



Registration of a Charge

Company Name: **THE BERKELEY HOTEL LIMITED**

Company Number: **03669260**



XCGDVC1N

Received for filing in Electronic Format on the: **16/11/2023**

Details of Charge

Date of creation: **08/11/2023**

Charge code: **0366 9260 0018**

Persons entitled: **DEUTSCHE PFANDBRIEFBANK AG AS SECURITY TRUSTEE FOR EACH OF THE SECURED PARTIES ON THE TERMS AND CONDITIONS SET OUT IN THE AMENDED AND RESTATED FACILITY AGREEMENT (AS DEFINED IN THE INSTRUMENT).**

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: **CLIFFORD CHANCE LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 3669260

Charge code: 0366 9260 0018

The Registrar of Companies for England and Wales hereby certifies that a charge dated 8th November 2023 and created by THE BERKELEY HOTEL LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 16th November 2023 .

Given at Companies House, Cardiff on 17th November 2023

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**

EXECUTION VERSION

DATED 8 November 2023

THE PERSONS LISTED IN Schedule 1
AS CHARGORS

IN FAVOUR OF

DEUTSCHE PFANDBRIEFBANK AG
AS SECURITY AGENT

SUPPLEMENTAL PERMANENT CASH TRAP
ACCOUNT SECURITY AGREEMENT

EXECUTED IN CONNECTION WITH THE
FACILITY AGREEMENT ORIGINALLY
DATED 23 MARCH 2020 AS AMENDED
PURSUANT TO AN AMENDMENT AND
WAIVER LETTER DATED 18 NOVEMBER
2020 AND AN AMENDMENT AND WAIVER
LETTER DATED 2 NOVEMBER 2021 AND AS
AMENDED AND RESTATED PURSUANT TO
AN AMENDMENT AND RESTATEMENT
AGREEMENT DATED 8 NOVEMBER 2023

SUPPLEMENTAL TO A PERMANENT CASH
TRAP ACCOUNT SECURITY AGREEMENT
DATED 31 MARCH 2020

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THIS SUPPLEMENTAL PERMANENT CASH TRAP ACCOUNT SECURITY AGREEMENT is made by way of deed on 8 November 2023

BY:

- (1) **THE PERSONS** listed in Schedule 1 (*Chargors*) (each a "**Chargor**") in favour of:
- (2) **DEUTSCHE PFANDBRIEFBANK AG** as security trustee for each of the Secured Parties on the terms and conditions set out in the Amended and Restated Facility Agreement (the "**Security Agent**").

RECITALS:

- (A) The Lenders made facilities available to the Borrowers pursuant to the Original Facility Agreement (each as defined below).
- (B) Pursuant to the Original Permanent Cash Trap Account Security Agreement (as defined below) each Chargor created security over its assets in favour of the Security Agent as continuing security for the payment and discharge of all of the Secured Liabilities (as defined in the Original Permanent Cash Trap Account Security Agreement).
- (C) The Lenders have agreed to amend the Original Facility Agreement as set out in the Amendment and Restatement Agreement (each as defined below) in order to, among other things, make additional facilities in an aggregate amount of up to £125,000,000 available to the Borrowers.
- (D) Each Chargor wishes to confirm the existing security created pursuant to the Original Permanent Cash Trap Account Security Agreement and to grant security over the Security Assets in respect of the Obligors' obligations to the Finance Parties as amended by the Amendment and Restatement Agreement.
- (E) This Supplemental Permanent Cash Trap Account Security Agreement is supplemental to the Original Permanent Cash Trap Account Security Agreement.

IT IS AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Supplemental Permanent Cash Trap Account Security Agreement:

"**Account**" means a deposit account designated the "**Permanent Cash Trap Account**", and includes any replacement account or sub-division or sub-account of that account.

"**Amended and Restated Facility Agreement**" the Original Facility Agreement as amended and restated by the Amendment and Restatement Agreement.

"**Amendment and Restatement Agreement**" means the amendment and restatement agreement dated 8 November 2023 between, amongst others, each Chargor, Deutsche Pfandbriefbank AG as Agent and Security Agent and the financial institutions named therein as Lenders.

"Amended Secured Liabilities" means all present and future obligations and liabilities (whether actual or contingent, whether owed jointly or severally or in any other capacity whatsoever and whether originally incurred by an Obligor or another Transaction Obligor or by some other person) of each Obligor and each other Transaction Obligor to any Secured Party under each Finance Document on and after the Effective Date.

"Effective Date" shall have the same meaning as given to the term in the Amendment and Restatement Agreement.

"Notices of Security" means a notice of security in substantially the form set out in Schedule 2 (*Accounts*), or in such form as may be specified by the Security Agent.

"Original Facility Agreement" means the £340,000,000 facility agreement dated 23 March 2020 between, amongst others, the Parent, the Borrowers, the Original Guarantors, the Arrangers, Deutsche Pfandbriefbank AG as Agent and Security Agent and the Original Lenders (each as defined in that agreement) as amended pursuant to an amendment and waiver letter dated 18 November 2020 and an amendment and waiver letter dated 2 November 2021.

"Original Permanent Cash Trap Account Security Agreement" means the permanent cash trap account security agreement dated 31 March 2020 granted by the Chargors in favour of the Security Agent.

"Original Security" means the Security created by or pursuant to the Original Permanent Cash Trap Account Security Agreement.

"Receiver" means a receiver, receiver and manager or, where permitted by law, an administrative receiver of the whole or any part of the Security Assets and that term will include any appointee made under a joint or several appointment.

"Related Rights" means, in relation to any asset:

- (a) the proceeds of sale or rental 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, causes of action, contracts, warranties, remedies, security, guarantees, indemnities or covenants for title in respect of or derived from that asset; and
- (d) any moneys and proceeds paid or payable in respect of that asset.

"Relevant Lender" means any Lender which has not instructed the Security Agent to withdraw from the Permanent Cash Trap Account its pro rata share of any Permanent Cash Trap Amount and/or Special Permanent Cash Trap Amount (as applicable) standing to the credit of that Account from time to time in accordance with paragraphs (c) or (d) of clause 16.8 (*Permanent Cash Trap Account*) of the Amended and Restated Facility Agreement

"Secured Party" means the Security Agent, the Agent and any Relevant Lender from time to time party to the Amended and Restated Facility Agreement and any Receiver or Delegate.

"Security Assets" means each of the assets and undertakings of each Chargor which from time to time are, or are expressed to be, the subject of any Security created or expressed to be created by it in favour of the Security Agent by or pursuant to this Agreement.

"Security Period" means the period beginning on the date of this Agreement and ending on the date on which the Amended Secured Liabilities have been irrevocably and unconditionally paid or discharged in full and no Finance Party is under any further actual or contingent obligation to make advances or provide other financial accommodation to any Chargor or any other person under any of the Finance Documents.

1.2 Terms defined in other Finance Documents

Unless defined in this Supplemental Permanent Cash Trap Account Security Agreement, or the context otherwise requires, a term defined in the Original Permanent Cash Trap Account Security Agreement, the Amendment and Restatement Agreement or the Amended and Restated Facility Agreement has the same meaning in this Supplemental Permanent Cash Trap Account Security Agreement, or any notice given under or in connection with this Supplemental Permanent Cash Trap Account Security Agreement.

1.3 Construction

In this Supplemental Permanent Cash Trap Account Security Agreement:

- (a) the rules of interpretation contained in clauses 1.2 (*Construction*) and 1.4 (*Currency symbols and definitions*) of the Amended and Restated Facility Agreement shall apply to the construction of this Supplemental Permanent Cash Trap Account Security Agreement, or in any notice given under or in connection with this Supplemental Permanent Cash Trap Account Security Agreement;
- (b) any reference to the **"Security Agent"**, the **"Secured Parties"**, the **"Finance Parties"**, the **"Chargor"** or any **"Obligor"** shall be construed so as to include its or their (and any subsequent) successors in title, permitted assigns and permitted transferees in accordance with their respective interests and, in the case of the Security Agent, any person for the time being appointed as Security Agent in accordance with the Amended and Restated Facility Agreement;
- (c) any reference to **"including"** and **"include"** shall mean including and include "without limitation" and any words following such terms shall be construed as illustrative and shall not limit the meaning or scope of the phrase or words preceding such terms; and
- (d) references in this Supplemental Permanent Cash Trap Account Security Agreement, to any Clause or Schedule shall be to a Clause or Schedule

contained in this Supplemental Permanent Cash Trap Account Security Agreement.

1.4 Present and future assets

- (a) A reference in this Supplemental Permanent Cash Trap Account Security Agreement to any Security Asset or other asset includes, unless the contrary intention appears, present and future Security Assets and other assets.
- (b) The absence of or incomplete details of any Security Assets in any Schedule shall not affect the validity or enforceability of any Security under this Supplemental Permanent Cash Trap Account Security Agreement.

1.5 Fixed Security

Clause 4.1 (*Credit balances*) shall be construed as creating a separate and distinct mortgage, fixed charge or assignment over each relevant asset within any particular class of assets defined in this Supplemental Permanent Cash Trap Account Security Agreement and the failure to create an effective mortgage, fixed charge or assignment (whether arising out of this Supplemental Permanent Cash Trap Account Security Agreement or any act or omission by any party) over any one asset shall not affect the nature or validity of the mortgage, charge or assignment imposed on any other asset whether within that same class of assets or not.

1.6 No obligation

The Security Agent shall not be under any obligation in relation to the Security Assets as a consequence of this Supplemental Permanent Cash Trap Account Security Agreement and each Chargor shall at all times remain liable to perform all obligations in respect of the Security Assets.

2. CONFIRMATION OF EXISTING SECURITY

For the avoidance of doubt, each Chargor confirms for the benefit of the Secured Parties that, with effect from the Effective Date, the Original Security shall (a) remain in full force and effect notwithstanding the amendments referred to in clause 3 (*Restatement of the Original Facility Agreement*) of the Amendment and Restatement Agreement and (b) continue to secure the Amended Secured Liabilities under the Finance Documents (including, but not limited to, under the Amended and Restated Facility Agreement).

3. COMMON PROVISIONS

3.1 Common provisions as to all Security

All the Security created by or pursuant to this Supplemental Permanent Cash Trap Account Security Agreement is:

- (a) created with full title guarantee;
- (b) created in favour of the Security Agent as trustee for the Secured Parties and the Security Agent shall hold the benefit of this Supplemental Permanent Cash Trap

Account Security Agreement and the Security created by or pursuant to it on trust for the Secured Parties;

- (c) continuing security for the payment and discharge of all the Amended Secured Liabilities.

3.2 Supplemental Security

All the Security created by or pursuant to Clause 4.1 (*Credit balances*) is created in addition and without prejudice to the security confirmation contained in Clause 2 (*Confirmation of Existing Security*) and without prejudice but subject only to the Original Security.

4. SUPPLEMENTAL FIXED SECURITY

4.1 Credit balances

- (a) Each Chargor assigns and agrees to assign absolutely all of its rights, title and interest from time to time in and to the Account, any amount standing to the credit of the Account and the debt represented by it and all other Related Rights.
- (b) Each Chargor charges (to the extent not validly and effectively assigned pursuant to (a) above) by way of first fixed charge, all of its rights, title and interest from time to time in and to the Account with any bank, building society, financial institution or other person (including any replacement account or sub-division or sub-account of that account) and the debt represented by it and all other Related Rights.

5. MISCELLANEOUS

5.1 Incorporation of provisions from Amended and Restated Facility Agreement

The provisions of clauses 1.5 (*Third party rights*), 11 (*Tax Gross-Up and Indemnities*), 13 (*Other Indemnities*), 34.1 (*Accounts*), 34.2 (*Certificates and determinations*) and 37 (*Amendments and Waivers*) of the Amended and Restated Facility Agreement are incorporated into this Supplemental Permanent Cash Trap Account Security Agreement as if expressly set out in full in this Supplemental Permanent Cash Trap Account Security Agreement, but so that references in those clauses to the Amended and Restated Facility Agreement are references to this Supplemental Permanent Cash Trap Account Security Agreement.

5.2 Incorporation of provisions from Original Permanent Cash Trap Account Security Agreement

The provisions of clauses 1.4 (*Application of provisions in Facility Agreement*), 2 (*Covenant to Pay*), 5 (*Provisions as to Security and perfection*), 6 (*Further Assurance*), 7 (*Accounts*), 8 (*Enforcement of Security*), 9 (*Appointment of Receiver or Administrator*), 10 (*Powers of Receivers*), 11 (*Application of Moneys*), 12 (*Protection of Purchasers*), 14 (*Effectiveness of Security*), 15 (*Prior Security Interests*), 16 (*Subsequent Security Interests*), 17 (*Suspense Accounts*), 18 (*Release of Security*), 19 (*Set-Off*), 20 (*Discretion and Delegation*), 21 (*Transfers*), 22 (*Successors*) and 25 (*Jurisdiction*) of the Original Permanent Cash Trap Account Security Agreement are

incorporated into this Supplemental Permanent Cash Trap Account Security Agreement as if set out in full in this Supplemental Permanent Cash Trap Account Security Agreement, but so that references in those clauses to:

- (a) the "**Facility Agreement**" are references to the "Amended and Restated Facility Agreement";
- (b) the "**Secured Liabilities**" are references to the "Amended Secured Liabilities";
- (c) "**Security Assets**" are references to the assets of each Chargor charged in favour of, or assigned (whether at law or in equity) to the Security Agent pursuant to this Supplemental Permanent Cash Trap Account Security Agreement; and
- (d) "**this Agreement**" are references to this Supplemental Permanent Cash Trap Account Security Agreement.

5.3 Original Permanent Cash Trap Account Security Agreement

Except insofar as supplemented by this Supplemental Permanent Cash Trap Account Security Agreement, the Original Permanent Cash Trap Account Security Agreement shall remain in full force and effect.

5.4 No merger

For the avoidance of doubt, any mortgage, charge or assignment (whether at law or in equity) created by the Original Permanent Cash Trap Account Security Agreement shall continue in full force and effect notwithstanding this Supplemental Permanent Cash Trap Account Security Agreement and shall not merge in any security constituted by this Supplemental Permanent Cash Trap Account Security Agreement or be released, extinguished or affected in any way by the security constituted by this Supplemental Permanent Cash Trap Account Security Agreement.

6. EXTENSION OF POWERS

The power of sale or other disposal conferred on the Security Agent and on any Receiver by this Supplemental Permanent Cash Trap Account Security Agreement shall operate as a variation and extension of the statutory power of sale under Section 101 of the Law of Property Act 1925 and such power shall arise (and the Amended Secured Liabilities shall be deemed due and payable for that purpose) on the date of this Supplemental Permanent Cash Trap Account Security Agreement.

7. POWER OF ATTORNEY

7.1 Appointment and powers

Each Chargor by way of security irrevocably appoints the Security Agent and any Receiver severally 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 to be required or desirable for:

- (a) carrying out any obligation imposed on each Chargor by this Supplemental Permanent Cash Trap Account Security Agreement or any other agreement

binding on each Chargor to which the Security Agent is party (including the execution and delivery of any deeds, charges, assignments or other security and any transfers of the Security Assets and perfecting and/or releasing the Security created or intended to be created in respect of the Security Assets); and

- (b) enabling the Security Agent and any Receiver to exercise, or delegate the exercise of, any of the rights, powers and authorities conferred on them by or pursuant to this Supplemental Permanent Cash Trap Account Security Agreement or by law (including, after this Supplemental Permanent Cash Trap Account Security Agreement has become enforceable, the exercise of any right of a legal or beneficial owner of the Security Assets).

7.2 Ratification

Each Chargor shall ratify and confirm all things done and all documents executed by any attorney in the exercise or purported exercise of all or any of his powers.

8. GOVERNING LAW

This Supplemental Permanent Cash Trap Account Security Agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.

THIS SUPPLEMENTAL PERMANENT CASH TRAP ACCOUNT SECURITY AGREEMENT has been signed by the Security Agent and executed as a deed by each Chargor and is delivered by it on the date stated at the beginning of this Supplemental Permanent Cash Trap Account Security Agreement.

**SCHEDULE 1
CHARGORS**

Name	Jurisdiction	Company Number
The Berkeley Hotel Limited	England and Wales	03669260
The Connaught Hotel Limited	England and Wales	03669273

SCHEDULE 2
ACCOUNTS

PART A
NOTICE OF SECURITY TO ACCOUNT BANK

To: [*Account Bank*]

Date: []

We give you notice that, by a Security Agreement dated [], we have created security by way of equitable assignment in favour of Deutsche Pfandbriefbank AG (the "**Security Agent**") as trustee for the Secured Parties over any accounts and all moneys (including interest accruing thereon) from time to time standing to the credit of the accounts listed below and the debt or debts represented thereby including any accounts substituted therefor by written agreement of the [*Account Bank*].

The account[s] maintained with you [is/are]:

Account Name[s]: []
Sort Code[s]: []
Account No[s]: []

With effect from the date of your receipt of this notice:

- (a) any existing payment instructions affecting the above Accounts are to be terminated and all payments and communications in respect of the Accounts should be made to the Security Agent or to its order (with a copy to us); and
- (b) all rights, interests and benefits whatsoever accruing to or for the benefit of ourselves arising from the Accounts are exercisable by, or at the direction of, the Security Agent.

We irrevocably instruct and authorise you to disclose to the Security Agent without any reference to or further authority from us and without any inquiry by you as to the justification for such disclosure, such information (which may include, but shall not be limited to, the provision of copies of statements in respect of these [*Accounts*]), relating to accounts maintained with you from time to time as the Security Agent may request you to disclose to it.

We confirm that we are not permitted to close the Accounts or vary the terms of any mandate applying to the Accounts without the prior written consent of the Security Agent.

This letter and all non-contractual obligations arising out of or in connection with it are governed by and will be construed in accordance with the laws of England and Wales.

Would you please confirm your agreement to the above by sending the enclosed acknowledgement to the Security Agent with a copy to us.

.....

For and on behalf of

[*Chargor Name*]

PART B
ACKNOWLEDGEMENT: ACCOUNT BANK

To: Deutsche Pfandbriefbank AG as Security Agent

Date: []

We confirm receipt of a notice dated [] of security created by [*Chargor Name*] (the "**Chargor**") in favour of Deutsche Pfandbriefbank AG (the "**Security Agent**") over all moneys (including interest) from time to time standing to the credit of the Chargor's account[s] (as specified in that notice) (the "**Account[s]**") which [is/are] maintained with us and the debt or debts represented thereby.

We confirm that:

- (a) we will comply with the terms of that notice; and
- (b) we have not received notice of any prior security over or interest of any third party in [any of] the Account[s];
- (c) we will not, without the Security Agent's prior written consent, amend or vary any rights attaching to the Account[s] including, without limitation, the terms of any mandate applying to the Account[s]; and
- (d) we will not, without the Security Agent's prior written consent close the Account[s].

We will act only in accordance with the instructions given by persons authorised by the Security Agent and we shall send all statements and other notices given by us relating to the Account[s] to the Security Agent.

We unconditionally and irrevocably waive all rights of set-off, lien, combination or consolidation of accounts, security and similar rights (however described) which we may have now or in the future in respect of [each of] the Account[s] or the balance thereon to the extent that such rights relate to amounts owed to us by the Chargor.

This letter and all non-contractual obligations arising out of or in connection with it are to be governed by and will be construed in accordance with the laws of England and Wales.

.....

For and on behalf of

[*Account Bank*]

cc. [*Chargor Name*]

EXECUTION PAGE

The Chargors

EXECUTED AS A DEED)
by THE BERKELEY HOTEL LIMITED)
acting by a director in the presence of:)

[Redacted Signature]

..... Signature of director

..... FADY BAKMOS Name of director

[Redacted Signature]

..... Signature of witness

..... ELLENA YOUNG Name of witness (in BLOCK CAPITALS)

[Redacted Address]
[Redacted Address]

..... Address of witness

Address for notices: 27 Knightsbridge
London SW1X 7LY
United Kingdom

Email: gmazurek@maybourne.com

Att: Greg Mazurek

EXECUTED AS A DEED)
by THE CONNAUGHT HOTEL LIMITED)
acting by a director in the presence of)

[Redacted Signature]

Signature of director

FADY BAKHOS

Name of director

[Redacted Signature]

Signature of witness

ELLENA YOUNG

Name of witness (in BLOCK CAPITALS)

[Redacted Address Line 1]

Address of witness

[Redacted Address Line 2]

Address for notices: 27 Knightsbridge
London SW1X 7LY
United Kingdom

Email: gmazurek@maybourne.com

Att: Greg Mazurek

The Security Agent

SIGNED by
DEUTSCHE PFANDBRIEFBANK AG
for and on its behalf
by its duly authorised signatories

By:

Name: Bruno Delgado Silva

Title: Associate Director, Loan Agency

By:

Name: NIAMH WATKINS

Title: AUTHORISED SIGNATORY

Address for notices: 23rd Floor, 20 Fenchurch Street

London EC3M 3BY

United Kingdom

Fax: +44 (0) 2077437700

E-mail: susiewilson@pfandbriefbank.com and
bruno.delgado.silva@pfandbriefbank.com

Att: Agency Desk