



**Registration of a Charge**

Company name: **D H WATERLOO HOTEL LIMITED**

Company number: **05653355**



X588SN89

Received for Electronic Filing: **01/06/2016**

---

**Details of Charge**

Date of creation: **01/06/2016**

Charge code: **0565 3355 0003**

Persons entitled: **EXPORT-IMPORT BANK OF MALAYSIA BERHAD**

Brief description: **THE LAND KNOWN AS 54 KENNINGTON ROAD, LONDON SE1 7BJ MORE PARTICULARLY DESCRIBED IN AND DEMISED BY A LEASE DATED 5 APRIL 2000 MADE BETWEEN QUERCUS (NURSING HOMES) LIMITED (1) PREMIER HOTELS (KENNINGTON) LIMITED (2) AND PREMIER HOTELS PLC (3) WHICH IS REGISTERED AT LAND REGISTRY UNDER TITLE NUMBER TGL188101 AND ANY LEASEHOLD PROPERTY WHICH IS THE SUBJECT OF A SECURITY INTEREST UNDER THE CHARGE INSTRUMENT AND ALL ESTATES OR INTERESTS IN ANY FREEHOLD OR LEASEHOLD PROPERTY NOW OR IN THE FUTURE BELONGING TO IT. INTELLECTUAL PROPERTY BEING CLAIMS AND INTELLECTUAL PROPERTY RIGHTS AS MORE FULLY DESCRIBED IN THE CHARGE INSTRUMENT.**

**Contains fixed charge(s).**

**Contains floating charge(s) (floating charge covers all the property or undertaking of the company).**

**Contains negative pledge.**

---

**Authentication of Form**

## Authentication of Instrument

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

Certified by: **TROWERS & HAMLINS LLP**



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

Company number: 5653355

Charge code: 0565 3355 0003

The Registrar of Companies for England and Wales hereby certifies that a charge dated 1st June 2016 and created by D H WATERLOO HOTEL LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 1st June 2016 .

Given at Companies House, Cardiff on 2nd June 2016

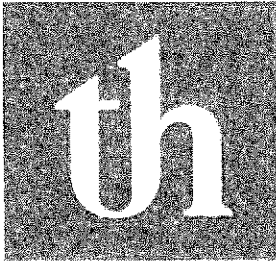
The above information was communicated by electronic means and authenticated by the Registrar of Companies under section 1115 of the Companies Act 2006



**Companies House**



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES



dated 1 JUNE 2016

**D H Waterloo Hotel Limited**

(as Chargor)

and

**Export-Import Bank of Malaysia Berhad**

(as Lender)

**Debenture**

(To: The Chief Land Registrar. Note: This Debenture contains (in clause 5.1) the consent of the Chargor to the lodgement at the Land Registry of an application by or on behalf of the Lender to enter a restriction in the Proprietorship Register and (in clause 5.3.3) the consent of the Chargor to the lodgement at the Land Registry of an application by or on behalf of the Lender to enter a notice on the Charges Register.)

Trowers & Hamlins LLP  
3 Bunhill Row  
London  
EC1Y 8YZ  
t +44 (0)20 7423 8000  
f +44 (0)20 7423 8001  
www.trowers.com  
Execution Version

<b>Contents</b>	<b>Page</b>
1 <b>Definitions and interpretation</b>	1
2 <b>Payment of Secured Liabilities</b>	7
3 <b>Security</b>	8
4 <b>Conversion of the Floating Charge</b>	10
5 <b>The Land Registry and further advances</b>	11
6 <b>Further assurance</b>	12
7 <b>Negative pledge and disposal restrictions</b>	14
8 <b>Representations and warranties</b>	14
9 <b>General undertakings</b>	19
10 <b>Mortgaged Property</b>	23
11 <b>Insurance</b>	25
12 <b>Assigned Contracts</b>	27
13 <b>Rent and Rent Account</b>	27
13 <b>Revenue and Operating Account</b>	27
15 <b>Account and Debts</b>	28
16 <b>Securities</b>	28
17 <b>Intellectual Property</b>	30
18 <b>Deposit of title deeds</b>	30
19 <b>Power to remedy</b>	31
20 <b>Enforcement of Security</b>	31
21 <b>Extension and variation of the Law of Property Act 1925</b>	32
22 <b>Appointment of Receiver</b>	34
23 <b>Powers of Receiver</b>	34
24 <b>Protection of purchasers</b>	35
25 <b>Power of attorney</b>	36
26 <b>Effectiveness of Security</b>	36
27 <b>Release of Security</b>	37
28 <b>Subsequent Security Interests</b>	38
29 <b>Assignment</b>	38
30 <b>Expenses, stamp taxes and indemnity</b>	38
31 <b>Payments free of deduction</b>	39
32 <b>Discretion and delegation</b>	39
33 <b>Perpetuity period</b>	39
34 <b>Counterparts</b>	40
35 <b>Certification</b>	40
36 <b>Reorganisation</b>	40
37 <b>Set off</b>	40
38 <b>Payment of monies</b>	40

<b>39</b>	<b>Notices</b>	<b>41</b>
<b>40</b>	<b>Governing law and jurisdiction</b>	<b>43</b>
	<b>Schedule 1 - Mortgaged Property</b>	<b>44</b>
	<b>Schedule 2 - Assigned Contracts</b>	<b>45</b>
	<b>Schedule 3</b>	<b>46</b>
	<b>Part I Form of notice of assignment of an Assigned Contract</b>	<b>46</b>
	<b>Schedule 3</b>	<b>47</b>
	<b>Part II Form of acknowledgement of notice of assignment of an Assigned Contract</b>	<b>47</b>
	<b>Schedule 4</b>	<b>48</b>
	<b>Part I Form of notice of fixed charge</b>	<b>48</b>
	<b>Schedule 4</b>	<b>50</b>
	<b>Part II - Acknowledgement of notice of fixed charge</b>	<b>50</b>
	<b>Schedule 5</b>	<b>51</b>
	<b>Part I - Form of notice to tenants under Occupational Lease Documents</b>	<b>51</b>
	<b>Schedule 5</b>	<b>52</b>
	<b>Part II - Form of acknowledgement from tenants under Occupational Lease Documents</b>	<b>52</b>
	<b>Schedule 6</b>	<b>53</b>
	<b>Part I - Form of notice of assignment of Insurances</b>	<b>53</b>
	<b>Schedule 6</b>	<b>54</b>
	<b>Part II - Form of acknowledgement of assignment of Insurances</b>	<b>54</b>
	<b>Signatories</b>	<b>56</b>

## Deed

dated 1 JUNE 2016

### Parties

- (1) **D H Waterloo Hotel Limited** registered as a company limited by shares under the laws of England and Wales with registration number 05653355 whose registered office is at 54 Kennington Road, London SE1 7BJ (the **Chargor**); and
- (2) **Export-Import Bank of Malaysia Berhad** a company incorporated in Malaysia with registration number 357498-K whose registered office is at Level 16, EXIM Bank, Jalan Sultan Ismail, 50250 Kuala Lumpur (the **Lender**).

### Introduction

- (A) The Lender has agreed to make loan facilities available to Shapadu Teguh Pte Ltd, a company incorporated in Labuan with registration number LL12242 (the **Borrower**), in accordance with the terms of the Facility Agreement (as defined below).
- (B) The Chargor and the Landowner (as defined below) have agreed to enter into a joint and several guarantee (the **Guarantee**) dated on or about the date of this Deed in favour of the Lender in respect of the Obligor's obligations under the Finance Documents.
- (C) It is a condition precedent to the granting of the loan facilities under the Facility Agreement that the Chargor enters into this Deed to provide security to the Lender for the purposes and on the terms as described below.
- (D) It is intended by the parties to this document that it will take effect as a deed.

### Agreed terms

#### 1 Definitions and interpretation

##### 1.1 Definitions

In this Deed, unless the context otherwise requires:

**Account** means the Chargor's bank accounts opened and maintained or to be opened and maintained by the Chargor with the Account Bank for the purposes of this Deed which shall include the Operating Account as that account may be redesignated or renumbered from time to time and **Accounts** will be construed accordingly;

**Account Bank** means National Westminster Bank Plc, 135 Bishopgate, London EC2M 34R or such other bank or financial institution which is acceptable to the Lender;

**Administrator** has the meaning given to it by paragraph 1 of Schedule B1 to the Insolvency Act 1986 (incorporated by Schedule 16 to the Enterprise Act 2002);

**Assigned Contracts** means the agreements and deeds listed in Schedule 2;

**Assignment and Charge over Bank Account** means the assignment and charge over bank account dated 12 January 2012 and executed between the Chargor and the Lender,

whereby the Chargor has absolutely assigned all its rights interest titles and benefits in and under the Operating Account as security for the payment and repayment of monies due and payable under the term loan facilities granted by the Lender to the Landowner;

**Certificate of Title** means any report on or a certificate of title relating to the Mortgaged Property provided to the Lender by Thomson Snell & Passmore;

**Collateral Rights** means all rights, powers and remedies of the Lender provided by or pursuant to this Deed or by law;

**CREST** means the electronic settlement system for UK and Irish securities operated by Euroclear UK & Ireland Limited or any successor system for the time being;

**Dangerous Substances** means any substance or waste (as defined in the Environmental Protection Act 1990) which is capable of causing harm to man or any living organism supported by the Environment or damaging the Environment or public health or welfare;

**Debts** has the meaning given to it under the Facility Agreement;

**Default Rate** means the rate of interest calculated in accordance with clause 15.6 of the Facility Agreement;

**Environment** means the environment as defined in Section 1(2) of the Environmental Protection Act 1990;

**Environmental Audit** means a full risk assessment of the Security Assets to ascertain the nature and extent of any harm or detriment caused to, or the risk of any possible harm or detriment which may be caused to the Environment by any activity, including soil, air or water testing of the Security Assets and any other property;

**Environmental Law** means any applicable common or statutory law, regulation, standard or code having the force of law, any code of practice, circular, guidance note, judgment or decision of any court or tribunal relating to the protection of human health and safety, the workplace or the Environment;

**Environmental Licence** means a licence, permit, certificate of registration, consent, or approval, including any conditions which attach thereto, which relates to or affects the Security Assets and which is required by an Environmental Law;

**Event of Default** has the meaning given to it in the Facility Agreement;

**Facility Agreement** means the facility agreement dated on or around the date of this Deed to be made between the Borrower and the Lender under which the Lender has agreed to make available certain loan facilities to the Borrower;

**Finance Documents** means the Facility Agreement, the Security Documents, and any other document designated as such by the Lender now and from time to time and references to "**Finance Document**" include references to any of them;

**Financial Collateral** shall have the meaning given to that expression in the Financial Collateral Regulations;



**Financial Collateral Regulations** means the Financial Collateral Arrangements (No 2) Regulations 2003 (SI 2003/3226);

**First Legal Mortgage** means the legal mortgage dated 24 January 2012 and executed between the Chargor and the Lender, creating a first (1st) fixed charge and a first (1st) floating charge over the Mortgaged Property as security for the payment and repayment of monies due and payable under the term loan facilities granted by the Lender to the Landowner;

**Fixtures** includes all buildings, erections and structures at any time on or in the course of construction on the Mortgaged Property and includes all fixtures, fittings, plant, materials, machinery, equipment, installations and apparatus now and from time to time in or on the Mortgaged Property;

**Floating Charge Assets** means the assets charged pursuant to clause 3.3;

**Insurances** means all contracts and policies of insurance of whatever nature which are from time to time taken out by or with the authority or on behalf of the Chargor in relation to the Security Assets or any part of them;

**Insured Risks** means fire, storm, tempest, flood, earthquake, lightning, explosion, impact, aircraft and other aerial devices and articles dropped from them, riot, civil commotion, malicious damage, landslip, subsidence, burst pipes, environmental pollution, terrorist acts and other such risks as the Lender may, from time to time, require including demolition and site clearance costs and expenses and architects', surveyors' and other professional fees and all other incidental expenses;

**Intellectual Property** means claims and intellectual property rights including all patents, patent applications, trade marks and service marks (whether registered or not), trade mark applications, service mark applications, trade names, registered designs, design rights, copyrights, computer programmes, know-how and trade secrets and all other industrial or intangible property or rights and all licences, agreements and ancillary and connected rights relating to intellectual and intangible property now or from time to time after the date of this deed owned by the Chargor;

**Landowner** means Cranborne Enterprises Limited registered as a company limited by shares under the laws of British Virgin Islands with registration number 1673723 who has a freehold interest over the Mortgaged Property;

**Mortgaged Property** means all the leasehold property specified in Schedule 1 and any leasehold property which is the subject of a Security Interest under this Deed;

**Obligors** means the parties to the Finance Documents, other than the Lender and **Obligor** means any one of them;

**Occupational Lease Document** means the thirty five year lease document dated 5 April 2000 made between (1) Surrey Lodge, Kennington Road, London Borough of Lambeth, (2) Quercus (Nursing Homes) Limited, (3) Premier Hotels (Kennington) Limited and (4) Premier Hotels PLC, the licence to assign dated 10 August 2007 made between (1) Sellar Properties (Waterloo) LLP, (2) KHL Limited, (3) the Chargor and (4) MBI MOB Limited and any tenancy or licence to occupy or any agreement for any of the same from time to time

granted or entered into by the Chargor in respect of any part of the Mortgaged Property and any licence, consent or approval given thereunder;

**Operating Account** means the Chargor's account with account number 32095295 sort code 60-40-05 held at National Westminster Bank Plc , 135 Bishopgate, London EC2M 34R , as that account may be renumbered or redesignated from time to time

**Planning Acts** means the **consolidating Acts** as defined in the Planning (Consequential Provisions) Act 1990 together with the Planning and Compensation Act 1991, the Planning and Compulsory Purchase Act 2004, the Planning Act 2008 and the Localism Act 2011 and all applicable laws, orders, regulations, instruments, by laws, instructions and standards, whether national, regional or local, including any subordinate legislation relating to town and country planning and to the use and/or occupation of a Mortgaged Property;

**Receiver** means a receiver or receiver and manager of the whole or any part of the Security Assets;

**Related Rights** means, in relation to any asset which comprises the Security Assets:

- (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, covenants, easements, benefits, claims, contracts, warranties, remedies, security, indemnities or covenants for title in respect of that asset; and
- (d) any monies and proceeds paid or payable in respect of that asset;

**Rent** means all amounts payable to or for the benefit of the Landowner by way of rent or licence fee, service charge, dilapidations, ground rent and rent charge in respect of any part of the Mortgaged Property whether under an Occupational Lease Document or otherwise and all other monies payable to or for the benefit of the Landowner in respect of the occupation or use of any part of the Mortgaged Property by the Chargor;

**Rent Account** means the Landowner's account with account number 30211000 sort code 70-06-33 held at Maybank London, 74 Coleman Street, London Branch, as that account may be renumbered or redesignated from time to time;

**Revenue** means all amounts payable to or for the benefit of the Chargor in respect of the occupation or use of any part of the Mortgaged Property;

**Secured Liabilities** means all present and future monies, obligations and liabilities now or hereafter due owing or incurred to the Lender by the Chargor in any manner whatsoever, in any currency or currencies (whether present or future, actual or contingent) and whether owed by the Chargor as principal or surety or incurred solely or jointly with another, together with all interest accruing thereon and all costs, charges and expenses incurred by the Lender in connection therewith including, without limitation, all obligations under the Guarantee and any other Finance Documents from time to time;

**Securities** means all shares, stock, warrants, debentures, and other securities present and future (certificated or uncertificated) or units in an account of balance (whether held in

the name of the Chargor or by a nominee) of the Chargor and all income and rights deriving from or attaching to the same;

**Security** means the security constituted by or pursuant to this Deed;

**Security Assets** means all the assets, rights, property and undertaking of the Chargor from time to time mortgaged, charged, assigned or agreed to be assigned to, the Lender by the Chargor under this Deed including, without limitation, the Mortgaged Property;

**Security Financial Collateral Arrangement** shall have the meaning given to that expression in the Financial Collateral Regulations;

**Security Interest** means any mortgage, pledge, lien, charge, security assignment, right of set off, hypothecation or security interest or any other agreement or arrangement having the effect of conferring security (including, for the avoidance of doubt, a floating charge) or any other type of preferential arrangement (including, without limitation, title transfer or retention of title) having a similar effect;

**Security Period** means the period beginning on the date hereof and ending on the date upon which the Lender is satisfied that all the Secured Liabilities have been irrevocably and unconditionally paid and discharged in full and no further Secured Liabilities are capable of being outstanding;

**US Dollars** means the lawful currency of the United States of America;

**Tax** includes any form of taxation, levy, duty, charge, contribution or impost of whatever nature (including any applicable fine, penalty, surcharge or interest) imposed by any government authority, body or official (whether central, local, state or federal) anywhere in the world competent to impose any of them; and

**Valuation** means any valuation relating to the Mortgaged Property supplied to the Lender by the Chargor (or on its behalf).

## 1.2 Interpretation

In this Deed, unless the context otherwise requires, a reference to:

- 1.2.1 **assets** includes present and future properties, undertakings, revenues, rights and benefits of every description;
- 1.2.2 an **authorisation** includes an authorisation, consent, approval, resolution, licence, exemption, filing or registration;
- 1.2.3 the **Chargor** or the **Lender** includes a reference to its respective successors, permitted assigns and permitted transferees;
- 1.2.4 a **person** includes a permitted body corporate, unincorporated association and partnership, in each case, whether or not having a 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 regulatory, self-regulatory or other authority or organisation;

- 1.2.6 one gender shall include a reference to other genders; an individual will be treated as including corporations and vice versa; words importing the singular will be treated as including the plural and vice versa and words importing the whole will be treated as including a reference to any part, in each case except where the context specifically requires otherwise;
- 1.2.7 this Deed or to any provision of this Deed or any other document (including, without limitation any of the Finance Documents) is a reference to it as amended, restated, supplemented, varied or novated from time to time;
- 1.2.8 the words **include** or **including** (or any similar term) are not to be construed as implying any limitation and general words introduced by the word **other** (or any similar term) will not be given a restrictive meaning by reason of the fact that they are preceded or followed by words indicating a particular class of acts, matters or things;
- 1.2.9 a statute, a statutory provision, enactment or an EC Directive or subordinate legislation is a reference to any amendment, modification, extension, consolidation, replacement or re-enactment of any such statute, statutory provision, enactment or EC Directive, whether before or after the date of this Deed;
- 1.2.10 the making of an administration order shall be treated as including a reference to the appointment of an Administrator under paragraph 14 (by the holder of a qualifying floating charge in respect of the Chargor's property) or paragraph 22 (by the Chargor or the directors of the Chargor) of Schedule B1 to the Insolvency Act 1986; and
- 1.2.11 the making of an application for an administration order by petition shall be treated as including a reference to making an administration application to the court under Schedule B1 to the Insolvency Act 1986, appointing an Administrator under paragraphs 14 or 22 of that Schedule, or giving notice under paragraphs 15 or 26 of that Schedule of intention to appoint an Administrator.

### 1.3 **Facility Agreement**

- 1.3.1 Words and expressions defined in the Facility Agreement will have the same meanings when used in this Deed, unless the context otherwise requires. In the case of inconsistency, definitions set out in the Facility Agreement will prevail.
- 1.3.2 In the event of any inconsistency, ambiguity or discrepancy between the provisions of the Facility Agreement and the provisions of this Deed, then the provisions of the Facility Agreement shall prevail.

### 1.4 **Headings**

The clause, paragraph and Schedule headings and the table of contents are inserted for ease of reference only and will not affect construction.

**1.5 Law of Property (Miscellaneous Provisions) Act 1989**

For the purposes of Rule 68 of the Land Registration Rules 2003 (as amended) the covenant set out in section 4(1)(b) of the Law of Property (Miscellaneous Provisions) Act 1994 will be extended by the provisions of this Deed.

**1.6 Nature of security over Mortgaged Property**

A reference in this Deed to a **charge or mortgage of or over the Mortgaged Property** includes:

1.6.1 all buildings and Fixtures and fittings (including trade and tenant's Fixtures and fittings) and fixed plant and machinery which are situated on or form part of the Mortgaged Property at any time; and

1.6.2 all Related Rights.

**1.7 Third party rights**

A person who is not a party to this Deed has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce, or to enjoy, any term of this Deed.

**1.8 Qualifying floating charge**

This Deed contains a qualifying floating charge which gives the Lender the power to appoint an Administrator of the Chargor and paragraph 14 of schedule B1 to the Insolvency Act 1986 applies to the floating charge created by clause 3.3 of this Deed.

**1.9 Avoidance of payments**

If the Lender considers an amount paid by the Chargor in respect of the Secured Liabilities is capable of being avoided or otherwise set aside on the insolvency, liquidation or administration of the Chargor or otherwise set aside, that amount shall not have been irrevocably and unconditionally paid for the purposes of this Deed.

**2 Payment of Secured Liabilities**

**2.1 Covenant to pay**

The Chargor covenants with the Lender that it will, on demand, pay and discharge the Secured Liabilities as and when they fall due for payment including, without limitation, in the manner provided in the Finance Document.

**2.2 Interest on demand**

If the Chargor fails to pay any sum on the due date for payment of that sum the Chargor will pay interest on such sum (before and after any judgment) from the date of demand until the date of payment calculated at the Default Rate.

### **3 Security**

#### **3.1 Fixed charges**

The Chargor hereby charges in favour of the Lender with full title guarantee as continuing security for the payment and discharge of the Secured Liabilities:

3.1.1 by way of a second fixed legal mortgage the Mortgaged Property;

3.1.2 by way of second fixed charge:

- (a) the benefit of all present and future licences, consents and authorisations (statutory or otherwise) held or utilised by the Chargor in connection with the Mortgaged Property or the use of any of the Mortgaged Property and all rights in connection with them;
- (b) the benefit of all other contracts, guarantees, appointments, covenants and warranties relating to the Mortgaged Property and other documents to which the Chargor is a party or which are in its favour or of which it has the benefit relating to letting, development, sale, purchase, use or the operation of the Mortgaged Property or any part of it or otherwise relating to the Mortgaged Property;
- (c) all Fixtures;
- (d) all monies from time to time standing to the credit of the Operating Account;
- (e) the Debts and the proceeds of payment or realisation of each of them until payment of such proceeds into the Accounts in accordance with clause 15;
- (f) all its rights and interests in and claims under the Insurances issued in relation to the Mortgaged Property.

3.1.3 by way of a first fixed legal mortgage all estates or interests in any freehold or leasehold property (except any assets specified in clause 3.1.1) now or in the future belonging to it;

3.1.4 by way of first fixed charge:

- (a) the benefit of all present and future licences, consents and authorisations (statutory or otherwise) held or utilised by the Chargor in connection with the Security Assets (other than the Mortgaged Property) or the use of any of the Security Assets (other than the Mortgaged Property) and all rights in connection with them;
- (b) all furniture, furnishings, tools, vehicles, computers, computer software and hardware and office and other equipment and other chattels belonging to the Chargor and not regularly disposed in the ordinary course of business together with the benefit of all contracts, licences and warranties relating to the same;

- (c) all monies from time to time standing to the credit of the Account(s) (other than the Operating Account);
- (d) the Securities;
- (e) all choses in action and the Intellectual Property;
- (f) all present and future goodwill, uncalled and called but unpaid capital of the Chargor;
- (g) all its rights and interests in and claims under the Insurances issued in relation to the Security Assets (other than the Mortgaged Property);
- (h) all negotiable instruments at any time drawn, issued or endorsed in favour of or held by or on behalf of, the Chargor, including any such instruments which at any time have been deposited with the Lender (whether or not endorsed by the Lender);
- (i) the benefit of any interest rate swap, currency swap, cap or collar arrangement, future, option, forward rate agreement or other derivative instrument (howsoever described) or any other agreement with the Lender or any third party for protecting or hedging any of the Secured Liabilities at any time; and
- (j) insofar as the legal mortgages referred to in clause 3.1.1 and 3.1.3 or any of the assignments referred to in clause 3.2 shall for any reason be ineffective as a legal mortgage or an assignment, the assets referred to in those clauses.

### **3.2 Assignments**

The Chargor hereby assigns and agrees to assign by way of security to the Lender with full title guarantee for the payment and discharge of the Secured Liabilities all the Chargor's right, title and interest in, to and under each of the following present and future assets:

- 3.2.1 the benefit of each of the Assigned Contracts and the benefit of any guarantee or security for the performance of each Assigned Contract;
- 3.2.2 all its rights and interests in the Revenue and the benefit of any guarantee or security in respect of the Revenue;
- 3.2.3 all its rights and interests in and claims under the Insurances;
- 3.2.4 all rights and claims in relation to any Mortgaged Property including, without limitation, all rights and claims against any lessees, tenants, sub-lessees, sub-tenants, licensees or occupiers of the Mortgaged Property from time to time and all guarantors and sureties for the obligations of such persons (whether under the Occupational Lease Documents or otherwise).
- 3.2.5 the benefit of all contracts, deeds, undertakings, agreements, rights, warranties, securities, covenants, guarantees, bonds and indemnities of any nature now or at any time enjoyed or held by the Chargor and relating to the Mortgaged

Property and all compensation paid in relation to the Mortgaged Property and all VAT payable on the same;

- 3.2.6 the benefit of any development documents and all undertakings, agreements, rights, warranties, securities, covenants, guarantees, bonds and indemnities of any nature now or at any time enjoyed or held by the Chargor;
- 3.2.7 the benefit of all guarantees, warranties and representations given or made by, and any rights or remedies to which the Chargor may now or in the future be entitled against, all or any professional advisors and contractors in relation to the Mortgaged Property, and any business carried on thereat, and the manufacturer supplier and installers of all plant, machinery, Fixtures and fittings or other items now or hereafter in buildings located on the Mortgaged Property and any other person now or from time to time under contract or under a duty to the Chargor including without limitation the right to prosecute in the name of the Chargor proceedings against any such person and the benefit of all sums recovered in proceedings against all or any such persons; and
- 3.2.8 all claims, remedies, awards or judgments paid or payable to the Chargor (including, without limitation, all liquidated and ascertained damages payable to the Chargor under the above),

provided that, in each case, to the extent (if any) that the benefits, rights, titles, claims and interests assigned under this clause 3.2 are not assignable, such assignment will operate as an assignment of all proceeds received by the Chargor in connection with such benefits, rights, titles, claims and interests.

### **3.3 Floating charge**

- 3.3.1 The Chargor hereby charges in favour of the Lender with full title guarantee for the payment and discharge of the Secured Liabilities by way of a second floating charge the whole of the Chargor's undertaking, property and assets, present and future wherever situate not from time to time subject to an effective mortgage, fixed charge or assignment under Clause 3.1.1 and 3.1.2 of this Deed.
- 3.3.2 The Chargor hereby charges in favour of the Lender with full title guarantee for the payment and discharge of the Secured Liabilities by way of a first floating charge the whole of the Chargor's undertaking, property and assets, present and future wherever situate not from time to time subject to an effective mortgage, fixed charge or assignment under Clause 3.1.3 and 3.1.4 of this Deed.

## **4 Conversion of the Floating Charge**

### **4.1 Notice of conversion**

- 4.1.1 The Lender may from time to time, by notice in writing to the Chargor following the occurrence of Event of Default or if the Lender considers those assets to be in danger of being seized or sold under any form of distress, attachment, execution, diligence or other legal process or to otherwise be in jeopardy,



convert the floating charge contained in clause 3.3 into a fixed charge as regards any Floating Charge Assets specified in such notice.

- 4.1.2 The floating charge contained in clause 3.3 may not be converted into a fixed charge solely by reason of the obtaining of a moratorium or anything done with a view to obtaining a moratorium under the Insolvency Act 2000.

## 4.2 Automatic conversion

Notwithstanding anything contained in this Deed, if (without the prior written consent of the Lender):

- 4.2.1 the Chargor creates any Security Interest over or otherwise encumbers any of the Security Assets created by this Deed, the First Legal Mortgage and the Assignment and Charge over Bank Account or attempts to do so other than as permitted under the Finance Documents;
- 4.2.2 any person levies or attempts to levy any distress, execution, diligence, sequestration or other process against the Security Assets;
- 4.2.3 a resolution is passed or a petition is presented for the winding up, dissolution, administration or re-organisation of the Chargor other than any petition which is frivolous and vexatious has been disclosed to the Lender and is being diligently contested by the Chargor;
- 4.2.4 a Receiver or an administrative receiver is appointed over the Security Assets or, if any person entitled to do so, gives notice of intention to appoint a Receiver or an administrative receiver over the Security Assets or files such a notice with the court; or
- 4.2.5 an Administrator is appointed in respect of the Chargor or the Lender receives notice of an intention to appoint an Administrator pursuant to paragraphs 15 or 26 of Schedule B1 of the Insolvency Act 1986 in respect of the Chargor,

the floating charge created by this Deed over the Floating Charge Assets shall with immediate effect and without notice automatically convert into a fixed charge.

## 5 The Land Registry and further advances

### 5.1 Land registration

The Chargor hereby consents to an application being made to the Chief Land Registrar by or on behalf of the Lender to enter the following restriction (in form P of Schedule 4 to the Land Registration Rules 2003) in the Proprietorship Register of any property which is, or is required to be, registered forming part of the Mortgaged Property:

"No disposition of the registered estate by the proprietor of the registered estate or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction, is to be registered without a written consent signed by the proprietor for the time being of the charge dated [the date of this Deed] in favour of Export-Import Bank of Malaysia Berhad (as Lender) referred to in the Charges Register or their conveyancer or an individual identified as an authorised signatory of the Lender".

## **5.2 Implied covenants**

For the purposes of Rule 68(1) of the Land Registration Rules 2003, the covenants set out in Sections 2 to 5 (inclusive) of the Law of Property (Miscellaneous Provisions) Act 1994 will be extended by the provisions of this Deed.

## **5.3 Further advances**

- 5.3.1 Subject to the terms of the Finance Documents, the Lender is under an obligation to make further advances to the Borrower.
- 5.3.2 For the purposes of section 94(1)(c) of the Law of Property Act 1925, section 49(3) of the Land Registration Act 2002 and Rule 108 of the Land Registration Rules 2003, the obligation on the Lender to make further advances will be deemed to be incorporated in this Deed as if the same were set out in this Deed.
- 5.3.3 For the purposes of the Land Registration Rules 2003 and section 49(3) of the Land Registration Act 2002, the Chargor hereby consents to an application being made to the Chief Land Registrar by or on behalf of the Lender for the entry of a note of the obligation to make further advances on the Charges Register of any registered land forming part of the Mortgaged Property.

## **6 Further assurance**

### **6.1 Further assurance: general**

The Chargor shall, at its own expense, promptly do all such acts or execute all such documents (including, without limitation, assignments, transfers, mortgages, charges, notices and instructions) as the Lender or any Receiver may specify (and in such form as the Lender or any Receiver may require) in favour of the Lender or its nominees:

- 6.1.1 to perfect or protect the security created or intended to be created in respect of the Security Assets (which may include the execution by the Chargor of a mortgage, fixed charge or assignment over all or any of the assets constituting, or intended to constitute, Security Assets) or for the exercise of the Collateral Rights; and/or
- 6.1.2 to facilitate the realisation of the Security Assets; and/or
- 6.1.3 to obtain all necessary consents to procure the registration of this Deed with the registrar of companies (if applicable) and, in respect of the Mortgaged Property, at the Land Registry or on the Land Charges Register, as appropriate.

### **6.2 Consents**

The Chargor will use all reasonable endeavours to obtain (in form and content satisfactory to the Lender) as soon as possible any consents necessary to enable the relevant Security Assets purported to be so charged or assigned to be the subject of an effective fixed charge or assignment pursuant to clauses 3.1 and 3.2 and, immediately upon obtaining any such consent, the relevant Security Asset shall become subject to such Security and the Chargor shall promptly deliver a copy of each such consent to the Lender.

**6.3 Notice of assignment of Assigned Contracts**

The Chargor will promptly give notice of assignment in the form set out in part I of Schedule 3 to each counterparty to an Assigned Contract and shall procure that each relevant party acknowledges that notice substantially in the form set out in part II of Schedule 3.

**6.4 Notice of charge of Operating Account**

The Chargor will promptly give notice to the bank at which the Operating Account is held in the form set out in part I of Schedule 4 and shall procure that the Account Bank acknowledges that notice substantially in the form set out in part II of Schedule 4.

**6.5 Notice to tenants under Occupational Lease Documents**

At any time after an Event of Default has occurred, the Chargor shall issue a notice in the form of part I of Schedule 5 to all other parties to any Occupational Lease Document to pay any sums (including, without limitation, each guarantee or security in respect of the Mortgaged Property) due under any Occupational Lease Document to the Lender or into such Account as the Lender may require and to procure that such parties acknowledge such notice in the form of part II of Schedule 5.

**6.6 Notices of assignment of Insurances**

The Chargor will promptly give notice of assignment to all insurers in respect of the Insurances in the form set out in part I of Schedule 6 and shall procure that such insurers acknowledge the notice in the form set out in part II of Schedule 6.

**6.7 Preservation of rights**

Neither the obligations of the Chargor contained in this Deed nor the rights, powers and remedies conferred in respect of the Chargor upon the Lender or by law shall be discharged, prejudiced or otherwise affected by:

- 6.7.1 the winding-up, dissolution, administration or reorganisation of the Chargor, any Obligor or any other person or any change in its status, function, control or ownership;
- 6.7.2 any of the obligations of the Chargor, any Obligor or any other or under any other security being or becoming illegal, invalid, unenforceable or ineffective in any respect;
- 6.7.3 any time or other indulgence being granted or agreed to be granted to the Chargor, any Obligor or any other person in respect of its obligations;
- 6.7.4 any amendment to, or any variation, waiver or release of any obligation of the Chargor, any Obligor or any other person;
- 6.7.5 any failure to take, or fully to take, any security or otherwise agreed to be taken in respect of the Chargor's, any Obligor's or any other person's obligations;

- 6.7.6 any failure to realise or fully to realise the value of, or any release, discharge, exchange or substitution of, any security taken or agreed to be taken in respect of the Chargor's, any Obligor's or any other person's obligations; or
- 6.7.7 any other act, event or omission which, but for this clause 6.7, might operate to discharge, impair or otherwise affect any of the obligations of the Chargor, any Obligor or any other person or any of the rights, powers or remedies conferred upon the Lender or by law.

## **7 Negative pledge and disposal restrictions**

### **7.1 Negative pledge**

Save and except for the Security Interest created under the Assignment and Charge over Bank Account, the First Legal Mortgage and other Security Interest as permitted by the Finance Documents, the Chargor will not, without the prior written consent of the Lender, create, purport to create, or permit to subsist (in favour of any person other than the Lender) any Security Interest over any of the Security Assets now or in the future, or agree or attempt to do so, or increase or extend any liability of the Chargor secured on any of the Security Assets.

### **7.2 Disposal of fixed charge assets**

Save as permitted by the Finance Documents, the Chargor will not, without the prior written consent of the Lender (whether by a single transaction or number of related or unrelated transactions, and whether at the same time or over a period of time) sell, transfer, lease out, lend or otherwise dispose of any of the Security Assets charged or assigned by clauses 3.1 and 3.2 or following the crystallisation of the floating charge created by clause 3.3 the Floating Charge Assets charged by clause 3.3 or any interests therein or the right to receive or to be paid the proceeds arising from their disposal or agree or attempt to do so.

### **7.3 Disposal of Floating Charge Assets**

The Chargor will not dispose of any of the Floating Charge Assets charged by clause 3.3 other than in the ordinary course of and for the purposes of, carrying on its trading business whilst the floating charge remains uncrystallised.

## **8 Representations and warranties**

### **8.1 Duration and to whom made**

The representations and warranties made by the Chargor in this clause 8 will remain in force (and will be deemed repeated on each Drawdown Date) during the Security Period and are given to the Lender.

### **8.2 General matters represented**

- 8.2.1 the Chargor is a company duly registered and validly existing under the laws of its incorporation and has the full power and authority to own its Assets and to carry on its business as it is presently being conducted;

- 8.2.2 the Chargor has full legal right, authority and power to borrow or incur liability and to enter into and bind itself by the Finance Documents to which it is a party and to exercise its rights and perform its obligations under the Finance Documents;
- 8.2.3 all appropriate and necessary action has been taken to authorise the execution and delivery of the Finance Documents and the exercise by the Chargor of its rights and the performance of its obligations under the Finance Documents;
- 8.2.4 the Finance Documents to which the Chargor is a party constitute legal, valid and binding obligations of the Chargor and are enforceable in accordance with their terms;
- 8.2.5 the Chargor is not in default under the Finance Documents to which it is a party or any other contract or agreement binding on the Chargor or its Assets;
- 8.2.6 that as at the date of this Deed, no other Security Interest exists on any of the Assets of the Chargor as security for any Debts save and except for the Security Interest created pursuant to the First Legal Mortgage and the Assignment and Charge over Bank Account or such other Security Interest that have been disclosed by the Chargor to the Lender in writing prior to the execution of the Finance Documents;
- 8.2.7 that no violation of any provisions of legislation, court orders and judgements has been committed by the Chargor;
- 8.2.8 that no Event of Default has occurred and no event has occurred which with the giving of notice and/or the lapse of time might constitute an Event of Default;
- 8.2.9 that the Chargor has obtained or has taken all the relevant steps for obtaining all necessary licences, consents, approvals, waivers and authorisations as are or may become necessary for the carrying on of its business and the Chargor has duly complied with all Applicable Laws pertaining to the same and shall notify the Lender forthwith if such licences, consents, approvals, waivers or authorisations or any of them are refused, withdrawn, modified, resolved or terminated or expires and is not renewed or is otherwise not in full force and effect;
- 8.2.10 neither the execution and delivery of the Finance Documents nor the performance of any of the transactions contemplated therein will:-
- (i) contravene or constitute a default under any provisions contained in any agreement, instrument, Applicable Laws, judgement, order, licence, permit or consent by which the Chargor, its business or any of its Assets is bound or affected;
  - (ii) result in a breach of any provision of its constitutional documents; or
  - (iii) cause any limitation on it or the powers of its directors, whether imposed by or contained in any document which contains or establishes the Chargor's constitutions or in any Applicable Laws, order, judgement, agreement, instrument or otherwise, to be exceeded;

- 8.2.11 none of the Chargor's directors, officers, managers, shareholders, employees or agents, their spouses, parents, children is an officer or employee of or otherwise connected with the Lender within the meaning of Section 28(3) of the DFIA;
- 8.2.12 none of the shares in the Chargor is held by an officer or employee of the Lender or any of their spouses, parents or children;
- 8.2.13 no litigation or arbitration or investigative or administrative proceeding or claim which might by itself or together with any other such proceedings or claims have a material adverse effect on the Chargor's business, Assets or financial condition or its ability to observe or perform its obligations under the Finance Documents, have been started or, to the best of the knowledge, and belief of the Chargor, threatened against the Chargor or any of its Assets (including but not limited to the Chargor's machinery, equipment or other assets) or in respect of its business;
- 8.2.14 all necessary returns have been delivered by or on behalf of the Chargor to the relevant taxation authorities and the Chargor is not in default in the payment of any taxes of a material amount, and no material claim is being asserted with respect to taxes which is not disclosed in the financial and other statements or any audited accounts referred to in the Facility Agreement;
- 8.2.15 all information supplied by or on behalf of the Chargor (including its advisers) in connection with the Facility is true, complete and accurate in all respects as at the date it was given and is not misleading in any respect based on the existing facts and circumstances, and all expressions of expectation, intention, belief and opinion contained therein were honestly made on reasonable grounds after due and careful enquiry by the Chargor;
- 8.2.16 the Chargor has fully disclosed in writing to the Lender all facts relating to the Chargor which the Chargor knows or should reasonably know and which are material for disclosure to the Lender in the context of the Finance Documents;
- 8.2.17 the Chargor has duly obtained all appropriate consent in writing from any existing financier (if applicable) to secure the Facility or Secured Liabilities in favour of the Lender (if applicable);
- 8.2.18 the Chargor is not insolvent or in liquidation or administration and no step has been taken by the Chargor or its shareholders nor have any legal proceedings been started or threatened for the dissolution of the Chargor or in respect of any part of its property, undertaking or assets in any jurisdiction;
- 8.2.19 the Chargor is subject to civil and commercial law with regard to its obligations under the Finance Documents and the execution, delivery and performance of the Finance Documents constitute private and commercial acts rather than governmental or public acts and the Chargor is not entitled to enjoy any immunity on the grounds of sovereignty or otherwise in respect of its obligations under the Finance Documents;

- 8.2.20 the Chargor is conducting its business and operations in compliance with all Applicable Laws and regulations and all directives of governmental authorities having the force of law;
- 8.2.21 the payment obligations of the Chargor under the Finance Documents to which it is party rank at least *pari passu* with the present and future claims of all its unsecured and unsubordinated creditors, except for those obligations mandatorily preferred by law applying to companies generally;
- 8.2.22 subject to any general principles of law which are specifically referred to in any legal opinion delivered pursuant to the Facility Agreement:
- (i) the choice of English law as the governing law of the Finance Documents to which the Chargor is a party will be recognised and enforced in England and Wales; and
  - (ii) any judgment obtained in relation to a Finance Document in the courts on which such Finance Document confers jurisdiction to settle disputes will be recognised and enforced in England and Wales;
- 8.2.23 all insurances required for and in relation to the business and assets of the Chargor including the Mortgaged Property have been effected and are valid and binding and all premiums due have been paid and nothing has been done or omitted to be done which has made or could make any such policy void or voidable.

### 8.3 **Matters represented – Mortgaged Property**

Except as disclosed in writing to the Lender or in the Certificate of Title on or prior to the date of this Deed or on or prior to the date the Mortgaged Property becomes subject to a fixed charge hereunder:

- 8.3.1 the Chargor is the legal and beneficial owner of the Mortgaged Property, and has good and marketable title to the Mortgaged Property;
- 8.3.2 planning permission has been obtained or is deemed to have been granted in accordance with statute for the purposes of the Planning Acts and has been complied with in respect to any development and the existing use of the Mortgaged Property, and the Planning Acts and all relevant building regulations or previously relevant building bye-laws have been complied with in respect of all developments, alterations and improvements to the Mortgaged Property and they have also been complied with in respect of the use of the Mortgaged Property;
- 8.3.3 there are no covenants, agreements, stipulations, reservations, conditions, interests, rights or other matters whatsoever affecting the Mortgaged Property which materially adversely affect or are likely to materially adversely affect the value of the Mortgaged Property or the ability of the Chargor to perform its obligations owed to the Lender;
- 8.3.4 nothing has arisen or has been created or is subsisting which would be an overriding interest over the Mortgaged Property which materially adversely

affects or is likely to materially adversely affect the value of the Mortgaged Property or the ability of the Chargor to perform its obligations owed to the Lender;

- 8.3.5 no facilities necessary for the enjoyment and use of the Mortgaged Property are enjoyed by the Mortgaged Property on terms entitling any person to terminate or curtail its or their use which materially adversely affects or is likely to materially adversely affect the value of the Mortgaged Property or the ability of the Chargor to perform its obligations owed to the Lender;
- 8.3.6 the Chargor has received no notice of any adverse claims by any person in respect of the ownership of the Mortgaged Property or any interest therein, nor has any acknowledgement been given to any person in respect thereof which has not been disclosed to the Lender;
- 8.3.7 nothing has arisen, or has been created, which would be an overriding interest in any Mortgaged Property;
- 8.3.8 the Mortgaged Property will be free from any tenancies or licences, other than those tenancies or licences permitted under the Facility Agreement or which have been disclosed to the Lender prior to the date of this Deed;
- 8.3.9
- (a) all written information supplied by the Chargor or on its behalf for the purpose of each Valuation and Certificate of Title was true and accurate in all material respects as at its date or as at the date (if any) on which it was stated to be given;
  - (b) the information referred to in clause 8.3.9 (a) was, as at its date or as at the date (if any) on which it was stated to be given, complete and the Chargor did not omit to supply any information which, if disclosed, would adversely affect the Valuation or Certificate of Title; and
  - (c) in the case of the first Valuation or Certificate of Title only, nothing has occurred since the date the information referred to in clause 8.3.9 (a) was supplied and the date of this Deed which would adversely affect such Valuation or Certificate of Title;
- 8.3.10 the Chargor has disclosed to the Lender full details of all inspections, investigations, studies, Environmental Audits and other analyses commissioned by it in relation to environment matters in respect of the Mortgaged Property and any adjoining land;
- 8.3.11 the Chargor is, and has at all times been, in compliance with all applicable Environmental Law; and
- 8.3.12 the Chargor has obtained and is, and has at all times been, in compliance with all Environmental Licences.



#### **8.4 Matters represented – Security Assets**

- 8.4.1 There are no covenants, agreements, stipulations, reservations, conditions, interests, rights or other matters whatsoever affecting the Security Assets which materially adversely affect or are likely to materially adversely affect the Security Assets or the ability of the Chargor to perform its obligations owed to the Lender.
- 8.4.2 No facilities necessary for the enjoyment and use of the Security Assets are enjoyed by the Security Assets on terms entitling any person to terminate or curtail its or their use which materially adversely affects or is likely to materially adversely affect the Security Assets or the ability of the Chargor to perform its obligations owed to the Lender.
- 8.4.3 The Chargor has received no notice of any adverse claims by any person in respect of the ownership of the Security Assets or any interest therein, nor has any acknowledgement been given to any person in respect thereof which has not been disclosed to the Lender.

#### **8.5 Security created**

Subject to registration with the registrar of companies (if applicable), at the Land Registry or at the Land Charges Registry as appropriate, this Deed creates those Security Interests it purports to create ranking as set out above and is not liable to be avoided or otherwise set aside on the liquidation or administration of the Chargor or otherwise.

#### **9 General undertakings**

##### **9.1 Duration and benefit**

The undertakings in this clause 9:

- 9.1.1 shall remain in force during the Security Period; and
- 9.1.2 are given to the Lender.

##### **9.2 Compliance with Finance Documents**

The Chargor shall punctually observe and perform all the covenants and undertakings under this Deed and the relevant Finance Documents to which it is a party.

##### **9.3 Business**

The Chargor shall carry on or cause to be carried on its business and affairs with due diligence and efficiency and in accordance with sound financial, industrial and commercial standards and practices generally applicable to the industry and in accordance with its Memorandum and Articles of Association (as may be amended from time to time only with the prior written consent of the Lender) and the Applicable Laws.

#### **9.4 Information**

- (i) The Chargor shall furnish or cause to be furnished to the Lender all such information as the Lender shall request concerning its business and on any factors materially affecting the operations and financial condition of the Chargor, if any, and in particular, the information to be supplied shall be in such form as the Lender may from time to time require with statements of all Debts of the Chargor, if any.
- (ii) The Chargor shall, for the purpose of annual review or any other review to be conducted at the sole discretion of the Lender, submit to the Lender within the timeframe then given to the Chargor, such documents or information required by the Lender for purposes of such review.

#### **9.5 Taxes**

The Chargor shall punctually pay or cause to be paid all rents, rates, taxes, duties, fees, impositions and all other outgoings whatsoever payable from time to time in respect of its business or in respect of any land and any buildings and structures at any time hereafter erected on such land where its business is carried on and perform and observe all covenants, terms and conditions, express or implied and on the Chargor's part to be performed and observed and contained in respect of its business or in any document or instrument of title, lease or otherwise pursuant to which such land and any building and structures at any time hereafter erected on such land are from time to time held.

#### **9.6 Books and Records**

The Chargor shall at all times permit the Lender, its respective officers, servants and/or agents to inspect and take copies of all records and books of account of the Chargor at any office, branch or place of business of the Chargor or elsewhere and all other records kept by any other authorities or persons insofar as such records and books of account relate to or affect its business or any part thereof and the Chargor's assets and properties and for the purposes of such inspection, give to the Lender and any officer, servant and/or agent of the Lender such written or other authorisations as may be required by the Lender.

#### **9.7 Legal Proceedings and Litigation**

Where such matter comes to the knowledge of the Chargor, the Chargor shall inform or cause to be informed the Lender of:-

- (i) any legal proceeding, litigation or claim (of a material nature) involving the Chargor;
- (ii) any material dispute between the Chargor and any Appropriate Authorities or any other party in respect of its business;
- (iii) any labour controversy which might result in a strike against the Chargor;
- (iv) any matter which has adversely affected or might adversely affect the Chargor's financial condition, or ability to fulfil its obligations under the Finance Documents or the due and proper execution and implementation of its business or financial position.

**9.8 Notification of any Event of Default**

The Chargor shall promptly inform the Lender of the occurrence of any Event of Default.

**9.9 Licences**

The Chargor shall obtain all such licences consents, approvals, authorisations, orders and exemptions of any ministry, agency, department or authority in Malaysia or elsewhere which are required or advisable for the carrying on or undertaking of the business of the Chargor and the same are in full force and effect and the Chargor shall comply with all Applicable Laws pertaining to the same and notify the Lender if such licences, consents, approvals, authorisations, orders or exemptions or any of them are withdrawn, modified, revoked or terminated or expires and is not renewed or is otherwise not in full force and effect.

**9.10 Grant of Loan and Advances**

The Chargor shall not grant any loans or advances to its director(s)/shareholder(s)/related companies/subsidiaries or associated companies (except as permitted by the Facility Agreement).

**9.11 Distribution of Dividend**

The Chargor shall not make any distribution of share capital or declare or pay any dividend or bonus issue.

**9.12 Nature of Business**

The Chargor shall not make any alteration to the general nature of its business as it is presently being conducted.

**9.13 Subsidiaries**

The Chargor shall not establish any subsidiary other than its existing subsidiary(ies) (if any) or make or permit or lend or make any advances to any person, firm or corporation (other than temporary loans of limited sums to its staff or customer, contractors or suppliers of the products or services to the Chargor in the ordinary course of its business) or make any investments in any existing subsidiaries or other companies or enterprises.

**9.14 Change of ownership**

The Chargor shall not change the shareholding or management structure of the Chargor and/or effect any form of reconstruction or amalgamation by way of a scheme of arrangements or otherwise.

**9.15 Incurring Liabilities**

The Chargor shall not incur, assume, guarantee or permit to exist any Debts in particular, but without limiting the generality of the foregoing, from other financial institutions, except:-

- (i) short-term Debts, hire purchase facilities, trade credits, suppliers' credit or advances

incurred or obtained in the ordinary course of its business from non-financial institution; for the purpose of this paragraph, a short-term Debt is deemed to be any debt payable on demand or maturing by its terms within twelve (12) months after the date on which it is originally incurred;

(ii) such Debts which have been disclosed to the Lender before the date of this Deed.

**9.16 Entry into transactions**

The Chargor shall not enter into any transaction with any person, firm or company, except in the ordinary course of its business and on arm's length basis, or establish any exclusive purchasing or sales agency, or enter into any transaction whereby the Chargor might receive less than the full commercial price (subject to normal trade discounts) in respect of its business or pay more than the normal commercial price in respect of its business;

**9.17 Partnership and profit-sharing**

Save and except as disclosed to Lender, the Chargor shall not enter into any partnership, profit-sharing or royalty agreement or other similar arrangement whereby the Chargor's income or profits are, or might be, shared with any other person, firm or company or enter or cause to be entered into any management contract or similar arrangement other than the Finance Documents whereby the Chargor's business and assets or operations are managed by any other person, firm or company.

**9.18 Memorandum and Articles of Association**

The Chargor shall not add to, delete, vary or amend or cause to be added to, deleted, varied or amended its Memorandum and Articles of Association in a manner inconsistent with the Finance Documents.

**9.19 Share Capital**

The Chargor shall not in any way whatsoever reduce the authorised or issued capital of the Chargor whether by varying the amount, structure or value thereof or the rights attached thereto, or convert or cause to be converted any of its share capital into stock, or by consolidating, dividing or sub-dividing all or any of its shares.

**9.20 Shareholder and director's advances**

The Chargor shall not prepay or repay its directors and shareholders the advances or any portion thereof made by such directors and shareholders to the Chargor.

**9.21 Unlawful activities**

The Chargor shall not engage, directly or indirectly, in a transaction that involves proceeds of any unlawful activity or acquire, receive, possess, disguise, transfer, convert, exchange, carry, dispose, use, remove from or brings into Malaysia proceeds of any unlawful activity; or conceal, disguise or impede the establishment of the true nature, origin, location, movement, disposition, title of, rights with respect to, or ownership of, proceeds of any unlawful activity.

**9.22 Not to jeopardise the Security**

The Chargor will not do or allow to be done anything which could reasonably be expected materially to decrease the value of the Security to the Lender (other than fair wear and tear arising from the use of the Security Assets in the ordinary course of business).

**9.23 Maintenance**

The Chargor will keep all plant, machinery, Fixtures, fittings, vehicles, computers and other equipment included in the Security Assets in a good state of repair and in good working order and condition and when necessary replace the same by items of similar quality and value.

**9.24 Information and access**

The Chargor will, at the request of the Lender, promptly provide the Lender with such information as the Lender may reasonably require about the Security Assets and the Chargor's compliance with the terms of this Deed and the Chargor will permit the Lender, its representatives, professional advisers and contractors, free access at all reasonable times and on reasonable notice to view the Security Assets (without becoming liable as mortgagee in possession).

**9.25 Law**

The Chargor will comply with all applicable laws, regulations and authorisations affecting the Security Assets.

**10 Mortgaged Property**

The Chargor undertakes to the Lender at all times during the Security Period:

**10.1 Repair**

to keep the Mortgaged Property in good and substantial repair and condition;

**10.2 Outgoings**

to pay punctually all Taxes, rents, rates, duties, assessments and other outgoings payable in respect of the Mortgaged Property;

**10.3 Covenants**

to perform and observe all covenants (positive and restrictive), conditions and stipulations from time to time affecting the Mortgaged Property or the use or enjoyment of it;

**10.4 Development**

(within the meaning of that expression in the Planning Acts and being development for which the permission of the local planning authority is required) not without the prior written consent of the Lender to carry out or permit any development of the Mortgaged Property, or remove any of the Fixtures on the Mortgaged Property (except in connection with the renewal or replacement of them);

**10.5 User**

to use the Mortgaged Property only for such purpose or purposes as may for the time being be authorised as the permitted use or user thereof under or by virtue of the Planning Acts;

**10.6 Planning**

10.6.1 to comply with any conditions attached to any planning permissions relating to or affecting the Mortgaged Property;

10.6.2 not without the prior written consent of the Lender to make any application for planning permission or implement any planning permission obtained or enter or agree to enter into any agreement or undertaking under the Planning Acts in each case in respect of the Mortgaged Property;

**10.7 Notices**

to pass onto the Lender immediately upon receipt a copy of any notice or proposal for a notice or order served on the Chargor by any public or local or any other authority in respect of the Mortgaged Property or any part thereof and to give notice to the Lender immediately on becoming aware of any other matter which is likely to affect adversely the value of the Mortgaged Property, and in each case if the Lender so requires or approves and at the Chargor's cost to make such representations in respect of such notice or order as the Lender may require;

**10.8 Information**

at the request of the Lender promptly to provide the Lender with such documents or information relating to the Mortgaged Property or its development as the Lender may reasonably require;

**10.9 Compliance with leases**

where the Mortgaged Property is subject to any lease, agreement for lease, tenancy or licence to observe and perform all the covenants, stipulations and obligations contained in any lease, agreement for lease, tenancy or licence affecting the Mortgaged Property of which the Chargor is the lessee, tenant or licensee;

**10.10 Environmental matters**

10.10.1 to obtain and maintain all licences required by it under Environmental Law and comply in all material respects with all Environmental Law applicable to it; and

10.10.2 to ensure that no Dangerous Substances are used, disposed of, generated, stored, transported, deposited, buried or emitted at, on, from or under any premises (whether or not owned, leased, occupied or controlled by it) in circumstances where this might result in a liability of the Lender;

**10.11 Leases**

10.11.1 save as permitted by the Facility Agreement and the Occupational Lease Document, not without the previous consent in writing of the Lender to grant or

agree to grant (whether in exercise or independently of any statutory power) any lease or tenancy of the Mortgaged Property or any part thereof or accept a surrender of any lease or tenancy or confer upon any person any contractual licence or right to occupy the Mortgaged Property and provided, on request by the Lender, it notifies the Lender of all leases, tenancies, licences or rights to occupy granted or surrendered by it and if so reasonably requested by the Lender provided it sends a copy thereof to the Lender forthwith upon request;

10.11.2 to enforce and not waive or release the covenants, conditions, agreements and obligations contained in or imposed by any of the Occupational Lease Documents or any guarantee in respect of the obligations of the tenants, lessees, licensees or other parties thereunder which materially affects or is reasonably likely to materially affect the value of the Mortgaged Property;

10.11.3 not without the prior written consent of the Lender to accept or agree to accept the surrender or alteration of any of the Occupational Lease Documents which materially affects or is reasonably likely to materially affect the value of the Mortgaged Property and observe and perform all the covenants, conditions, agreements and obligations on its part in all material respects; and

10.11.4 to promptly deliver to the Lender full particulars of all Occupational Lease Documents.

#### 10.12 **Commonhold**

The Chargor shall not convert, or permit the conversion of, any freehold estate of any of the Mortgaged Property to a freehold estate in commonhold land under Part 1 of the Commonhold and Leasehold Reform Act 2002.

### 11 **Insurance**

#### 11.1 **Insured Risks**

Except where insured by the lessor of any Mortgaged Property, the Chargor will insure all of the Security Assets (which are of an insurable nature) against:

11.1.1 the Insured Risks;

11.1.2 loss of rents payable by the tenants or other occupiers of the Mortgaged Property for a period of three years or such other period as may be agreed with the Lender;

11.1.3 third party and public liability; and

11.1.4 any other risks normally insured against by persons carrying on the same class of business as that carried on by it.

#### 11.2 **Replacement value**

Any Insurance must be in a sum or sums not less than the replacement value of the Security Assets. For this purpose, **replacement value** means the total cost of rebuilding, reinstating or replacing those Security Assets in the event of their being completely destroyed, together with any relevant architects' and surveyors' fees.

**11.3 Insurance company**

Any Insurances required under this clause must be with an insurance company or underwriters acceptable to the Lender.

**11.4 Application**

Subject to the provisions of any lease or prior charge of all or part of the Security Assets, all monies received or receivable under any Insurances must be:

- 11.4.1 paid immediately to the Lender or Operating Account as required by the Lender;
- 11.4.2 if they are not paid directly to the Lender by the insurers or into the Operating Account, be held, pending such payment, by the Chargor as trustee of the same for the benefit of the Lender; and
- 11.4.3 at the option of the Lender, be applied in making good, replacing, restoring or reinstating the Security Assets destroyed or damaged or in any other manner which the Lender may agree; or
- 11.4.4 if the Lender so directs and the terms of the relevant Insurances allow in or towards satisfaction of the Secured Liabilities.

**11.5 Co-insurance**

The Chargor will procure that a note of the Lender's interest as co-insured (composite) is endorsed upon all Insurances maintained by the Chargor and that the Lender is named first loss payee (other than in relation to insurance against third parties and public liability risks) for insurance payment which exceed more than £50,000 for each claim.

**11.6 Provisions of Insurances**

The Chargor will procure that the relevant Insurances contain provisions that:

- 11.6.1 they will not be terminated, invalidated or otherwise allowed to lapse for failure to pay any premium or otherwise unless 30 days' notice is given to the Lender;
- 11.6.2 they will not be vitiated or avoided as against the Lender in the event or as a result of any misrepresentation, act, neglect or failure to make disclosure on the point of any issued party or any circumstances beyond the control of an issued party; and
- 11.6.3 a waiver of the rights of subrogation of the insurer as against the Chargor, the Lender and the tenants of any Mortgaged Property.

**11.7 Avoidance of policy**

The Chargor will not do or permit anything to be done which may make the Insurances void or voidable.

**11.8 Premiums**



The Chargor will promptly pay all premiums and do all other things necessary to keep the Insurances in force.

**11.9 Return of policy**

The Chargor will, immediately at the request of the Lender, produce to the Lender the policy, certificate or cover note relating to any of the Insurances and the receipt for the payment of the last premium and will if the Lender requests deposit all Insurances with the Lender.

**12 Assigned Contracts**

**12.1 Performance**

The Chargor will remain liable to perform all the obligations to be performed in respect of any of the Assigned Contracts and the Lender will have no obligation of any kind whatsoever in relation to them or be under any liability whatsoever in the event of any failure by the Chargor to perform its obligations in respect of them. The Chargor agrees to indemnify and hold the Lender harmless from all costs, claims, damages or liabilities whatsoever and howsoever arising out of the performance of or the failure in performance of the Chargor's obligations in respect of the Assigned Contracts.

**12.2 No amendments**

Save as permitted under the Finance Documents, the Chargor will not without the prior written consent of the Lender:

12.2.1 amend, supplement, novate or waive any provision of or terminate any Assigned Contract; or

12.2.2 do anything which might jeopardise the enforceability of any Assigned Contract.

**13 Rent and Rent Account**

**13.1 Payment**

The Chargor will without delay pay the Rent into the Rent Account or such other account as the Lender may direct from time to time, and pending that payment will hold all money so received upon trust for the Lender.

**14 Revenue and Operating Account**

**14.1 Operating Account**

The Chargor will open and maintain the Operating Account in accordance with the Finance Documents and the Assignment and Charge over Bank Account.

**14.2 Restriction on dealing**

The Chargor will not without the prior written consent of the Lender deal with the Revenue otherwise than by collecting the Revenue in the ordinary course of business and will not charge, factor, discount or assign the Revenue in favour of any third party.

**14.3 Withdrawal**

The Chargor will not withdraw all or any monies (including interest) standing to the credit of the Operating Account except with the prior written consent of the Lender.

**14.4 Statements**

Upon request by the Lender, the Chargor will provide the Lender with full statements and particulars of the Operating Account.

**15 Account and Debts**

**15.1 Restriction on dealing**

The Chargor will not without the prior written consent of the Lender deal with its Debts otherwise than by collecting them in the ordinary course of business and will not charge, factor, discount or assign any of its Debts in favour of any third party.

**15.2 Payment**

The Chargor will collect all Debts charged to the Lender under this Deed and will without delay pay the proceeds of payment or realisation of all such Debts into the Account(s) and pending that payment will hold all money so received upon trust for the Lender.

**15.3 Withdrawal**

The Chargor will not withdraw all or any monies standing to the credit of the Account(s) without the Lender's prior written consent or as permitted by the Facility Agreement.

**16 Securities**

**16.1 Calls and other payments**

In relation to the Securities:

16.1.1 the Chargor will duly and promptly pay all calls or other payments due or payable in respect of any Securities and will comply with all other conditions and obligations assumed by it in relation to any of the Securities;

16.1.2 the Lender will not incur any liability in relation to any calls or other payments relating to the Securities;

16.1.3 if the Chargor defaults in complying with its obligations under clause 16.1.1 the Lender may in its absolute discretion make such payments on behalf of the Chargor; and

16.1.4 the Chargor agrees to reimburse the Lender on demand all sums expended by the Lender under clause 16.1.3.

**16.2 Notices**

The Chargor will forward to the Lender any notices, reports, accounts, circulars and other documents relating to the Securities material to the rights of the Lender hereunder promptly after they are received.

**16.3 Rights prior to enforcement**

Until the Security becomes enforceable:

16.3.1 the Chargor may exercise or direct all voting and other rights relating to the Securities provided that such exercise does not adversely affect the Securities or the Lender or the Security; and

16.3.2 except as otherwise permitted by the Lender in writing or by the Facility Agreement, all interest, dividends and other distributions in relation to the Securities will be paid into the Operating Account or such other account as the Lender may direct from time to time; but, if paid to the Chargor, the Chargor will immediately upon receipt pay them into the Operating Account or such other account as the Lender may direct from time to time and until that payment will hold them on trust for the Lender.

**16.4 Rights after enforcement**

Upon the Security becoming enforceable:

16.4.1 the Lender shall be entitled to exercise in the name of the Chargor all voting or other rights in relation to the Securities and the Chargor will (and will procure that its nominees will) comply with any directions the Lender may in its absolute discretion, give concerning the exercise of those rights and powers;

16.4.2 the Lender shall be entitled to receive and retain all dividends, and other distributions paid in respect of the Securities;

16.4.3 the Lender shall be entitled to exercise or direct the exercise of all voting or other rights in relation to the Securities in such means as it considers fit; and

16.4.4 the Lender shall be entitled to complete all instruments of transfer referred to in clause 16.5 and otherwise have any Securities registered in its name or the name of its nominee.

**16.5 Deposit of certificates**

The Chargor will on the date of this Deed, or if later, on the date of acquisition of any Securities, deposit with the Lender, in addition the documents of title and other documentary evidence required by clause 16, such duly executed instruments of transfer (with the name of the transferee, date and consideration left blank) as the Lender may require to perfect the title of the Lender or its nominee to such Securities and/or to enable the Lender to vest such Securities in any purchaser upon exercise of the Lender's power of sale.

**16.6 CREST system**

16.6.1 In the case of the CREST system and if requested by the Lender, the Chargor will transfer (or procure the transfer by its nominee of) the relevant units of

participating securities comprised in the Securities from its (or its nominee's) member account to its escrow balance by sending a **Transfer to Escrow** instruction to CREST identifying the Lender or the Lender's nominee as the escrow agent in respect of such escrow balance and any subsequent transfer or other dealings with such escrow balance will only be made with the consent of the Lender or its nominee.

- 16.6.2 If any of the Securities held in uncertificated form in CREST is recertificated, the Chargor will procure that, immediately on receipt of the relevant investment in certificated form, it is delivered to the Lender or its nominee together with executed blank transfer forms.

## 16.7 **Liability of the Lender**

The Chargor agrees with the Lender that neither the Lender nor the Lender's nominee will have any liability:

- 16.7.1 for failing to present any coupon or other document relating to any of the Securities for payment or redemption;
- 16.7.2 for failing to accept any offer relating to any of the Securities;
- 16.7.3 for failing to attend or to vote at any meetings related to the Securities;
- 16.7.4 for failing to notify the Chargor of any matters mentioned in this clause 16 or of any communication received by the Lender in relation to the Securities; or
- 16.7.5 for any loss arising out of or in connection with the exercise or non-exercise of any rights or powers attaching or accruing to the Securities or which may be exercised by the Lender or any nominee for the Lender under this Deed.

## 17 **Intellectual Property**

### 17.1 The Chargor shall:

- 17.1.1 if requested by the Lender at any time, register the interest of the Lender in all or any part of any Intellectual Property;
- 17.1.2 if requested by the Lender at any time, execute all such documents and do all such things as the Lender may require to record the interest of the Lender in any registering relating to the Intellectual Property;
- 17.1.3 preserve, maintain and renew as and when necessary all Intellectual Property required by the Chargor for carrying on its business; and
- 17.1.4 promptly notify the Lender of any infringements of the Intellectual Property and take all steps as may be necessary to prevent such infringement and/or recover damages in respect thereof.

## 18 **Deposit of title deeds**

In the event that the Chargor has not deposited or delivered all deeds and documents of title relating to the Security Assets to the Lender in its capacity as the lender under and

pursuant to the First Legal Mortgage and the Assignment and Charge over Bank Account, the Chargor will deposit all deeds and documents of title relating to the Security Assets with the Lender and such other documents relating to the Security Assets as the Lender may require from time to time, for the duration of the Security Period, except to the extent that any such Security Assets are released by the Lender pursuant to the terms of the Facility Agreement. The Chargor shall ensure and procure that immediately upon the release and discharge of the First Legal Mortgage and the Assignment and Charge over Bank Account, the documents referred to in Clause 18 are delivered to the Lender promptly unless otherwise agreed by the Lender.

**19 Power to remedy**

In the case of default by the Chargor in repairing or keeping in repair or insuring the Security Assets or any part thereof or in observing or performing any of the covenants or stipulations affecting the same, the Chargor will permit the Lender or its agents and contractors to enter on the Security Assets and to comply with or object to any notice served on the Chargor in respect of the Security Assets and to effect such repairs or insurance or generally do such things or pay all such costs, charges and expenses as the Lender may consider are necessary or desirable to prevent or remedy any breach of covenant or stipulation or to comply with or object to any notice. The Chargor will indemnify and keep the Lender indemnified against all losses, costs, charges and expenses reasonably incurred in connection with the exercise of the powers contained in this clause 19.

**20 Enforcement of Security**

**20.1 When Security becomes enforceable**

The Security shall be immediately enforceable upon the occurrence of an Event of Default which is continuing. After the Security has become enforceable, the Lender may in its absolute discretion enforce all or any part of such Security at the times, in the manner, and on the terms as it shall think fit and take possession of or hold or dispose of all or any part of the Security.

**20.2 Exercise of powers**

At any time after the Security becomes immediately enforceable, the Lender may, without notice to the Chargor or prior authorisation from any court, in its absolute discretion whether or not it has appointed a Receiver, exercise all or any of the powers, authorities and discretions conferred by the Law of Property Act 1925 (as varied or extended by this Deed) on mortgagees and by this Deed on any Receiver or otherwise conferred by law on mortgagees or Receivers.

**20.3 Right of appropriation**

To the extent that any of the Security Assets constitutes Financial Collateral and this Deed and the obligations of the Chargor hereunder constitute a Security Financial Collateral Arrangement the Lender shall have the right, at any time after this Deed has become enforceable, to appropriate all or any part of such Financial Collateral in or towards payment and/or discharge of the Secured Liabilities in such order as the Lender in its absolute discretion may from time to time determine. For this purpose each of the Chargor and the Lender agrees that the value of such Financial Collateral so appropriated shall be

(a) in the case of cash, the amount standing to the credit of each of the Account(s), together with any accrued but unposted interest, at the time the right of appropriation is exercised; and (b) in the case of Securities, the market price of such Securities at the time the right of appropriation is exercised as determined by the Lender by reference to any recognised market index or by such other process as the Lender may select, including, without limitation, independent valuation. In each case, each of the Chargor and the Lender agrees that the method of valuation provided for in this clause 20 shall constitute a commercially reasonable method of valuation for the purpose of the Financial Collateral Regulations.

**20.4 Possession**

If the Lender, any Receiver or any delegate of any such person takes possession of the Security Assets, it or he may at any time relinquish such possession.

**20.5 No liability as mortgagee in possession**

The Lender will not be liable to account as a mortgagee in possession in respect of all or any part of the Security Assets or be liable for any loss upon realisation or for any neglect, default or omission in connection with the Security Assets to which a mortgagee in possession might otherwise be liable.

**20.6 Power of sale**

The power of sale under this Deed may be exercised notwithstanding that the Lender or the Receiver may have previously waived or refrained from exercising that power; and no demand or notice of sale made or given under this Deed will be waived by the acceptance of any payment on account of the Secured Liabilities, or by any negotiations between the Lender and the Chargor or any other party who is acting as agent for the Chargor or on behalf of it.

**20.7 Receiver's liability**

All the provisions of clause 20.5 will apply, mutatis mutandis, in respect of the liability of any Receiver and delegate of the Receiver or the Lender or any officer, employee or agent of the Lender, any Receiver or any delegate.

**21 Extension and variation of the Law of Property Act 1925**

**21.1 Extension of powers**

The power of sale or other disposal conferred on the Lender and on any Receiver by this Deed will 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 will arise (and the Secured Liabilities will be deemed due and payable for that purpose) on the execution of this Deed.

**21.2 Restrictions**

The restrictions contained in Sections 93 and 103 of the Law of Property Act 1925 will not apply to this Deed or to the exercise by the Lender of its right to consolidate all or any of the Security with any other security in existence at any time or to its power of sale, which powers may be exercised by the Lender without notice to the Chargor.

**21.3 Power of leasing**

The statutory powers of leasing may be exercised by the Lender at any time and the Lender and any Receiver may make any lease or agreement for lease, accept surrenders of leases and grant options on such terms as it will think fit, without the need to comply with any restrictions imposed by Sections 99 and 100 of the Law of Property Act 1925.

**21.4 Non-application**

The following provisions of the Law of Property (Miscellaneous Provisions) Act 1994 will not apply to clause 3 being:

21.4.1 the words 'other than any charges, encumbrances or rights which that person does not and would not reasonably be expected to know about' in Section 3(1);

21.4.2 the words 'except to the extent that' and all words thereafter in Section 3(2); and

21.4.3 Section 6(2).

**21.5 Application**

Section 109(8) of the Law of Property Act 1925 will not apply, and all monies received by the Lender or any Receiver in the exercise of any powers conferred by this Deed will be applied in the following order:

21.5.1 in the payment of:

(a) all costs, charges, liabilities and expenses incurred by the Lender or any Receiver in the exercise of those powers or incidental to any Receiver's appointment, together with interest at the applicable rate set out in clause 2.2 (both before and after judgment) from the date those amounts became due until the date they are irrevocably paid in full; and

(b) any Receiver's remuneration;

21.5.2 in or towards discharge of all liabilities having priority to the Secured Liabilities;

21.5.3 in or towards the satisfaction of the Secured Liabilities in such order as the Lender determines; and

21.5.4 in the payment of any surplus to the Chargor or other person entitled to it.

**21.6 Application of sums received**

The Chargor will have no rights in respect of the application by the Lender of any sums received, recovered or realised by the Lender under this Deed.

## **22 Appointment of Receiver**

### **22.1 Appointment and removal**

At any time after the Security becomes enforceable, or if requested to do so by the Chargor, the Lender may by deed or otherwise (acting through an authorised officer of the Lender), without prior notice to the Chargor:

- 22.1.1 appoint one or more persons to be a Receiver of the whole or any part of the Security Assets or an Administrator of the Chargor;
- 22.1.2 remove (so far as it is lawfully able) any Receiver or an Administrator so appointed; and
- 22.1.3 appoint another person(s) as an additional or replacement Receiver(s) or Administrator(s).

### **22.2 Capacity of Receivers**

Each person appointed to be a Receiver under this Deed will be:

- 22.2.1 entitled to act individually or together with any other person appointed or substituted as Receiver;
- 22.2.2 for all purposes will be deemed to be the agent of the Chargor which will be solely responsible for his acts, defaults and liabilities and for the payment of his remuneration and no Receiver will at any time act as agent for the Lender; and
- 22.2.3 entitled to remuneration for his services at a rate to be fixed by the Lender from time to time (without being limited to the maximum rate specified by the Law of Property Act 1925).

### **22.3 Statutory powers of appointment**

The powers of a Receiver will be in addition to all statutory and other powers of the Lender under the Law of Property Act 1925 (as extended by this Deed), an administrative receiver under the Insolvency Act 1986 or otherwise and such powers will remain exercisable from time to time by the Lender in respect of any part of the Security Assets.

## **23 Powers of Receiver**

### **23.1 Powers**

Every Receiver appointed by the Lender will (in addition to all powers conferred on him by law) have the following powers exercisable in respect of the Security Assets upon such terms and conditions as he thinks fit:

- 23.1.1 to take possession of and generally to manage the Security Assets and any business of the Chargor;
- 23.1.2 to enter into, carry into effect, complete, deliver, perform, repudiate, rescind or vary any deed, contract, transaction or arrangement to which the Chargor is or is to be a party;



- 23.1.3 to carry out on any Mortgaged Property (or on any other property which it may in his opinion be necessary or desirable to work upon) any development or new works or complete any unfinished works of building, reconstruction, maintenance, furnishing or equipment and to apply for and obtain all planning permissions, consents or licences as may be necessary or desirable for such purposes;
- 23.1.4 to purchase or acquire any land and purchase, acquire, grant or release any interest in or right over land and enter into, take or release the benefit of covenants (positive or restrictive) binding on or benefiting the Mortgaged Property;
- 23.1.5 to sell, lease, licence, surrender or accept surrender of leases or licences of, charge or otherwise deal with and dispose of the Security Assets without restriction including (without limitation) power to dispose of any Fixtures separately from the land;
- 23.1.6 to carry into effect and complete any transaction by executing deeds or documents in the name of or on behalf of the Chargor;
- 23.1.7 to insure the Security Assets and any works and effect indemnity insurance or other similar insurance and obtain bonds or give commitments, guarantees indemnities and security;
- 23.1.8 to engage, rely on the advice of and discharge advisers, consultants, officers, managers, agents, workmen and others;
- 23.1.9 to purchase materials, tools, equipment, goods or supplies;
- 23.1.10 to bring, continue or defend any claim, dispute, action or legal proceedings and enter into any arrangement or compromise in relation to the Security Assets or any part of them;
- 23.1.11 to redeem any security and to borrow or raise any money and secure the payment of any money in priority to the Secured Liabilities for the purposes of the exercise of his powers and/or defraying any costs or liabilities incurred by him in such exercise;
- 23.1.12 to make any elections for value added tax purposes; and
- 23.1.13 to do any other acts or things as:
  - (a) he may consider to be necessary or desirable for the realisation of the Security Assets or any part thereof;
  - (b) as he may consider incidental or conducive to any of the rights or powers conferred on a Receiver under or by virtue of this Deed or law.

## **24 Protection of purchasers**

### **24.1 Consideration**

The receipt of the Lender or any Receiver will be conclusive discharge to a purchaser and, in making any sale or disposal of any of the Security Assets or making any acquisition, the Lender or any Receiver may do so for such consideration, in such manner and on such terms as it thinks fit.

#### **24.2 Protection of purchaser**

No purchaser or other person dealing with the Lender or any Receiver will be bound to inquire whether the right of the Lender or such Receiver to exercise any of its powers has arisen or become exercisable or be concerned with any propriety or regularity on the part of the Lender or such Receiver in such dealings.

### **25 Power of attorney**

#### **25.1 Appointment and powers**

The Chargor by way of security irrevocably appoints the Lender and every Receiver or Administrator and any delegate or sub-delegate 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:

25.1.1 the Chargor ought to have done by this Deed (including the execution and delivery of any deeds, charges, legal mortgages, assignments or other security and any transfers of the Security Assets);

25.1.2 enable the Lender and any Receiver or Administrator or any delegate or sub-delegate to exercise, or delegate the exercise of, any of the rights, powers and authorities conferred on them by or pursuant to this Deed or by law (including the exercise of any right of a legal or beneficial owner of the Security Assets).

#### **25.2 Ratification**

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

### **26 Effectiveness of Security**

#### **26.1 Continuing Security**

The Security will remain in full force and effect as a continuing security for the Secured Liabilities during the Security Period.

#### **26.2 Cumulative rights**

The Security and the Collateral Rights will be cumulative, in addition to and independent of every other security which the Lender may at any time hold for the Secured Liabilities or any other obligations or any rights, powers and remedies provided by law. No prior security held by the Lender over the whole or any part of the Security Assets will merge into the Security.

#### **26.3 No prejudice**

Neither the Security nor the Collateral Rights will be prejudiced by any time or indulgence granted to the Chargor or any other person or by any other thing which might otherwise prejudice the Security or any Collateral Right.

**26.4 Remedies and waivers**

No failure on the part of the Lender to exercise, or any delay on its part in exercising, any Collateral Right will operate as a waiver thereof, nor will any single or partial exercise of any Collateral Right preclude any further or other exercise of that or any other Collateral Right.

**26.5 No liability**

None of the Lender, any Receiver or any delegate or sub-delegate will be liable by reason of:

26.5.1 taking any action permitted by this Deed; or

26.5.2 any neglect or default in connection with the Security Assets; or

26.5.3 taking possession of or realising all or any part of the Security Assets

except in the case of negligence or wilful default or fraud upon its part.

**26.6 Partial invalidity**

If, at any time, any provision of this Deed is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions of this Deed nor of such provision under the laws of any other jurisdiction will in any way be affected or impaired thereby and, if any part of the Security is invalid, unenforceable or ineffective for any reason, that will not affect or impair any other part of the Security.

**26.7 Other security**

The Lender will not be obliged to resort to any guarantees, indemnities, Security Interests or other means of payment now or hereafter held by or available to it before enforcing this Deed and no action taken or omitted by the Lender in connection with any such guarantee, indemnity, Security Interests or other means of payment will discharge, reduce, prejudice or affect the liability of the Chargor or the Secured Liabilities nor will the Lender be obliged to account for any money or other property received or recovered in consequence of any enforcement or realisation of any such guarantees, indemnities, Security Interests or other means of payment.

**26.8 Variation**

No variation of the terms of this Deed will be valid unless it is in writing and executed as a deed by the Chargor and confirmed in writing by the Lender.

**27 Release of Security**

Upon the expiry of the Security Period and the Lender not being under any further actual or contingent obligation to make advances or provide other financial accommodation to the

Chargor, the Lender will, at the request and cost of the Chargor, release and cancel the Security and procure the reassignment to the Chargor of the property and assets assigned to the Lender pursuant to this Deed and without recourse to, or any representation or warranty by, the Lender or any of its nominees.

**28 Subsequent Security Interests**

If the Lender at any time receives or is deemed to have received notice of any subsequent Security Interest affecting all or any part of the Security Assets or any assignment or transfer of the Security Assets which is prohibited by the terms of this Deed, all payments thereafter by or on behalf of the Chargor to the Lender will be treated as having been credited to a new account of the Chargor and not as having been applied in reduction of the Secured Liabilities as at the time when the Lender received such notice.

**29 Assignment**

**29.1 Right of Lender to assign**

The Lender may at any time assign or otherwise transfer all or any part of its rights under this Deed in accordance with Clause 33 of the Facility Agreement.

**29.2 Restriction on Chargor**

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

**29.3 Confidentiality**

The Lender may give such information relating to the Chargor and the Secured Liabilities as it thinks fit to any person proposing to take an assignment and/or transfer from the Lender and/or to enter into contractual relations with the Lender with respect to this Deed.

**30 Expenses, stamp taxes and indemnity**

**30.1 Expenses**

The Chargor will, from time to time on demand of the Lender, reimburse the Lender on a full indemnity basis for all the costs and expenses (including legal fees) together with any VAT thereon properly incurred by it or by any Receiver in connection with:

- 30.1.1 the negotiation, preparation and execution of this Deed and the completion of the transactions and perfection of the security contemplated in this Deed; or
- 30.1.2 the exercise, preservation and/or enforcement of any of the Collateral Rights or the security contemplated by this Deed or any proceedings instituted by or against the Lender or any Receiver as a consequence of taking or holding the security or of enforcing the Collateral Rights,

and such expenses will carry interest until so reimbursed at the rate referred to in clause 2.2.

**30.2 Stamp taxes**

The Chargor will pay all stamp, stamp duty land tax, registration and other Tax to which this Deed, the Security or any judgment given in connection with it is or at any time may be subject and will, from time to time, indemnify the Lender on demand against any liabilities, costs, claims and expenses resulting from any failure to pay or delay in paying any such Tax.

**30.3 Indemnity**

The Chargor will, notwithstanding any release or discharge of all or any part of the Security, indemnify the Lender, its agents, attorneys and any Receiver against any action, proceeding, claims, losses, liabilities and costs which it may sustain as a consequence of any breach by the Chargor of the provisions of this Deed, the exercise or purported exercise of any of the rights and powers conferred on them by this Deed or otherwise relating to the Security Assets.

**31 Payments free of deduction**

All payments to be made under this Deed will be made free and clear of and without deduction or withholding whatsoever for or on account of any Tax except to the extent that the Chargor is required by law to make such payment subject to the deduction or withholding of any Tax. If any Tax or amount in respect of Tax is required to be deducted from any amounts payable or paid by the Chargor, the Chargor will pay such additional amounts as may be necessary to ensure that after the making of the deduction or withholding which is required the relevant recipient receives and retains (free from any liability in respect of any such deduction or withholding) a net amount equal to the full amount which it would have received and retained had no such deduction or withholding been made.

**32 Discretion and delegation**

**32.1 Discretion**

Any power or discretion which may be exercised or any determination which may be made hereunder by the Lender or any Receiver may be exercised or made in its absolute and unfettered discretion without any obligation to give reasons.

**32.2 Delegation**

Each of the Lender and any Receiver will have full power to delegate (either generally or specifically) the powers, authorities and discretions conferred on it by this Deed (including the power of attorney) on such terms and conditions as it sees fit, which delegation may include power to sub-delegate and will not preclude either the subsequent exercise of such power, authority or discretion by the Lender or the Receiver itself or any subsequent delegation or revocation thereof.

**33 Perpetuity period**

The perpetuity period under the rule against perpetuities, if applicable to this Deed, will be the period of 125 years from the date of this Deed (as specified in section 5(1) of the Perpetuities and Accumulations Act 2009).

34      **Counterparts**

This Deed may be executed in counterparts, all of which when taken together will constitute a single deed.

35      **Certification**

The Chargor hereby certifies that its creation of this Deed in favour of the Lender does not contravene any law, rule, guideline, requirement or order or its memorandum and articles of association or any of its constitutive documents.

36      **Reorganisation**

This Deed will remain binding on the Chargor notwithstanding any change in the constitution of the Lender or its absorption by, or amalgamation with, or the acquisition of all or part of its undertaking by, any other person, or any reconstruction or reorganisation of any kind. The Security will remain valid and effective in all respects in favour of the Lender and for any assignee, transferee or other successor in title of the Lender.

37      **Set off**

The Lender may set off any matured obligation due from the Chargor under this Deed against any matured obligation owed by the Lender to the Chargor (whether actual or contingent, present or future), regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Lender may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

38      **Payment of monies**

38.1      **Date for payment**

Where neither the Facility Agreement nor this Deed specified the due date for payment of any monies owed by the Chargor to the Lender such monies will be due and payable to the Lender by the Chargor on demand.

38.2      **Currency**

The Chargor's liability under this Deed is to discharge the Secured Liabilities in US Dollars. If at any time the Lender receives a payment (including by set-off) referable to any of the Secured Liabilities from any source in a currency other than US Dollars, then such payment will take effect as a payment to the Lender of the amount in US Dollars which the Lender is able to purchase (after deduction of any relevant costs) with the amount of the payment so received in accordance with its usual practice.

38.3      **Currency indemnity**

If any sum due from 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 making or filing a claim or proof against the Chargor or obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings, the Chargor shall as an independent obligation, within Five (5) Business

Days of demand, indemnify the Lender against any losses arising out of or as a result of the conversion including any discrepancy between (i) the rate of exchange used to convert that Sum from the First Currency into the Second Currency and (ii) the Lender's Exchange Rate for the purchase of the Second Currency at the time of the Lender's receipt of that Sum.

**38.4 Certificates**

A certificate signed by an official of the Lender as to the amount due or owing from the Chargor will be conclusive evidence against the Chargor, except in the case of manifest error.

**39 Notices**

**39.1 Service**

Any notice or communication to be given in connection with this Deed will be in writing and delivered personally, or by registered or ordinary post, facsimile transmission (followed by post) addressed to the business address hereinafter provided or at such facsimile number or address as may from time to time be notified by the Lender to the Chargor for that purpose:

39.1.1 sent to the Chargor at:

54, Kennington Road,  
London SE1 7BJ

Fax: +44 (1) 207 922 1441

Attention: Mr. Issam Ismail;

39.1.2 sent to the Lender at:

Level 16, EXIM Bank

Jalan Sultan Ismail

50250 Kuala Lumpur

Fax: 03-2601 2452

Attention: Head of Banking Department

In the event of a change in the address of the Chargor or the Lender, the Chargor and the Lender shall as soon as practicable but within five (5) days prior to such change, notify the other party in writing accordingly and nothing done in reliance on Clause 39 shall be affected or prejudiced by any subsequent change in address of service which the other party has no actual knowledge of at the time the act or thing was done or carried out.

**39.2 Receipt by Chargor**

Save as otherwise herein expressly provided, any demand notice or request required or permitted to be given or made under this Deed shall be deemed to have been

sufficiently given or made, if left at or sent by registered post or ordinary mail to the above mentioned addresses or last known place of business of the respective parties hereto and in the case of the same being delivered personally, it shall be deemed to have been served when delivered and in the case of the same being sent by registered post or ordinary mail, it shall be deemed to have been served, five (5) days after the date of posting.

**39.3 Receipt by Lender**

Any notice or communication given to the Lender by the Chargor shall be deemed to have been received only on actual receipt. Notwithstanding anything to the contrary herein provided or contained, any letter of demand, statement, reminder, certificate or any other notice (hereinafter generally referred to as the "said Notice(s)" required to be given by the Lender hereunder shall not be required to be under the hand of or signed by any officer or any other person hereinbefore referred to, where it is stated on any such said Notice(s) that the said Notice(s) is computer generated and no signature is required.

**39.4 Confirmation in writing**

The Chargor may not rely on any oral notice, waiver, consent, approval, representation, advice, statement or other communication by the Lender or any of its employees, agents or representatives except where such communications are confirmed in writing and signed for the Lender pursuant to clause 39.

**39.5 Electronic communication**

39.5.1 Any communication to be made between the Chargor and the Lender under or in connection with this Deed may be made by electronic mail or other electronic means to the extent that they agree that, unless and until notified to the contrary, this is to be an accepted form of communication and if they:

- (a) notify each other in writing of their electronic mail address and/or any other information required to enable the sending and receipt of information by that means; and
- (b) notify each other of any change to their address or any other such information supplied by them by not less than five Business Days' notice.

39.5.2 Any electronic communication made between the Chargor and the Lender will be effective only when actually received in readable form and in the case of any electronic communication made by the Chargor to the Lender only if it is addressed in such a manner as the Lender shall specify for this purpose.

39.5.3 Any electronic communication which becomes effective, in accordance with clause 39.5.2 above, after 5.00 pm in the place of receipt shall be deemed only to become effective on the following Business Day.



40        **Governing law and jurisdiction**

40.1      **Governing law**

This Deed and any non-contractual obligations arising out of or in connection with it shall be governed by, and be construed in accordance with, the laws of England.

40.2      **Exclusive jurisdiction**

The courts of England have exclusive jurisdiction to settle any dispute arising in connection with this Deed (a **Dispute**). The parties agree that these courts are the most appropriate and convenient courts to settle any Dispute that arises under or in connection with this Deed and accordingly neither party will argue to the contrary.

40.3      **Benefit of the Lender**

This clause 40 is for the benefit of the Lender only. As a result the Lender will not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Lender may take concurrent proceedings in any number of jurisdictions.

**This Deed** has been executed as a deed by the parties and is delivered and takes effect on the date at the beginning of this Deed.

## **Schedule 1**

### **Mortgaged Property**

The land known as 54 Kennington Road, London SE1 7BJ more particularly described in and demised by a lease dated 5 April 2000 made between Quercus (Nursing Homes) Limited (1) Premier Hotels (Kennington) Limited (2) and Premier Hotels PLC (3) which is registered at Land Registry under title number TGL188101

**Schedule 2**  
**Assigned Contracts**

### Schedule 3

#### Part I

#### Form of notice of assignment of an Assigned Contract

To: [            ]  
[            ]

Date:

#### Notice of Assignment

We hereby give notice that by a debenture dated [ • ] made between D H Waterloo Hotel Limited (the **Chargor**) (1) and Export-Import Bank of Malaysia Berhad (the **Lender**) (2) (the **Debenture**), the Chargor assigned to the Lender all its rights, title and interest present and future in [the [ • ] between you and [ • ] dated [•]] [together with all ancillary or other agreements and documents entered into pursuant to or in connection therewith] (each an **Agreement** and together the **Agreements**) as security for the obligations more particularly referred to in the Debenture.

By signing and returning to the Lender the additional copy of this letter, please acknowledge notice of this Debenture and confirm and agree that:

- 1            you have not received notice of any previous assignment, charge, lien or other security interest of or affecting the Agreement(s);
- 2            all monies due or to become due from you to the Chargor under the Agreement(s) will be paid to the Chargor's account number 32095295 sort code 60-40-05 held at National Westminster Bank Plc , 135 Bishopgate, London EC2M 34R or to such other account as the Lender (or the Chargor and the Lender) may notify you in writing and without set-off or counterclaim save as provided in the Agreement(s); and
- 3            you will not without prior written consent of the Lender determine, agree to amend or accept a waiver of your obligations under the Agreement(s).

Until the Lender serves written notice to the contrary, the Chargor will be entitled, subject to the provisions of this notice, to exercise its rights under the Agreement(s).

This letter and any non-contractual obligations arising out of or in connection with it shall be governed by, and construed in accordance with, the laws of England.

Please acknowledge receipt of this letter and your acceptance of the instructions and authorisations contained in it by sending a letter, addressed to us and the Lender in the form attached hereto.

Yours faithfully

.....  
Authorised signatory  
for and on behalf of  
**D H Waterloo Hotel Limited**

**Schedule 3**

**Part II**

**Form of acknowledgement of notice of assignment of an Assigned Contract**

To: Export-Import Bank of Malaysia Berhad (as Lender)

Copy: D H Waterloo Hotel Limited

Dated:

Dear Sirs

**Acknowledgement of notice**

We hereby acknowledge receipt of a letter (a copy of which is attached hereto) dated [•] and addressed to us by D H Waterloo Hotel Limited (the **Notice**) and hereby acknowledge the **Debenture** (as defined the Notice) and accept the instructions and authorisations contained in the Notice.

We also confirm that we will pay all sums due under the Agreement(s) (as defined in the Notice) as directed in the Notice.

Yours faithfully

for and on behalf of

[ ]

## Schedule 4

### Part I

#### Form of notice of fixed charge

To: National Westminster Bank Plc ,  
135 Bishopgate,  
London EC2M 34R

Date:

Dear Sirs

#### Notice of fixed charge over the Operating Account

We hereby give notice that by a debenture dated [ • ] made between D H Waterloo Hotel Limited (the **Chargor**) (1) and Export-Import Bank of Malaysia Berhad (the **Lender**) (2) (the **Debenture**), the Chargor charged to the Lender all its rights, title and interest present and future over the following account opened by it with you:

**Operating Account:**                      **account number 32095295 sort code 60-40-05**

(the **Operating Account**) as security for the obligations more particularly referred to in the Debenture.

The Chargor hereby gives you notice that pursuant to the Debenture, it has, with full title guarantee, charged to the Lender all its rights, title and interest in and to all sums which may at any time be standing to the credit of the Operating Account (the **Account Funds**).

In connection therewith and by way of security for its obligations to the Lender, the Chargor hereby irrevocably and unconditionally instructs and authorises you (notwithstanding any previous instructions whatsoever which it may have given you to the contrary):

- 1            to disclose to the Lender without any reference to or further authority from the Chargor and without any enquiry by you as to the justification for such disclosure, such information relating to the Account Funds and the debt represented thereby as the Lender may, at any time and from time to time, request you to disclose to it;
- 2            to comply with the terms of any written notice, statement or instructions in any way relating or purporting to relate to the Account Funds or the debt represented thereby which you receive at any time and from time to time from the Lender or without any reference to or further authority from the Chargor and without any enquiry by you as to the jurisdiction for such notice, statement or instructions or the validity thereof; and
- 3            to accept all instructions from the Lender in connection with any payments from or withdrawals from the Operating Account, at any time and from time to time, and to comply with all such instructions save that until you receive notice to the contrary from the Lender, all instructions relating to payments from or withdrawals from the Operating Account may be validly given by us together with the Lender in accordance with the Operating Account mandate. Upon receipt of such notice to the contrary from the Lender, you hereby agree

to accept and comply with all such instructions from the Lender in connection with any payments from or withdrawals from the Operating Account.

The instructions and authorisations which are contained in this letter will remain in full force and effect until the Lender gives you notice in writing revoking them.

This letter and any non-contractual obligations arising out of or in connection with it shall be governed by, and construed in accordance with, the laws of England.

Please acknowledge receipt of this letter and your acceptance of the instructions and authorisations contained in it by sending a letter addressed to us and to the Lender in the form attached hereto.

Yours faithfully

.....  
Authorised Signatory  
for and on behalf of  
**D H Waterloo Hotel Limited**

**Schedule 4**

**Part II**

**Acknowledgement of notice of fixed charge**

To: Export-Import Bank of Malaysia Berhad (the **Lender**)

Copy: D H Waterloo Hotel Limited

Dated:

Dear Sirs

**Acknowledgement of notice**

**Account number 32095295 sort code 60-40-05 (the Operating Account)**

We hereby acknowledge receipt of a letter (a copy of which is attached hereto) dated [ • ] (the **Notice**) and addressed to us by D H Waterloo Hotel Limited (the **Chargor**) and we accept the instructions and authorisations contained in the Notice and undertake to act in accordance and comply with the terms thereof.

We hereby acknowledge and confirm to each of the **Chargor** and the **Lender** that we have not, as at the date hereof, received any notice that any third party has or will have any right or interest whatsoever in or has made or will be making any claim or demand or taking any action whatsoever against the Account Funds or the debt represented thereby or any part thereof.

We hereby acknowledge and confirm to each of the **Chargor** and the **Lender** that we will not make any claim or demand or exercise any rights of counterclaim, rights of set-off or any other equities whatsoever against the **Chargor** in respect of the Account Funds or the debt represented thereby or any part thereof.

We agree that in the event of us receiving notice at any time that any person or entity other than the **Chargor** or the **Lender** claims to have or claims it will acquire any right or interest whatsoever in the Account Funds or any part thereof we will as soon as is reasonably practicable give written notice of the terms thereof to the **Lender**.

The expressions defined and used in the Notice will have the same meaning when used in this Notice.

This letter and any non-contractual obligations arising out of or in connection with it shall be governed by, and construed in accordance with, the laws of England.

Yours faithfully

.....  
Duly authorised signatory  
for and on behalf of

National Westminster Bank Plc



## Schedule 5

### Part I

#### Form of notice to tenants under Occupational Lease Documents

To: [tenant]

[ ]

Date:

Dear Sirs

#### Notice of assignment

We refer to the lease dated [ ] and made between [ ] and [ ] (the **Lease**).

We hereby give notice that by a debenture dated [ • ] made between D H Waterloo Hotel Limited (the **Chargor**) (1) and Export-Import Bank of Malaysia Berhad (the **Lender**) (2) (the **Debenture**), the Chargor charged to the Lender all its rights, title and interest present and future over the Lease.

We irrevocably instruct and authorise you, until you receive notice from the Lender to the contrary, and notwithstanding any previous instructions given by us to you, to pay any rent payable by you under the Lease to account at National Westminster Bank Plc, account number 32095295 sort code 60-40-05, (the **Operating Account**).

The instructions in this letter may not be revoked or amended without the prior written consent of the Lender.

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

Please acknowledge receipt of this letter and your acceptance of the instructions and authorisations contained in it by returning a copy of this letter addressed to us and to the Lender in the form attached hereto.

Yours faithfully

.....  
Authorised Signatory  
for and on behalf of  
D H Waterloo Hotel Limited

**Schedule 5**

**Part II**

**Form of acknowledgement from tenants under Occupational Lease Documents**

To: D H Waterloo Hotel Limited  
Export-Import Bank of Malaysia Berhad

Date:

Dear Sirs

**Acknowledgement of notice**

We hereby acknowledge receipt of the notice (a copy of which is attached hereto) dated [ ] (the **Notice**) and addressed to us by D H Waterloo Hotel Limited (the **Chargor**) in relation to the Lease (as defined in the Notice) and we accept the instructions and authorisations contained in the Notice.

We confirm that:

- 1 we have not, as at the date of this acknowledgement, received any notice that any third party has or will have any right or interest in, or has made or will be making any claim or demand or taking any action in respect of, the rights of the **Chargor** under or in respect of the Lease (as defined in the Notice); and
- 2 we shall pay all rent and all other monies payable by us under the Lease into the Operating Account (as defined in the Notice) and we shall continue to pay those monies into the Operating Account until we receive your written instructions to the contrary.

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

Yours faithfully

.....  
For and on behalf of

[tenant]

## Schedule 6

### Part I

#### Form of notice of assignment of Insurances

To: [Insurer]

Date:

#### Notice of assignment

We hereby give notice that by a debenture dated [ • ] made between D H Waterloo Hotel Limited (the **Chargor**) (1) and Export-Import Bank of Malaysia Berhad (the **Lender**) (2) (the **Debenture**) that the Chargor has assigned in favour of the Lender all its rights, title and interest in and to the proceeds of [insert details of insurance policy] (the **Policy**).

We hereby instruct you with effect from the date you receive this notice to:

- 1 make all payments under or in respect of the Policy to the Lender or as the Lender may specify in writing from time to time;
- 2 note the interest of the Lender as co-insured (composite) on the Policy;
- 3 disclose to the Lender without further approval from us such information regarding the Policy as the Lender may from time to time request; and
- 4 send a copy of all notices issued by you in respect of the Policy to the Lender.

All rights, interests and benefits accruing to the Chargor under the Policy belong to and are exercisable by the Lender.

The instructions in this letter may not be revoked or amended without the prior written consent of the Lender.

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

Please acknowledge receipt of this letter and your acceptance of the instructions and authorisations contained in it by signing and returning a copy of this letter addressed to us and to the Lender in the form attached hereto.

Yours faithfully

.....  
Authorised signatory  
for and on behalf of  
D H Waterloo Hotel Limited

## Schedule 6

### Part II

#### Form of acknowledgement of assignment of Insurances

To: Export-Import Bank of Malaysia Berhad

Date:

We acknowledge receipt of the notice dated [ • ] (the **Notice**) and addressed to us by D H Waterloo Hotel Limited (the **Chargor**) in relation to the Policy (as defined in the Notice) and we accept the instructions and authorisations contained in the Notice and confirm that:

- 1 we shall comply with the terms of the Notice;
- 2 we have not received notice of any other interest relating to the Policy; and
- 3 no amendment or termination of the Policy shall be effective until the expiry of 30 days after the date we have given the Lender written notice of such amendment or termination.

We confirm that:

- 1 the Policy is in full force and effect;
- 2 as at the date of this letter, the insurance premium payable in relation to the Policy is paid up to date;
- 3 the insurances maintained under the Policy are in all [material respects] in accordance with the requirements of the [Facility Agreement / Finance Documents] and amongst other things:
  - 3.1 the interest of the Lender is noted as co-insured (composite) and first loss payee in respect of any insurance proceeds in excess of £50,000 for any one claim (other than third party liability claims) on the relevant Policy relating to the insurances, and we hereby confirm that we will provide quarterly notification to the Lender of all claims made under the Policy;
  - 3.2 full terrorism cover applies;
  - 3.3 the Policy includes property owners public liability;
  - 3.4 the Policy provides cover for loss of rent insurance in respect of a period of not less than 3 years;
  - 3.5 the Policy contains a provision to the effect that the relevant insurance shall not be invalidated or otherwise terminated or cancelled or the cover thereunder reduced as against the Lender for non-payment of any premium due or for other cause without the insurer first giving to the Lender 30 days' prior written notice;

- 3.6 the Policy contains a standard mortgagee protection clause whereby, among other things, the relevant insurances shall not be vitiated or avoided as against a mortgagee notwithstanding that it could otherwise be so against the Chargor;
- 3.7 the Policy will not be prejudiced, vitiated or avoidable as against a mortgagee in the event of any misrepresentation, act or neglect or failure to disclose on the part of the insured party or parties;
- 3.8 a waiver of the rights of subrogation of the insurer as against the Chargor and the Lender (save in their respective capacities as the insured) and the tenants of the property to which the Policy relates; and
- 3.9 under the terms of the Policy, the Lender shall not in any circumstances be liable for the relevant premium.

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

.....  
For and on behalf of  
[Insurer]

**Signatories**

**Chargor**

**EXECUTED** as a deed by )

**D H WATERLOO HOTEL LIMITED** )

**DATO' ROSTHMAN BIN IBRAHIM** )  
acting by (director)

in the presence of :

witness signature:

name: **TUNKU AZLAN BIN TUNKU AZIZ**

address:

occupation:

**CHIEF EXECUTIVE OFFICER OF  
SHAPADU MARINE PTE. LTD.**

**Lender**

signed by )

for and on behalf of the Lender )

## Signatories

### Chargor

EXECUTED as a deed by )

D H WATERLOO HOTEL LIMITED )

acting by (director) )

in the presence of : )

witness signature:

name:

address:

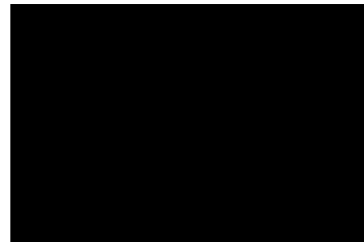
occupation:

### Lender

signed by )

)

for and on behalf of the Lender )



**NORZILAH MOHAMMED**  
650413-05-5582  
President/Chief Executive Officer