Tax from a payment under this Deed is required by law to be made by the Chargor, the amount of the payment due from the Chargor shall be increased to an amount which (after making any such deduction or withholding) leaves an amount equal to the payment which would have been due if no such deduction or withholding had been required.

19.5 If the Chargor is required to make a deduction or withholding for or on account of Tax from a payment under this Deed, the Chargor shall make that deduction or withholding and any payment required in connection with that deduction or withholding within the time allowed and in the minimum amount required by law. Within thirty days of making such a deduction or withholding or any payment required in connection with that deduction or withholding, the Chargor shall deliver to the Security Trustee evidence reasonably satisfactory to the Security Trustee that the deduction or withholding has been made or (as applicable) any appropriate payment paid to the relevant taxing authority.

20. EXPENSES, STAMP TAXES AND INDEMNITIES

Expenses

- 20.1 The Chargor shall promptly on demand pay to the Security Trustee and each Receiver or Delegate the amount of all costs and expenses (including legal fees) reasonably incurred by any of them in connection with the negotiation, preparation, printing, execution and perfection of this Deed and any other documents referred to in this Deed and in responding to, evaluating, negotiating or complying with any request for an amendment, waiver or consent made by the Chargor in relation to this Deed.
- 20.2 The Chargor shall, within three business days of written demand, pay to the Security Trustee and each Receiver or Delegate the amount of all costs and expenses (including legal fees) incurred by any of them in connection with the enforcement of, or the defence, protection and/or preservation of, any rights, remedies and powers under this Deed or the security constituted, or intended to be constituted, by this Deed and any proceedings instituted by or against the Security Trustee as a consequence of taking or holding the security constituted, or intended to be constituted, by this Deed or enforcing any such rights, powers and remedies.

Stamp Taxes

- 20.3 The Chargor shall pay, and shall promptly on written demand indemnify the Security Trustee and every Receiver or Delegate against any cost, loss or liability any of them incurs in relation to, all stamp duty, registration and similar Taxes payable in connection with the entry into, performance or enforcement, of this Deed, the security constituted by this Deed or any judgment given in connection with this Deed.

General Indemnity

- 20.4 The Chargor shall notwithstanding the release or discharge of all or any part of the security constituted by this Deed, promptly indemnify the Security Trustee and every Receiver and Delegate against any cost, loss, liability or damage incurred by any of them as a result of:
- 20.4.1 any default or delay by the Chargor in the performance of any of the obligations expressed to be assumed by it in this Deed or any representations and warranties expressed to be made by it in this Deed being untrue or misleading;
 - 20.4.2 the taking, holding, protection or enforcement of the security constituted by this Deed; and
 - 20.4.3 the exercise of any of the rights, powers, discretions and remedies vested in the Security Trustee and each Receiver and Delegate by this Deed or by law in respect of the Charged Property.

Currency Indemnity

- 20.5 If any sum owing by the Chargor under this Deed (a “**Sum**”), or any order, judgment or award given or made in relation to a Sum, has to be converted from the currency (the “**First Currency**”) in which that Sum is payable into another currency (the “**Second Currency**”) for the purpose of:
- 20.5.1 making or filing a claim or proof against the Chargor;
 - 20.5.2 obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings, or
 - 20.5.3 applying the Sum in satisfaction of any of the Secured Liabilities,

the Chargor shall as an independent obligation, within three Business Days of demand, indemnify the Security Trustee and each Receiver or Delegate to whom that Sum is due against any cost, loss or liability arising out of or as a result of the conversion including any discrepancy between:

20.5.4 the rate of exchange used to convert that Sum from the First Currency into the Second Currency; and

20.5.5 the rate or rates of exchange available to that person at the time of its receipt of any amount paid to it in satisfaction, in whole or in part, of such claim, proof, order, judgment or award.

20.6 The Chargor waives any right it may have in any jurisdiction to pay any amount under this Deed in a currency or currency unit other than that in which it is denominated or, if different, is expressed to be payable.

Value Added Tax

20.7 Any cost or expense referred to in this clause 20 is exclusive of any VAT that might be chargeable in connection with that cost or expense. If any VAT is so chargeable, it shall be paid by the Chargor at the same time as it pays the relevant cost or expense.

21. CERTIFICATES AND DETERMINATIONS

21.1 Any certificate or determination by the Security Trustee of a rate or amount under this Deed is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

22. PARTIAL INVALIDITY

22.1 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 of this Deed nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired and, if any part of the security constituted, or intended to be constituted, by this Deed is invalid, unenforceable or ineffective for any reason, that shall not affect or impair any other part of the security.

23. REMEDIES AND WAIVERS

23.1 No failure to exercise, nor any delay in exercising, on the part of the Security Trustee, any right, remedy or power under this Deed shall operate as a waiver, nor shall any single or partial exercise of any right, remedy or power prevent any further or other exercise or the exercise of any other right, remedy or power. The rights, remedies and powers provided in this Deed are cumulative and not exclusive of any rights, remedies or powers provided by law.

23.2 Any amendment, waiver or consent by the Security Trustee under this Deed must be in writing and may be given subject to any conditions thought fit by the Security Trustee. Any waiver or consent shall be effective only in the instance and for the purpose for which it is given.

24. NOTICES

Communications in writing

24.1 Any communication to be made under or in connection with this Deed shall be made in writing and, unless otherwise stated, may be made by fax or letter.

Addresses

- 24.2 The address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of the Chargor and the Security Trustee for any communication or document to be made or delivered under or in connection with this Deed is that identified with its name below:

Lomondo Limited

Address: Lomondo Ltd t/a Melia White House
Albany Street, Regent's Park, London, NW1 3UP

Fax Number: N/A

For the Attention of: Elzbieta Szymczyk, Financial Controller

Lloyds Bank plc

Address: 25 Gresham Street, London, EC2V 7HN

Fax Number: N/A

For the Attention of: Tony Burnell,

or any substitute address, fax number or department or officer as the Chargor may notify to the Security Trustee (or the Security Trustee may notify to the Chargor, if a change is made by the Security Trustee) by not less than five Business Days' notice.

Delivery

- 24.3 Any communication or document made or delivered by one person to another under or in connection with this Deed will only be effective:

24.3.1 if by way of fax, when received in legible form; or

24.3.2 if by way of letter, when it has been left at the relevant address or five business days after being deposited in the post postage prepaid in an envelope addressed to it at that address,

and, if a particular department or officer is specified as part of its address details provided under clause 24.2 (*Addresses*), if addressed to that department or officer.

- 24.4 Any communication or document to be made or delivered to the Security Trustee will be effective only when actually received by it and then only if it is expressly marked for the attention of the department or officer identified with the Security Trustee's name in clause 24.2 (*Addresses*) (or any substitute department or officer as it shall specify for this purpose).

25. NO RELIANCE BY CHARGOR

- 25.1 The Chargor confirms to the Security Trustee that in entering into this Deed:

25.1.1 it has not relied on any representation made by or on behalf of the Security Trustee or any written statement, advice, opinion or information given to it in good faith by or on behalf of the Security Trustee and the Security Trustee shall no liability to the Chargor if it has in fact done so; and

- 25.1.2 it has been, and will continue to be, solely responsible for making its own independent appraisal and investigation of all risks arising under or in connection with this Deed, including but not limited to the financial condition, status and nature of the Opco, and it has come to its own decision, without relying on the Security Trustee or any of the other Finance Parties, as to the likelihood of the Opco, any Obligor or any other member of the Group paying its Secured Liabilities and neither the Security Trustee nor any other Finance Party shall have any liability to the Chargor if it has not in fact done so.
- 25.2 The Chargor further confirms to the Security Trustee that neither the Security Trustee nor any of the other Finance Parties has any duty or responsibility either now or in the future to provide that Chargor with any information relating to the financial condition, status or nature of the Opco, any Obligor or any other member of the Group.
- 26. COUNTERPARTS**
- 26.1 This Deed may be executed in any number of counterparts and this has the same effect as if the signature on the counterparts were on a single copy of this Deed. Delivery of an electronic counterpart of this Deed by e-mail attachment or telecopy shall be an effective mode of delivery.
- 27. ASSIGNMENT**
- 27.1 The Security Trustee may assign, charge or transfer all or any of its rights under this Deed without the consent of the Chargor. Subject to clause 41 (*Confidentiality*) of the Facility Agreement, the Security Trustee may disclose any information about the Chargor and this Deed as the Security Trustee shall consider appropriate to any actual or proposed direct or indirect successor or to any person to whom information is required to be disclosed by any applicable law or regulation.
- 28. RELEASES**
- 28.1 Upon the expiry of the Liability Period (but not otherwise) and subject to clauses 18.3 and 18.4 (*Reinstatement*), the Security Trustee shall, at the request and cost of the Chargor, take whatever action is necessary to release the Charged Property from the security constituted by this Deed.
- 29. GOVERNING LAW**
- 29.1 This Deed and any non-contractual obligations arising out of or in connection with it are governed by English law.
- 30. ENFORCEMENT**
- Jurisdiction*
- 30.1 The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute relating to the existence, validity or termination of this Deed or any non-contractual obligation arising out of or in connection with this Deed) (a “Dispute”).
- 30.2 The Chargor agrees that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly it will not argue to the contrary or take proceedings relating to a Dispute in any other courts.

30.3 Clauses 30.1 and 30.2 above are for the benefit of the Security Trustee only. As a result, the Security Trustee shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Security Trustee may take concurrent proceedings in a number of jurisdictions.

IN WITNESS of which this Deed has been entered into as a deed and is intended to be and is delivered on the day and year first before written.

SCHEDULE 1 – FORM OF NOTICE OF CHARGE – ACCOUNTS NOT WITH THE SECURITY TRUSTEE

**Part I
Form of Notice**

To: [Name of relevant bank or financial institution]

Address: [] [Date]

Dear Sirs

Lloyds Bank plc (the “**Security Trustee**”) and Lomondo Limited (the “**Company**”) HEREBY GIVE NOTICE that by a charge contained in a deed of guarantee and security dated [•] and made between the Company and the Security Trustee (the “**Deed of Guarantee and Security**”) the Company charged to the Security Trustee by way of first fixed charge all of its present and future right, title and interest in and to all moneys from time to time deposited in or standing to the credit of any bank account with any bank or financial institution, including the following account(s) (each a “**Relevant Account**”) maintained with you:

[Specify accounts: account name, account number, details of branch etc].

Accordingly, the Company hereby irrevocably and unconditionally instructs and authorises you:

- (a) to disclose to the Security Trustee, without any reference to or further authority from the Company and without any enquiry by you as to the justification for such disclosure, such information relating to any of the Relevant Accounts and the moneys from time to time deposited in or standing to the credit of any of the Relevant Accounts as the Security Trustee may at any time and from time to time request you to disclose to it;
- [(b) not to permit any withdrawal by the Company of all or any part of the moneys from time to time deposited in or standing to the credit of any of the Relevant Accounts without the prior written consent of the Security Trustee [or except as expressly permitted by the terms of the Deed of Guarantee and Security];]
- (c) to hold all moneys from time to time deposited in or standing to the credit of any of the Relevant Accounts to the order of the Security Trustee and to pay or release all or any part of such moneys in accordance with the written instructions of the Security Trustee at any time and from time to time; and
- (d) to comply with the terms of any other written notice or instructions that you receive at any time and from time to time from the Security Trustee in any way relating to the Deed of Guarantee and Security, any of the Relevant Accounts or the moneys from time to time deposited in or standing to the credit of any of the Relevant Accounts without any reference to or further authority from the Company and without any enquiry by you as to the justification for or validity of such notice or instructions.

[The Security Trustee has agreed that the Company may withdraw any moneys from any of the Relevant Accounts without any reference to or further authority from the Security Trustee except to the extent that the Security Trustee gives you notice to the contrary. Upon and after the giving of such notice, the Company shall cease to be entitled to make any such withdrawal to the extent specified in the notice.]

The Company confirms that:

- (i) in the event of any conflict between communications received from it and from the Security Trustee, the communication from the Security Trustee shall prevail;

- (ii) none of the instructions, authorisations or confirmations in this Notice of Charge (the “**Notice**”) can be revoked or varied in any way except with the Security Trustee’s specific written consent; and
- (iii) any written notice or instructions given to you by the Security Trustee in accordance with this Notice shall be conclusive.

Kindly acknowledge receipt of this Notice and confirm your agreement to it by signing the enclosed form of acknowledgement and returning it to the Security Trustee at 25 Gresham Street, London, EC2V 7HN for the attention of [TBC].

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

Yours faithfully,

for and on behalf of
Lomondo Limited

for and on behalf of
Lloyds Bank plc

Part II
Form of Acknowledgement
[on duplicate]

To: Lloyds Bank plc

Address: 25 Gresham Street, London, EC2V 7HN

Attention: Tony Burnell

[Date]

Dear Sirs

We acknowledge receipt of the Notice of Charge of which this is a copy. Terms and expressions defined in that Notice shall have the same meanings when used in this acknowledgment. We agree to and confirm the following:

- (a) we accept and will comply with the terms of the Notice;
- (b) we have not received notice of any other charge, assignment or other third party right or interest whatsoever in, of, over or affecting any of the Relevant Accounts;
- (c) we have not claimed or exercised and will not claim or exercise (except with the Security Trustee’s prior written consent) any security interest, right of set-off, consolidation or counterclaim or any other right against or in respect of any of the Relevant Accounts, except in respect of our usual administrative and transactional fees and charges in relation to the Relevant Account in question; and
- (d) we shall not permit the Company to make any withdrawal from any of the Relevant Accounts [without the prior written consent of the Security Trustee [or except as expressly permitted by the terms of the Deed of Guarantee and Security].] [after receipt by us of a notice from the Security Trustee prohibiting such withdrawals to the extent specified in that notice.].

Yours faithfully

.....

for and on behalf of

[name of relevant bank or financial institution]

EXECUTION PAGE

THE CHARGOR

EXECUTED AS A DEED by)
Catalina Ramis Arrom)
as ~~/attorney/~~[director] for LOMONDO)
LIMITED)
~~/a~~ power of attorney dated 7 July 2016)
in the presence of RUTH GAJARDO)



.....
Catalina Ramis Arrom as
~~/attorney/~~[director] for
Lomondo Limited

Name of witness: RUTH GAJARDO

Signature of witness: Ruth Gajardo
.....

Address of witness:
GEMINI HOTELS 24, 07009, PM, SPAIN
Occupation of witness:
FINANCIAL OPERATIONS MANAGER

THE LENDER

Executed as a deed by)
LLOYDS BANK PLC)
on being signed by its duly authorised attorney)
.....)
in the presence of:) **Duly Authorised Attorney**

Name of witness:

Signature of witness:

Address:

Occupation:

EXECUTION PAGE

THE CHARGOR

EXECUTED AS A DEED by)

_____)

as [attorney][director] for **LOMONDO**)

LIMITED

[a power of attorney dated _____,])

in the presence of _____)

.....

_____ as

[attorney][director] for

Lomondo Limited

Name of witness:

Signature of witness:

.....

Address of witness:

Occupation of witness:

THE LENDER

Executed as a deed by)

LLOYDS BANK PLC)

on being signed by its duly authorised attorney)

..... )

in the presence of:)


Duly Authorised Attorney

Name of witness: ..SAMANTHA HEROD.....

Signature of witness:  ..Lloyds Bank Corporate Markets

Address:25 Gresham Street.....

London

.....EC2V 7HN.....

Occupation: ..RM.....