

# MG01

## Particulars of a mortgage or charge



140183/13

### A fee is payable with this form.

We will not accept this form unless you send the correct fee  
Please see 'How to pay' on the last page



### What this form is for

You may use this form to register  
particulars of a mortgage or charge  
in England and Wales or Northern  
Ireland



### What this form is NOT for

You cannot use this form to register  
particulars of a charge for a  
company. To do this, please use  
form MG01s

WEDNESDAY



\*L6QNBV0A\*

LD2

15/06/2011

35

COMPANIES HOUSE

1

### Company details

Company number

0 3 5 1 3 3 4 4

Company name in full

HAVANA HOLDINGS (UK) LIMITED

For official use

5

### → Filling in this form

Please complete in typescript or in  
bold black capitals

All fields are mandatory unless  
specified or indicated by \*

2

### Date of creation of charge

Date of creation

0 1 0 6 2 0 1 1

3

### Description

Please give a description of the instrument (if any) creating or evidencing the  
charge, e.g. 'Trust Deed', 'Debenture', 'Mortgage', or 'Legal charge'

Description

Debenture (the "**Debenture**")

4

### Amount secured

Please give us details of the amount secured by the mortgage or charge

Amount secured

All monies, obligations and liabilities which shall from time to time  
(and whether on or at any time after any demand or judgment) be  
due, owing or incurred from each Obligor to any Finance Party  
whether actually or contingently and whether solely or jointly with  
any other person and in whatever style or name and whether as  
principal or surety (the "**Liabilities**")

### Continuation page

Please use a continuation page if  
you need to enter more details

# MG01

## Particulars of a mortgage or charge

5

### Mortgagee(s) or person(s) entitled to the charge (if any)

Please give the name and address of the mortgagee(s) or person(s) entitled to the charge

Name

BARCLAYS BANK PLC (the "Security Trustee")

Address

ONE CHURCHILL PLACE, CANARY WHARF

LONDON

Postcode

E 1 4 5 H P

Name

Address

Postcode

#### Continuation page

Please use a continuation page if you need to enter more details

6

### Short particulars of all the property mortgaged or charged

Please give the short particulars of the property mortgaged or charged

Short particulars

PLEASE SEE CONTINUATION SHEET MG01 (C3)

#### Continuation page

Please use a continuation page if you need to enter more details

# MG01

## Particulars of a mortgage or charge

7

### Particulars as to commission, allowance or discount (if any)

Please insert the amount or rate percent of any commission, allowance or discount paid or made either directly or indirectly by the company to any person on consideration of his

- subscribing or agreeing to subscribe, whether absolutely or conditionally, or
- procuring or agreeing to procure subscriptions, whether absolute or conditional,

for any debentures included in this return. The rate of interest payable under the terms of the debentures should not be entered

Commission, allowance or discount

8

### Delivery of instrument

You must deliver the original instrument (if any) creating or evidencing the charge and these prescribed particulars to the Registrar of Companies within 21 days after the date of creation of the charge (section 860). If the property is situated and the charge was created outside the United Kingdom (UK), you must deliver the information to the Registrar within 21 days after the date on which the instrument could have been received in the UK in the normal course of post and assuming you had posted it promptly (section 870).

We will accept a verified copy of the instrument creating the charge where the property charged is situated and the charge was created outside the UK (section 866). The company or the person who has delivered the copy to the Registrar must verify it to be a correct copy and sign it. Where a body corporate gives the verification, an officer of that body must sign it. We will also accept a verified copy where section 867(2) applies (property situated in another part of UK).

9

### Signature

Please sign the form here

Signature

Signature

X *Brian Leighton Parnell* X

This form must be signed by a person with an interest in the registration of the charge

10-6-11

# MG01

## Particulars of a mortgage or charge



### Presenter information

You do not have to give any contact information, but if you do it will help Companies House if there is a query on the form and will establish where we return the original documents. The contact information you give will be visible to searchers of the public record.

Contact name LIZ BAILEY (LBAI/27690 61/16964387)

Company name Berwin Leighton Paisner LLP

Address Adelaide House

London Bridge

Post town London

County/Region

Postcode E C 4 R 9 H A

Country

DX 92 LONDON/CHANCERY LN

Telephone +44 (0)20 3400 1000



### Certificate

We will send your certificate to the presenter's address if given above or to the Company's Registered Office if you have left the presenter's information blank.



### Checklist

We may return forms completed incorrectly or with information missing

Please make sure you have remembered the following:

- ☐ The company name and number match the information held on the public Register
- ☐ You have included the original deed with this form
- ☐ You have entered the date the charge was created
- ☐ You have supplied the description of the instrument
- ☐ You have given details of the amount secured by the mortgagee or chargee
- ☐ You have given details of the mortgagee(s) or person(s) entitled to the charge
- ☐ You have entered the short particulars of all the property mortgaged or charged
- ☐ You have signed the form
- ☐ You have enclosed the correct fee



### Important information

Please note that all information on this form will appear on the public record.



### How to pay

A fee of £13 is payable to Companies House in respect of each mortgage or charge.

Make cheques or postal orders payable to 'Companies House'



### Where to send

You may return this form to any Companies House address, however for expediency we advise you to return it to the appropriate address below.

**For companies registered in England and Wales**  
The Registrar of Companies, Companies House,  
Crown Way, Cardiff, Wales, CF14 3UZ  
DX 33050 Cardiff

**For companies registered in Scotland**  
The Registrar of Companies, Companies House,  
Fourth floor, Edinburgh Quay 2,  
139 Fountainbridge, Edinburgh, Scotland, EH3 9FF  
DX ED235 Edinburgh 1  
or LP - 4 Edinburgh 2 (Legal Post)

**For companies registered in Northern Ireland.**  
The Registrar of Companies, Companies House,  
Second Floor, The Linenhall, 32-38 Linenhall Street,  
Belfast, Northern Ireland, BT2 8BG  
DX 481 N R Belfast 1



### Further information

For further information, please see the guidance notes on the website at [www.companieshouse.gov.uk](http://www.companieshouse.gov.uk) or email [enquiries@companieshouse.gov.uk](mailto:enquiries@companieshouse.gov.uk)

This form is available in an alternative format. Please visit the forms page on the website at [www.companieshouse.gov.uk](http://www.companieshouse.gov.uk)

# MG01 - continuation page

## Particulars of a mortgage or charge

6

### Short particulars of all the property mortgaged or charged

Please give the short particulars of the property mortgaged or charged

Short particulars

Q101  
95

- 1 By way of legal mortgage each Chargor's interest in the Property
- 2 By way of fixed charge each Chargor's interest in each of the following including all rights of enforcement of the same:
  - (a) each Chargor's interest in any freehold or leasehold property acquired after the date of the Debenture;
  - (b) each Chargor's interest in the Relevant Contracts,
  - (c) the Accounts which are held by each Chargor and other accounts of each Chargor and all monies standing to the credit thereof,
  - (d) all fixtures, fittings, plant, machinery, manuals and other chattels in respect of the Property and all guarantees and warranties in respect of any of them;
  - (e) all easements, licences and other rights relating to the Property in which each Chargor has an interest;
  - (f) the Investments,
  - (g) each Chargor's Intellectual Property present and future,
  - (h) if applicable each Chargor's uncalled capital;
  - (i) each Chargor's goodwill; and
  - (j) all Related Rights in respect of the above
- 3 By way of security assignment each of the following including all rights of enforcement of the same:
  - (a) all Rents present and future,
  - (b) the Disposal Proceeds,
  - (c) ✓ all book debts and other debts present and future payable to that Chargor,
  - (d) its rights, interests and all monies payable to each Chargor under any Insurance Policies;
  - (e) the benefit of the copyright and similar rights vested in each Chargor from time to time in connection with any Charged Property;
  - (f) all causes of action and other rights and remedies in which each Chargor has an interest from time to time,
  - (g) each Chargor's rights, interests and all monies payable to each Chargor under any Hedging Arrangement present and future,
  - (h) all monies payable to each Chargor under the Management Agreement and the Management Agreement Guarantee,
  - (i) the benefit of any monies paid or payable to each Chargor from time to time by way of compensation, endowment, gift, grant or otherwise;
  - (j) each Chargor's interest from time to time in any VAT recoveries, and
  - (k) all Related Rights in respect of the above.
- 4 ✓ By way of floating charge all of each Chargor's assets, property and undertaking both present and future.

#### NOTES:

- 1 The Debenture provides that the charges created under the Debenture expressed to be:
  - (a) fixed charges, shall only apply to the extent that they create fixed security, and
  - (b) floating charges, shall not apply to any Charged Asset which is the subject of any fixed security, mortgage or assignment under the Debenture

## MG01 - continuation page

### Particulars of a mortgage or charge

6	Short particulars of all the property mortgaged or charged	
	Please give the short particulars of the property mortgaged or charged	
Short particulars	<p>2 The Debenture provides that where two or more persons purport to create a Security Interest over a Charged Asset under the Debenture then:</p> <p>(a) the Chargors (or such of the Chargors as have the joint interest in the relevant Charged Asset) shall be deemed to have jointly mortgaged, charged and/or assigned, as appropriate, the Chargors' joint interest in the relevant Charged Asset;</p> <p>(b) each person shall be deemed to have mortgaged, charged and/or assigned, as appropriate, that Chargor's individual interest (if any) in the relevant Charged Asset; and</p> <p>(c) each person shall be deemed to have confirmed the Security Interest granted by the others.</p> <p>3 The Debenture provides that the Security Trustee may at any time by notice in writing to the Chargors convert the floating charge referred to in paragraph 4 above with immediate effect into a fixed charge as regards any Charged Assets specified in the notice if</p> <p>(a) an Event of Default is continuing, or</p> <p>(b) the Security Trustee reasonably considers that any of the Charged Assets may be in jeopardy or in danger of being seized, attached, charged, taken possession of or sold under any form of legal process</p> <p>4 The Debenture provides that notwithstanding note 3 above and without prejudice to any law which may have a similar effect, the floating charge referred to in paragraph 4 above will convert automatically with immediate effect into a fixed charge as regards all the assets subject to the floating charge if:</p> <p>(a) any Chargor creates or attempts to create any Security Interest (other than a Permitted Security Interest, as defined in the Facility Agreement) over any Charged Assets;</p> <p>(b) any steps are taken (including the giving of notice, the presentation of a petition, the passing of a resolution or the making of an application) to appoint a liquidator, provisional liquidator, administrator or receiver in respect of any Chargor over all or any part of any Chargor's assets, or if such person is appointed;</p> <p>(c) any other floating charge over any of the Charged Assets crystallises; or</p> <p>(d) in any other circumstances prescribed by law.</p> <p>5 The Debenture provides that each Chargor shall execute and do at each Chargor's own cost and in such form as is reasonably required by the Security Trustee</p> <p>(a) such further additional mortgages, charges, assignments, transfers and conveyances; and</p> <p>(b) such assurances, deeds, documents, acts and things, as the Security Trustee may reasonably require to perfect or protect the security created by the Debenture and/or to facilitate or effect any dealing with the Charged Assets in connection with the Debenture</p> <p>6 The Debenture provides that each Chargor authorises the Security Trustee to make an application to the Land Registry on Form RX1 (or such other form as may be prescribed from time to time) to enter a restriction against dispositions of the relevant registered estate.</p> <p>7 The Debenture provides that following an Event of Default which is continuing, the Security Trustee may (without notice to or consent from a Chargor and in that Chargor's name or otherwise) exercise any rights (including the right to collect dividends, interest, principal or other payments of money) in respect of the Investments and may do anything necessary to complete any transfer form in favour of itself or otherwise</p>	

# MG01 - continuation page

## Particulars of a mortgage or charge

6

### Short particulars of all the property mortgaged or charged

Please give the short particulars of the property mortgaged or charged

Short particulars

- 8 The Facility Agreement provides that no Chargor shall create or permit to subsist any Security Interest (save for any Permitted Security Interest, as defined in the Facility Agreement) over any of that Chargor's assets in respect of any Financial Indebtedness (as defined in the Facility Agreement) or otherwise, and the Debenture incorporates this provision.
- 9 The Debenture provides that if any Chargor receives any benefit, payment or distribution in relation to any rights referred to in Clause 11.13 1 of the Debenture it shall hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to the Finance Parties by the Obligors under or in connection with the Finance Documents to be repaid in full on trust for the Finance Parties and shall promptly pay or transfer the same to the Security Trustee or as the Security Trustee may direct for application in accordance with the provisions of the Debenture.
- 10 The Debenture contains or incorporates the following definitions:
- "Account Bank"** means Barclays Bank PLC or such other banks now or in the future with whom the Agent (with the Borrower's consent, such consent not to be unreasonably withheld however no such consent is required after an Event of Default which is continuing) nominates the Accounts are held.
- "Accounts"** means the Operating Account, the Debt Service Account, the FF&E Maintenance Reserve Account and any other accounts maintained by an Obligor under the Finance Documents.
- "Agent"** means Barclays Bank PLC as agent for the Finance Parties
- "Arranger"** means Barclays Corporate.
- "Borrower"** means Havana Holdings (UK) Limited (company number 03513344) whose registered office is at 30 Portman Square, London, W1A 4ZX
- "Charged Assets"** means each and all of the assets, property, undertaking and other interests from time to time assigned or charged or intended to be assigned or charged by the Debenture and the subject matter of each of them
- "Charged Property"** means any freehold or leasehold property from time to time charged pursuant to the Debenture.
- "Chargors"** means the parties listed in Schedule 1 (*Chargors*) below.
- "Debt Service Account"** means an account numbered 30434590 (sort code 20-65-82) opened and/or maintained by the Borrower with the Account Bank
- "Disposal Proceeds"** means all capital monies or other sums or other consideration paid or payable in respect the disposal of each Chargor's interest in all or any part of the Property after deducting costs and expenses which are incurred by any Obligor with respect to that disposal to persons who are not Obligors (including any VAT chargeable in respect of those costs and expenses)

# MG01 - continuation page

## Particulars of a mortgage or charge

6	Short particulars of all the property mortgaged or charged	
Short particulars	<p data-bbox="343 371 1062 405">Please give the short particulars of the property mortgaged or charged</p> <p data-bbox="343 461 1525 521"><b>"Event of Default"</b> means any event or circumstance specified in Clause 25 (<i>Events of Default and Acceleration</i>) of the Facility Agreement (whether or not declared)</p> <p data-bbox="343 555 1525 705"><b>"Facility Agreement"</b> means a facility agreement dated 1 June 2006 and made between amongst others the Security Trustee (1) and the Chargors (2) as amended and restated on 24 May 2007, further supplemented by two supplemental agreements each dated 25 November 2008 and as further amended and restated on 1 June 2011 and any further agreement entered into under or supplemental to it or amending, restating or novating it.</p> <p data-bbox="343 734 1525 857"><b>"FF&amp;E Maintenance Reserve Account"</b> means the account numbered 10772399, sort code 20-65-82 opened and maintained by the Operator with the Account Bank for the purpose of holding the FF&amp;E Maintenance Reserve, or such other replacement account as may be agreed between the Agent and the Borrower.</p> <p data-bbox="343 887 1525 1037"><b>"Finance Document"</b> means each of the Facility Agreement, each also Security Document, the Subordination Deed, the Fees Letter, the Second Amendment and Restatement Agreement, each Hedging Arrangement, each Utilisation Request and each Transfer Certificate (each as defined in the Facility Agreement) and any other document so designated in writing by both the relevant Obligor and the Agent.</p> <p data-bbox="343 1066 1525 1126"><b>"Finance Party"</b> means each of the Arranger, the Agent, the Security Trustee, the Hedging Counterparty and the Lender</p> <p data-bbox="343 1155 1525 1305"><b>"Hedging Arrangement"</b> means any currency swap, interest rate or inflation hedging arrangement, cap, collar, swap or other derivative with the Hedging Counterparty in relation to currency fluctuations or interest payments under the Facility Agreement or changes in inflation and which shall be based on the form of the 1992 ISDA Master Agreement (Multicurrency – Cross Border) as published by the International Swaps and Derivatives Association, Inc</p> <p data-bbox="343 1335 970 1368"><b>"Hedging Counterparty"</b> means Barclays Bank PLC</p> <p data-bbox="343 1397 1525 1458"><b>"IHUKL"</b> means International Hotelier (UK) Limited, a company registered in England and Wales with number 01698769) whose registered office is at 30 Portman Square London W1A 4ZX.</p> <p data-bbox="343 1487 1525 1547"><b>"Insurance Policy"</b> means any policy of insurance in which each Chargor may from time to time have an interest relating to any Charged Property.</p> <p data-bbox="343 1576 1525 1704"><b>"Intellectual Property"</b> means any rights in respect of any patent, copyright, trade mark, trade name, service mark, invention, design, knowhow, confidential information, domain names or any other kind of intellectual property whether registered or unregistered and any registration or application relating to any of the foregoing.</p> <p data-bbox="343 1733 1525 1883"><b>"Investments"</b> means the existing or future interest of the relevant person in (a) any stocks, shares bonds, units or any form of loan or other capital of or in any legal entity; and (b) any warrant or other right to acquire any such investment, in each case, including any income, offer, right or benefit in respect of any such investment.</p>	

# MG01 - continuation page

## Particulars of a mortgage or charge

6

### Short particulars of all the property mortgaged or charged

Please give the short particulars of the property mortgaged or charged

Short particulars

**"Lender"** means Barclays Bank PLC

**"Licences"** means each and all of the grants, authorities, licences, quotas, certificates, justices and excise licences, now or in future attached to the Charged Assets and/or the business of the Operator

**"Locatelli Agreement"** means the agreement relating to the Locanda Locatelli Restaurant dated 5 September 2001 between the Operator (1), Findcharm Limited (2) and Giorgio Locatelli (3).

**"Management Agreement"** means the hotel management agreement dated 8 January 2004, as amended and restated on 28 November 2005, between the Operator (1) and the Manager (2) appointing the Manager as manager of the Property and the Management Agreement Guarantee.

**"Management Agreement Guarantee"** means the restated performance guarantee issued to the Operator by Hyatt International (Europe Africa and Middle East) LLC dated 28 November 2005.

**"Manager"** means Hyatt Holdings (UK) Limited, a company registered in England whose registered office is at 21 St Thomas Street, Bristol, BS1 6JS

**"Obligors"** means the Chargors

**"Occupational Lease"** means any leases and/or agreement for lease and/or licence or other occupational interest subject to which IHUKL or the Operator's interest in the Property is held now or in the future (including the Locatelli Agreement but excluding the lease referred to in paragraph (b) of Schedule 2 below) including any guarantee and rent deposit arrangements entered into under the terms of them.

**"Operating Account"** means an account numbered 10121746 (sort code 20-65-82) opened and/or maintained by the Operator with the Account Bank.

**"Operator"** means Churchill Group Limited, a company registered in England and Wales with number 00922947 whose registered office is at 30 Portman Square London W1A 4ZX

**"Property"** means the property details of which are set out in Schedule 2 (*Property*) below including all:

- (a) land, cellars, vaults, underground tunnels, eaves, canopies, structures and the like used or enjoyed in connection with it now or in the future,
- (b) buildings, fixtures (including trade fixtures) and fixed plant and machinery and other structures now or in future on it, and
- (c) easements, access-rights, rights of way, wayleaves and rights attaching to it

**"Related Rights"** means, in relation to any asset.

- (a) the proceeds of sale of any part of that asset;
- (b) all rights under any licence, agreement for sale or agreement for lease in respect of that asset;
- (c) all rights, powers, benefits, claims, contracts, warranties, remedies, security, guarantees, indemnities or covenants for title in respect of that asset; and
- (d) all monies and proceeds paid or payable in respect of that asset,  
(including all rights against any trustee, nominee, fiduciary or clearing system)

# MG01 - continuation page

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6	Short particulars of all the property mortgaged or charged																			
	Please give the short particulars of the property mortgaged or charged																			
Short particulars	<p><b>"Relevant Contracts"</b> means each and all of the following both present and future.</p> <ul style="list-style-type: none"> <li>(a) the Management Agreement,</li> <li>(b) the Management Agreement Guarantee,</li> <li>(c) each contract in respect of any disposal of any Charged Asset,</li> <li>(d) each Occupational Lease;</li> <li>(e) the Licences;</li> <li>(f) any contracts with customers of the Property including corporate contracts; and</li> <li>(g) all other agreements, in which a Chargor has an interest, in respect of the Property,</li> </ul> <p>in each case, including any guarantees or sureties entered into in respect of them.</p> <p><b>"Rent"</b> means all sums paid or payable to or for the benefit of the Operator arising from the letting, use or occupation of all or any part of the Property, including, without limitation:</p> <ul style="list-style-type: none"> <li>(a) rents, licence fees and equivalent sums reserved or made payable,</li> <li>(b) sums received from any deposit held as security for performance of any tenant's obligations,</li> <li>(c) proceeds of insurance in respect of loss of rent or interest on rent,</li> <li>(d) receipts from or the value of consideration given for the grant, surrender or variation of any Lease,</li> <li>(e) any service charge payments;</li> <li>(f) proceeds paid for a breach of covenant or dilapidations under any Lease in relation to the Property and for expenses incurred in relation to any such breach,</li> <li>(g) any contribution to a sinking fund paid by an occupational tenant under an Occupational Lease,</li> <li>(h) any contribution by an occupational tenant of the Property to ground rent due under any Lease out of which an Obligor derives its interest in the Property,</li> <li>(i) any payment from a guarantor or other surety in respect of any of the items listed in this definition;</li> <li>(j) interest, damages or compensation in respect of any of the items in the definition; and</li> <li>(k) any amount which represents VAT chargeable in respect of any such sum.</li> </ul> <p><b>"Security Interest"</b> means any mortgage, pledge, lien, charge, security assignment, hypothecation, security trust, encumbrance or security interest and any other agreement or arrangement entered into to create or confer security over any asset</p> <p><b>"VAT"</b> means value added tax as provided for in the Value Added Tax Act 1994 and any other tax of a similar nature.</p> <table data-bbox="335 1590 1535 1904"> <tr> <th colspan="3">Schedule 1 Chargors</th></tr> <tr> <th>Chargors</th><th>Jurisdiction incorporation</th><th>of Registered number</th></tr> <tr> <td>Havana Holdings (UK) Limited</td><td>England and Wales</td><td>03513344</td></tr> <tr> <td>Primeairo Limited</td><td>England and Wales</td><td>02199203</td></tr> <tr> <td>International Hoteliers (UK) Limited</td><td>England and Wales</td><td>01698769</td></tr> <tr> <td>Churchill Group Limited</td><td>England and Wales</td><td>00922947</td></tr> </table>	Schedule 1 Chargors			Chargors	Jurisdiction incorporation	of Registered number	Havana Holdings (UK) Limited	England and Wales	03513344	Primeairo Limited	England and Wales	02199203	International Hoteliers (UK) Limited	England and Wales	01698769	Churchill Group Limited	England and Wales	00922947	
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# MG01 - continuation page

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Short particulars

#### Schedule 2 The Property

- (a) the leasehold land owned by International Hoteliers (UK) Limited known as The Churchill Hotel, Portman Square, London W1H 7BH held under a lease dated 5 April 1967 between The Trustees of The Portman Family Settled Estates (1) A Peachey and Company Limited (2) and Peachey Property Corporation Limited (3) registered at the Land Registry under title number NGL55695.
- (b) the leasehold land owned by Churchill Group Limited and known as The Churchill Hotel, Portman Square, London W1H 7BH held under a lease dated 2 February 1973 made between A Peachey and Company Limited (1) and Loew's (Great Britain) Limited (2) and registered at the Land Registry under title number NGL221828; and
- (c) the leasehold land owned by the Operator and known as 3 and 4 Berkeley Mews, London W1, held under a lease dated 8 March 2007 between Churchill Group Limited (as Tenant) and The Portman Estate Nominees (Two) Limited (as Landlords) the leasehold land owned by the Operator and known as 3 and 4 Berkeley Mews, London W1, held under a lease dated 8 March 2007 between the Operator (as Tenant) and The Portman Estate Nominees (Two) Limited (as Landlords) and registered at the Land Registry with title number NGL879664



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

**Pursuant to section 869(5) & (6) of the Companies Act 2006**

**COMPANY NO. 3513344  
CHARGE NO 5**

THE REGISTRAR OF COMPANIES FOR ENGLAND AND WALES  
HEREBY CERTIFIES THAT A DEBENTURE DATED 1 JUNE 2011  
AND CREATED BY HAVANA HOLDINGS (UK) LIMITED FOR  
SECURING ALL MONIES DUE OR TO BECOME DUE FROM  
EACH OBLIGOR TO ANY FINANCE PARTY ON ANY ACCOUNT  
WHATSOEVER WAS REGISTERED PURSUANT TO CHAPTER 1  
PART 25 OF THE COMPANIES ACT 2006 ON THE 15 JUNE 2011

GIVEN AT COMPANIES HOUSE, CARDIFF THE 16 JUNE 2011



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES

*Dx*