



**Companies House**

**MR01**(ef)

**Registration of a Charge**

Company name: **BROOKLANDS PLACE LTD**

Company number: **08162296**

Received for Electronic Filing: **30/09/2013**



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**Details of Charge**

Date of creation: **23/09/2013**

Charge code: **0816 2296 0002**

Persons entitled: **VOLKSWAGEN BANK GMBH TRADING AS VOLKSWAGEN BANK UNITED KINGDOM BRANCH**

Brief description: **BROOKLANDS PLACE, 107 OYSTER LANE, BYFLEET, SURREY KT14 7JF (TITLE NUMBER: SY561573)**

**Contains fixed charge(s).**

**Notification of addition to or amendment of charge.**

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**Authentication of Form**

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

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**Authentication of Instrument**

Certification statement: **I CERTIFY THAT THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by: **ROSEMARY AVES (SOLICITOR FOR CHARGEES)**



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

Company number: 8162296

Charge code: 0816 2296 0002

The Registrar of Companies for England and Wales hereby certifies that a charge dated 23rd September 2013 and created by BROOKLANDS PLACE LTD was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 30th September 2013 .

Given at Companies House, Cardiff on 1st October 2013



Companies House



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES

I certify that this copy instrument is a true and accurate copy of the original instrument.

*Btw. 31/09/13*

Solicitor for and on behalf of  
Volkswagen Bank GmbH  
trading as Volkswagen  
Bank United Kingdom  
Branch.

Dated 23 September 2013

BROOKLANDS PLACE LIMITED

VOLKSWAGEN BANK GMBH trading as VOLKSWAGEN BANK UNITED  
KINGDOM BRANCH

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This Deed is made on 23 September 2013

Between

- (1) Brooklands Place Limited (registered in England with number 08162296) at 6A Croydon Road, Caterham, Surrey CR3 6QB (Charger); and
- (2) Volkswagen Bank GmbH trading as Volkswagen Bank United Kingdom Branch an overseas company registered as a branch in England and Wales under UK establishment number BR007842 acting through its office at Brunswick Court, Yeomans Drive, Blakelands, Milton Keynes MK14 5LR (VWB).

Whereas

- (A) The Charger is the owner of the Property.
- (B) The Charger has agreed to charge the Property as security to VWB as set out in this Deed to secure the payment and discharge of the Secured Obligations.

It is agreed

## 1 Definitions and Interpretation

### 1.1 Definitions

In this Deed including the recitals:

Authorisations means an authorisation, consent, approval, resolution, licence, exemption, filing, notification or registration

Borrower means Camtune Limited (registered in England with number 03183761) at 6A Croydon Road, Caterham, Surrey, CR3 6QB

Business Day means a day (other than a Saturday or Sunday) on which banks are open for general business in London

Deeds has the meaning given to it in clause 3.5 (Documents of Title)

Environment means humans, animals, plants and all other living organisms including the ecological systems of which they form part and the following media:

- (a) air (including, without limitation, air within natural or man-made structures, whether above or below ground)
- (b) water (including, without limitation, territorial, coastal and inland waters, water under or within land and water in drains and sewers)
- (c) land (including, without limitation, land under water)

Environmental Law means any applicable law or regulation which relates to:

- (a) the pollution or protection of the Environment;
- (b) the conditions of the workplace; or

- (c) the generation, handling, storage, use, release or spillage of any substance which, alone or in combination with any other, is capable of causing harm to the Environment, including, without limitation, any waste.

**Event of Default** means any or circumstance specified in clause 12 whether or not declared

**Facility Agreement** means each and every facility agreement and/or loan agreement from time to time between the Borrower and VWB under which VWB agrees to make available to the Borrower certain finance facilities

**Finance Document** means each of this Deed and each and every Facility Agreement, each and every agreement whereby VWB agrees to lend monies or offer credit or any financial facilities to the Borrower and each and every Security Document

**Fixtures** means, in respect of the Property, all fixtures and fittings (including trade fixtures and fittings) and fixed plant and machinery now or at any time after the date of this Deed on that Property

**Insurance Policies** means all policies of insurance present and future relating to the Property in which the Chargor has an interest (other than policies in respect of third party liability) together with all monies payable in respect of those policies

**Party** means a party to this Deed

**Planning Acts** means the Town and Country Planning Acts 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Planning (Hazardous Substances) Act 1990, the Planning (Consequential Provisions) Act 1990, the Planning and Compensation Act 1991, the Planning and Compulsory Purchase Act 2004 and any regulations or subordinate legislation made under any of the foregoing and any other statute or regulation governing or controlling the use or development of land and buildings

**Property** means the property described in schedule 1 (Property)

**Receiver** means any receiver, manager or administrative receiver appointed by VWB in respect of the Chargor or any of the Secured Assets

**Secured Assets** means the assets and undertaking of the Chargor which are the subject of any Security created by, under or supplemental to, this Deed in favour of VWB

**Secured Obligations** means all monies and liabilities now or after the date of this Deed due owing or incurred by the Borrower to VWB in any manner and in any currency or currencies and whether present or future, actual or contingent, whether incurred solely or jointly with any other person and whether as principal or surety, together with all interest accruing on such monies and liabilities and all costs, charges and expenses incurred by VWB in respect of those monies or liabilities

**Secured Property** means, at any time, the Property and all other freehold, leasehold or commonhold property which is subject to any Security created by, under or supplemental to, this Deed

**Security** means a mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having similar effect

**Security Document** means any document evidencing any Security created, or expressed to be created, in favour of VWB by the Borrower

**Security Period** means the period beginning on the date of this Deed and ending on the date on which VWB is satisfied that the Secured Obligations have been irrevocably and unconditionally satisfied in full and all facilities made available by VWB to the Borrower have been cancelled

**VAT** means value added tax as provided for in the Value Added Tax Act 1994 and any other tax of a similar nature

## **1.2 Interpretation**

(a) Unless a contrary indication appears, a reference in this Deed to:

- (i) VWB, the Chargor, the Borrower, any Party or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees;
- (ii) assets includes present and future properties, revenues and rights of every description (including any right to receive such revenues);
- (iii) a Finance Document or any other agreement or instrument is a reference to that Finance Document or other agreement or instrument as amended, novated, supplemented or restated (however fundamentally);
- (iv) guarantee means any guarantee, letter of credit, bond, indemnity or similar assurance against loss, or any obligation, direct or indirect, actual or contingent, to purchase or assume any indebtedness of any person or to make an investment in, or loan to, any person or to purchase assets of any person where, in each case, such obligation is assumed in order to maintain or assist the ability of such person to meet its indebtedness;
- (v) indebtedness includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
- (vi) a person includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust joint venture, consortium or partnership (whether or not having separate legal personality) of two or more of the foregoing or any other entity or body of any description;
- (vii) a regulation includes any regulation, rule, official directive, request or guideline (whether or not having the force of law but if not having the force of law, then being a type with which persons to which it applies customarily comply) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation; and
- (viii) a provision of law is a reference to a provision, of any treaty, legislation, regulation, decree, order or by-law and any secondary legislation enacted under a power given by that provision, as amended, applied or re-enacted or replaced (whether with or without modification) whether before or after the date of this Agreement.

Clause and schedule headings are for ease of reference only.

Any word importing the singular shall include the plural and vice versa.

- (d) An Event of Default is continuing if it has not been remedied or waived.

### 1.3 Third party rights

- (a) Unless expressly provided to the contrary in any Finance Document, a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any term of this Deed or any other Finance Document issued or entered into under or in connection with it but this does not affect any right or remedy of a third party which exists or is available apart from the Contracts (Rights of Third Parties) Act 1999.
- (b) Unless expressly provided to the contrary in any Finance Document the consent of any person who is not a Party is not required to rescind or vary this Deed or any other Finance Document entered into under or in connection with it.

### 1.4 Incorporated terms

The terms of the Finance Documents and of any side letters relating to the Finance Documents and the Secured Obligations are incorporated into this Deed to the extent required for any purported disposition of any Secured Assets contained in this Deed to be a valid disposition in accordance with section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.

## 2 Covenant to pay

- 2.1 The Chargor covenants with VWB to pay and discharge the Secured Obligations when they become due for payment and discharge.

### 2.2 Reinstatement

If any discharge, release or arrangement (whether in respect of the obligations of the Borrower and/or the Chargor or any Security for those obligations or otherwise) is made by VWB in whole or in part on the faith of any payment, security or other disposition which is avoided or must be restored in insolvency, liquidation, administration or otherwise, without limitation, then the liability of the Chargor under this clause 2 will continue or be reinstated as if the discharge, release or arrangement had not occurred.

### 2.3 Waiver of defences

The obligations of the Chargor under this Deed will not be affected by an act, omission, matter or thing which, but for this clause, would reduce, release or prejudice any of its obligations under this Deed (without limitation and whether or not known to it or to VWB) including:

- (a) any time, waiver or consent granted to, or composition with the Borrower, the Chargor or other person;
- (b) the release of the Borrower, the Chargor or any other person under the terms of any composition or arrangement with any creditor of any such entity or person;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or Security over assets of, the Borrower, the Chargor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any Security;



- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of the Borrower, the Chargor or any other person;
- (e) any amendment (however fundamental) or replacement of any Security or any agreement or other instrument providing for or entered into in connection with the Secured Obligations;
- (f) any unenforceability, illegality or invalidity of any obligation of any person under any Security or any agreement or other instrument; or
- (g) any insolvency or similar proceedings.

#### **2.4 Chargor Intent**

Without prejudice to the generality of clause 2.3 the Chargor expressly confirms that it intends that this Deed shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any agreement providing for any Secured Obligation and/or any facility or amount made available by VWB to the Borrower for the purposes of or in connection with any of the following:

- (a) business acquisitions of any nature;
- (b) increasing working capital;
- (c) enabling investor distributions to be made;
- (d) carrying out restructurings;
- (e) refinancing existing facilities;
- (f) refinancing any other indebtedness;
- (g) making facilities available to new borrowers;
- (h) any other variation or extension of the purposes for which any such facility or amount might be made available from time to time; and
- (i) any fees, costs and/or expenses associated with any of the foregoing.

#### **2.5 Deferral of Chargor's rights**

Until all amounts which may be or become payable by the Borrower to VWB have been irrevocably paid in full and unless VWB otherwise directs, the Chargor will not exercise any rights which it may have by reason of performance by it of its obligations in respect of the Secured Obligations or by reason of any amount being payable, or liability arising, under this clause 2:

- (a) to be indemnified by the Borrower;
- (b) to claim any contribution from the Borrower of the Borrower's obligations to VWB;
- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of VWB in respect of the Secured Obligations or of any other guarantee or Security taken pursuant to, or in connection with, the Secured Obligations by VWB;

- (d) to bring legal or other proceedings for an order requiring the Borrower to make any payment, or perform any obligation, in respect of which the Chargor has given a guarantee, undertaking or indemnity under clause 2.1 (Covenant to pay);
- (e) to exercise any right of set-off against the Borrower; and/or
- (f) to claim or prove as a creditor of the Borrower in competition with VWB.

If the Chargor receives any benefit, payment or distribution in relation to such rights it shall hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to VWB by the Borrower and/or the Chargor to be repaid in full on trust for VWB and shall promptly pay or transfer the same to VWB for application towards the Secured Obligations.

### **3 Charging provisions**

#### **3.1 General**

All Security created by the Chargor under clauses 3.2 to 3.4 inclusive is granted to VWB, as continuing security for the payment and discharge of the Secured Obligations, granted with full title guarantee and granted in respect of all the right, title and interest (if any), present and future, of the Chargor in and to the Property.

#### **3.2 First legal mortgages**

The Chargor charges by way of first legal mortgage the Property and all Fixtures on the Property for the time being.

#### **3.3 Assignments**

The Chargor assigns its rights, interests and all monies payable to it under the Insurance Policies. The Chargor shall remain liable to perform all its obligations under each Insurance Policy.

#### **3.4 Fixed charges**

The Chargor charges by way of first fixed charge:

- (a) the proceeds of sale of its Secured Property and all licences to enter on or use any Secured Property;
- (b) the benefit of all other agreements, instruments and rights relating to its Secured Property; and
- (c) to the extent that any legal mortgage in clause 3.2 or any assignment in clause 3.3 is ineffective as a legal mortgage or assignment (as applicable), the assets referred to in that clause.

#### **3.5 Documents of title**

The Chargor shall immediately upon the execution of this Deed (and on the acquisition by it of any interest in any Secured Assets at any time) hold to the order of VWB all deeds, certificates and other documents in its possession constituting or evidencing title to the Secured Assets now or in the future (Deeds) and shall, on demand, deposit with VWB all such Deeds.

### **3.6 Small company moratorium**

Where the Chargor is an eligible company within the meaning of paragraphs 2 to 4 (inclusive) of Schedule A1 to the Insolvency Act 1986, then the obtaining of a moratorium, including any preliminary decision, or investigation in terms of paragraph 43 of Schedule A1 to the Insolvency Act 1986 shall not cause restrictions which would not otherwise apply to be imposed on the disposal of its property and assets by the Chargor.

### **4 Continuing security and recourse**

The Security constituted by this Deed shall be continuing security and shall remain in full force and effect regardless of any intermediate payment or discharge by the Chargor or any other person of the whole or any part of the Secured Obligations. The Security constituted by this Deed is in addition to any other security which VWB may hold at any time for the Secured Obligations (or any of them) and may be enforced without first having recourse to any other rights of VWB.

### **5 Negative pledge**

The Chargor shall not create or permit to subsist any Security over any of the Secured Assets other than with the prior written consent of VWB. The Chargor shall not sell, transfer or otherwise dispose of any of the Secured Assets on terms whereby they are or may be leased to or re-acquired by it or enter into any other preferential arrangement having a similar effect.

### **6 Restrictions on disposals**

The Chargor shall not enter into a single transaction or a series of transactions (whether related or not) and whether voluntary or involuntary to sell, lease, transfer or otherwise dispose of any Secured Assets.

### **7 Further assurance**

7.1 The Chargor shall promptly do all such acts and execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as VWB may reasonably specify (and in such form as VWB may reasonably require) in favour of VWB or its nominee(s) to create, perfect, protect and maintain the security created or intended to be created under or evidenced by this Deed or for the exercise of any rights, powers and remedies of VWB provided by or pursuant to this Deed or by law and/or (if an Event of Default is continuing) to facilitate the realisation of the assets which are, or are intended to be, the subject of the security created by or under this Deed.

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

7.3 Any document required to be executed by the Chargor under this clause 7 will be prepared at the cost of the Chargor.

### **8 Land Registry**

8.1 In relation to the Property, the Chargor consents to an application being made on Form RX1 (or such other form as may be prescribed from time to time) to the Chief Land Registrar for registration of the following restriction against the relevant registered estate.

"No disposition of the registered estate by the proprietor of the registered estate or by the proprietor of any registered Charges not being a Charge registered before the date of this restriction is to be registered without a written consent signed by the proprietor the time being of the charge dated ♦ in favour of Volkswagen Bank GmbH trading as Volkswagen Bank United Kingdom Branch referred to in the Charges Register (or its conveyancer)."

- 8.2 The Chargor confirms that so far as any of the Secured Property is unregistered, such land is not affected by any disclosable overriding interests within the meaning of the Land Registration Act 2002 or the Land Registration Rules 2003.

## **9 Representations**

The Chargor represents and warrants to VWB that:

- (a) it is a limited liability corporation, duly incorporated and validly existing under the law of its jurisdiction of incorporation;
- (b) it has the power to own its assets and carry on its business as it is being conducted;
- (c) the obligations expressed to be assumed by it in this Deed are legal, valid, binding and enforceable obligations;
- (d) the entry into and performance by it of, and the transactions contemplated by, this Deed do not and will not conflict with:
  - (i) any law or regulation, or judicial or official order, applicable to it;
  - (ii) its constitutional documents; or
  - (iii) any agreement or instrument binding upon it or any of its assets;
- (e) it is not in default under any agreement to which it is a party to an extent or in a manner which might have a material adverse effect on its ability to perform its obligations under this Deed;
- (f) it has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, this Deed and the transactions contemplated by this Deed;
- (g) no limit on its powers will be exceeded as a result of the giving of the guarantee and indemnity contemplated by this Deed;
- (h) all authorisations required or desirable:
  - (i) to enable it lawfully to enter into, exercise its rights and comply with its obligations in this Deed;
  - (ii) to make this Deed admissible in evidence in its jurisdiction of incorporation,have been obtained or effected and are in full force and effect; and
- (i) it has not taken any corporate action nor have any other procedures or steps been taken or legal proceedings been started or (to the best of the Chargor's knowledge and belief) threatened against it for its winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or

otherwise) or for the appointment of a liquidator, receiver, administrator, administrative receiver, compulsory manager or similar officer of it or of any or all of its assets or undertaking which has not been withdrawn, struck out or otherwise dismissed.

## **10 Property Undertakings**

### **10.1 Insurance**

- (a) The Chargor shall effect, in a form and amount and with an insurance company or underwriters in each case acceptable to VWB:
  - (i) insurance of the Property, the Fixtures and assets of the Chargor on a comprehensive and full reinstatement basis, including accidental damage site clearance, professional fees, subsidence and value added tax;
  - (ii) insurance against loss of rental income for a period of not less than 3 years' rent (including provision for rent increases during such period);
  - (iii) insurance against acts of terrorism;
  - (iv) insurance against third party liability including property owners liability; and
  - (v) such other insurance as VWB considers a prudent company carrying on the same or substantially similar business as the Chargor would effect.
- (b) If the title to the Property is leasehold and the insurance of the Property is the obligation of the landlord of the Property under the headlease then the Chargor will be deemed to have complied with the obligations under clause 10.1(a) if it procures due compliance by the landlord with its insuring obligations under the headlease.
- (c) The Chargor shall promptly pay all premiums and do all other things necessary to keep all of the Insurance Policies in which it has an interest in full force and effect. The Chargor shall not do or permit to be done anything to render the insurance void or voidable.
- (d) The Chargor shall:
  - (i) ensure that the interest of VWB is named as co-insured on any Insurance Policy (other than in respect of third party liability insurance);
  - (ii) ensure that each Insurance Policy shall contain a standard mortgagee clause whereby, among other things, the insurance shall not be vitiated or avoided as against a mortgagee notwithstanding that it could otherwise be so against the Chargor, a waiver of all rights of subrogation and a provision to the effect that the insurance shall not be invalidated as against VWB for non-payment of any premium due without the insurer first giving to VWB not less than 30 days' written notice;
  - (iii) hold all monies received by virtue of any insurance policies on trust for VWB and shall apply:
    - (A) insurance proceeds received in respect of the Property in making good the loss or damage to the Property, or, if VWB so directs, in or towards discharging the Secured Obligations;

- (B) loss of rent insurance proceeds in or towards discharging the Secured Obligations; and
- (C) third party liability insurance in satisfaction of the third party claim for which such proceeds were claimed;
- (iv) notify VWB in writing of all renewals, material variations and cancellations of policies made or, to the knowledge of the Chargor, threatened or pending.
- (e) If the Chargor shall be in default of effecting or maintaining insurances or in producing any such policy or receipt to VWB on demand, VWB may take out or renew such insurances in any sum which VWB may think expedient and all monies expended and costs incurred by VWB under this provision shall be for the account of the Chargor.
- (f) The Chargor shall use its best endeavours to procure that there is given to VWB copies of the insurance in which the Chargor has an interest and such other information in connection with them as VWB may reasonably require as soon as reasonably practicable.

## 10.2 Occupational Leases

The Chargor shall not grant any lease, agreement for lease or any other new contractual licence or right to occupy any part of the Property nor consent to any lease, sub-lease or assignment of all or any of its interest in the Property.

## 10.3 Planning and compulsory purchase

The Chargor shall:

- (a) comply with any conditions attached to any planning permission (and any agreement or undertaking under section 106 of the Town and Country Planning Act 1990 or section 33 of the Local Government (Miscellaneous Provisions) Act 1982 or sections 38 or 278 of the Highways Act 1980 or any other similar act or acts) relating to or affecting the Property; and
- (b) not (save for any development permitted under the Town and Country Planning (General Permitted Development) Order 1995) without the consent of VWB carry out any development (as defined in the Planning Acts) on or of the Property or make any material change in use of the Property; and
- (c) not make an application for planning permission or implement any planning permission obtained or enter or agree to enter into any agreement or undertaking under section 106 of the Town and Country Planning Act 1990 or section 33 of the Local Government (Miscellaneous Provisions) Act 1982 or sections 38 or 278 of the Highways Act 1980 or any other similar act or acts without the prior written consent of VWB; and
- (d) notify VWB immediately on becoming aware that the Property or any part of the Property is to be compulsorily purchased or that the applicable governmental agency or authority has made or proposes to make an order for the compulsory purchase of the Property or any part of the Property.

## 10.4 Repair and access

The Chargor shall:

- (a) unless otherwise agreed in writing by VWB, repair and keep in good and substantial repair and condition, any property, fixtures and any other machinery and equipment forming part of the Property and when necessary replace the same with items of similar quality and value;
- (b) permit VWB and any person appointed by it, (at reasonable times and on reasonable notice) to enter on and inspect the state of the Property and any other machinery and equipment forming part of such Property;
- (c) promptly, after being required to do so by VWB make good any want of repair in the Property and any other machinery and equipment forming part of the Property; and
- (d) unless otherwise agreed in writing by VWB, not sever, unfix or remove any of the fixtures (except for the purpose and in the course of effecting necessary repairs to such fixtures or of replacing the same with new or improved models or substitutes) on such Property belonging to or in use by the Chargor.

#### **10.5 Directions**

- (a) Within 5 Business Days of receipt by it of any notice or order (**Direction**) served on or issued to it by any local or other authority (whether under the Planning Acts or otherwise) in respect of any part of the Property, the Chargor shall give full particulars of the Direction to VWB and, if so requested by VWB, produce the Direction or a copy of it to VWB.
- (b) The Chargor shall advise VWB of all steps taken or proposed to be taken by it from time to time to comply with the terms of the Direction.
- (c) The Chargor shall take all necessary steps to comply with the Direction.
- (d) The Chargor shall at the request of VWB (but at the cost of the Chargor) make or join with VWB in making such objections, representations against, appealing against or in respect of any proposal contained in the Direction as VWB shall deem expedient in order to protect the interests of VWB.

#### **10.6 Outgoings**

The Chargor shall punctually pay and indemnify VWB and any Receiver against all present and future rents, rates, taxes, assessments and outgoings of whatsoever nature imposed on or payable in respect of the Property or any part of it or payable by the owner or occupier of it.

#### **10.7 Covenants**

The Chargor shall perform (and indemnify VWB and each Receiver for any breach of) any covenants and stipulations of whatsoever nature affecting the Property or any part of it.

#### **10.8 Access**

The Chargor shall permit VWB and any person appointed by it, without VWB becoming liable to account as mortgagee in possession, (at reasonable times and on reasonable notice and subject to the terms of the Occupational Leases) to enter on and inspect the state of the Property.

## **10.9 Headlease**

The Chargor shall:

- (a) pay the rents reserved by (and not agree any amendment or review of any such rent without the prior written consent of VWB) and observe and perform (or procure the observance and performance of) the covenants, stipulations and conditions on the tenant contained in any headlease;
- (b) use all reasonable endeavours to procure the observance and performance by the landlord under any headlease of the covenants, stipulations and conditions on the part of the landlord to be observed and performed;
- (c) not without the prior consent of VWB vary or amend the terms of any headlease, surrender any headlease or do or suffer to be done any act or thing whereby any headlease may become liable to determination or forfeiture; and
- (d) immediately notify VWB of any matter or event under or by reason of which any headlease has or may become subject to determination or forfeiture or if any notice of forfeiture is received by it.

## **10.10 Remedy**

If the Chargor fails to comply with any undertaking or obligation in this clause 10 (inclusive), VWB shall be entitled (either itself, or through any agent, nominee or adviser) to take such steps and carry out such works, at the cost of the Chargor, as VWB believes are necessary to remedy such failure. The Chargor shall reimburse VWB on demand for all fees, costs and expenses incurred by VWB for such steps or works. The exercise by VWB of its remedies under this clause 10.10 shall not render VWB liable to account as mortgagee in possession.

## **11 Security power of attorney**

The Chargor, by way of security, irrevocably and severally appoints VWB, each Receiver and any of their delegates or sub-delegates to be its attorney to take any action which the Chargor is obliged to take under this Deed. The Chargor ratifies and confirms whatever any attorney does or purports to do pursuant to its appointment under this clause 11.

## **12 Events of Default**

### **12.1 Non-payment**

The Chargor and/or the Borrower does not pay, when due, any amount payable pursuant to a Finance Document.

### **12.2 Non-compliance**

The Chargor and/or the Borrower does not comply with any of its covenants, or obligations or provision of the Finance Documents express or implied.

### **12.3 Insolvency**

- (a) The Chargor is unable or admits its inability to pay its debts as they fall due, suspends making payments of any of its debts or commences negotiations with one or more of its creditors with a view to rescheduling any of its indebtedness. The value of the assets of the Chargor is less than its liabilities (taking into account contingent



and prospective liabilities). A moratorium is declared in respect of any indebtedness of the Chargor.

- (b) A corporate action, legal proceedings or other procedure or step, or notice is given in respect of the Chargor in relation to the suspension of payments, a moratorium of any indebtedness, winding up, dissolution, administration or reorganisation, a scheme or arrangement with any creditor the appointment of a provisional liquidator, a liquidator, receiver, administrator or other similar officer, or any similar or analogous procedure or step it takes.
- (c) The Chargor ceases or threatens to cease carrying on its business at the Property or as conducted by the Chargor as at the date of this Deed.

### **13 Enforcement of security**

#### **13.1 When security is enforceable**

On the occurrence of any Event of Default which is continuing, the security created by and under this Deed is immediately enforceable.

#### **13.2 Acts of enforcement**

VWB may, at its absolute discretion, at any time after the Security created by or under this Deed is enforceable:

- (a) enforce all or any part of the security created by or under this Deed in any manner it sees fit;
- (b) exercise its rights and powers conferred upon mortgagees by the Law of Property Act 1925, as varied and extended by this Deed, and rights and powers conferred on a Receiver by this Deed, whether or not it has taken possession or appointed a Receiver to any of the Secured Assets;
- (c) appoint a Receiver to all or any part of the Secured Assets; or
- (d) exercise its power of sale under section 101 of the Law of Property Act 1925 (as amended by this Deed).

#### **13.3 Statutory powers - general**

- (a) For the purposes of all powers implied by statute, the Secured Obligations are deemed to have become due and payable on the date of this Deed.
- (b) Section 103 of the Law of Property Act 1925 and section 93 of the Law of Property Act 1925 do not apply to the security constituted by or under this Deed.
- (c) The statutory powers of leasing conferred on VWB are extended so that, without the need to comply with any provision of section 99 or section 100 of the Law of Property Act 1925, VWB is empowered to lease and make agreements for lease at a premium or otherwise, accept surrenders of leases and grant options or vary or reduce any sum payable under any leases or tenancy agreements as it may think fit.
- (d) Each Receiver and VWB is entitled to all the rights, powers, privileges and immunities conferred by the Law of Property Act 1925 and the Insolvency Act 1986 on

mortgagees and Receivers when such Receivers have been duly appointed under the relevant Act.

#### **13.4 Contingencies**

If VWB enforces the security constituted by or under this Deed at a time when no amounts are due to it under the Finance Documents but at a time when amounts may or will become so due, VWB (or the Receiver) may pay the proceeds of any recoveries effected by it into an interest bearing suspense account.

#### **13.5 Mortgagee in possession - no liability**

Neither VWB nor any Receiver will be liable, by reason of entering into possession of a Secured Asset, to account as mortgagee in possession or for any loss on realisation or for any default or omission for which a mortgagee in possession might otherwise be liable.

#### **13.6 Redemption of prior mortgages**

At any time after the security created by or under this Deed has become enforceable, VWB may, at the sole cost of the Chargor (payable to VWB on demand) redeem any prior form of security over any Secured Asset and/or procure the transfer of that security to itself and/or settle and pass the accounts of any prior mortgagee, chargee or encumbrancer which once so settled and passed shall be conclusive and binding on the Chargor.

### **14 Receiver**

#### **14.1 Appointment of Receiver**

- (a) At any time after any security created by or under this Deed is enforceable, VWB may appoint a Receiver to all or any part of the Secured Assets in accordance with clause 13.2(c) (Acts of enforcement). At any time, if so requested in writing by the Chargor, without further notice, VWB may appoint a Receiver to all or any part of the Secured Assets as if VWB had become entitled under the Law of Property Act 1925 to exercise the power of sale conferred under the Law of Property Act 1925.
- (b) Any Receiver appointed under this Deed shall be the agent of the Chargor and the Chargor shall be solely responsible for his acts or defaults and for his remuneration and liable on any contracts or engagements made or entered into by him and in no circumstances whatsoever shall VWB be in any way responsible for any misconduct, negligence or default of the Receiver.

#### **14.2 Removal**

VWB may by written notice remove from time to time any Receiver appointed by it and, whenever it may deem appropriate, appoint a new Receiver in the place of any Receiver whose appointment has terminated.

#### **14.3 Powers of Receiver**

##### **(a) General**

- (i) In addition to those conferred by the Law of Property Act 1925 on any Receiver appointed under that Act, each Receiver has, and is entitled to exercise, all of the rights, powers and discretions set out in this clause 14.3.

- (ii) If there is more than one Receiver holding office at the same time, unless the document appointing him states otherwise, each Receiver may exercise all of the powers conferred on a Receiver under this Deed or under the Insolvency Act 1986 individually and to the exclusion of any other Receivers.
- (iii) A Receiver may, in the name of the Chargor do all other acts and things which he may consider expedient for realising any Secured Asset and exercise in relation to any Secured Asset all the powers, authorities and things which he would be capable of exercising if he were its absolute beneficial owner.

**(b) Borrow money**

A Receiver may raise and borrow money (either unsecured or on the security of any Secured Asset, either in priority to the security constituted by this Deed or otherwise) on any terms and for whatever purpose which he thinks fit. No person lending that money need enquire as to the propriety or purpose of the exercise of that power or to check the application of any money so raised or borrowed.

**(c) Carry on business**

A Receiver may carry on the business of the Chargor as he thinks fit and, for the avoidance of doubt, a Receiver may apply for such Authorisations as he considers in his absolute discretion appropriate.

**(d) Compromise**

A Receiver may settle, adjust, refer to arbitration, compromise and arrange any claims, accounts, disputes, questions and demands with or by any person who is or claims to be a creditor of the Chargor or relating in any way to any Secured Asset.

**(e) Delegation**

A Receiver may delegate his powers in accordance with clause 15 (Delegation).

**(f) Employees**

For the purposes of this Deed, a Receiver as he thinks appropriate, on behalf of the Chargor or for itself as Receiver, may appoint and discharge managers, officers, agents, accountants, servants, workmen and others upon such terms as to remuneration or otherwise as he may think proper and discharge any such persons appointed by the Chargor.

**(g) Leases**

A Receiver may let any Secured Asset for any term and at any rent (with or without a premium) which he thinks proper and may accept a surrender of any lease or tenancy of any Secured Assets on any terms which he thinks fit (including the payment of money to a lessee or tenant on a surrender).

**(h) Legal actions**

A Receiver may bring, prosecute, enforce, defend and abandon all actions, suits and proceedings or submit to arbitration or any form of alternative dispute resolution in the name of the Chargor in relation to any Secured Asset as he considers expedient.

(i) **Possession**

A Receiver may take immediate possession of, get in and collect any Secured Asset.

(j) **Protection of assets**

A Receiver may, in each case as he may think fit make and effect all repairs and insurances and do all other acts which the Chargor might do in the ordinary conduct of its business be they for the protection or for the improvement of the Secured Assets commence and/or complete any building operations on the Secured Property or other Secured Asset and apply for and maintain any planning permission, building regulation approval or any other permission, consent or licence.

(k) **Receipts**

A Receiver may give valid receipts for all monies and execute all assurances and things which may be expedient for realising any Secured Asset.

(l) **Sale of assets**

A Receiver may sell, exchange, convert into monies and realise any Secured Asset by public auction or private contract in any manner and on any terms which he thinks proper. The consideration for any such transaction may consist of cash, debenture or other obligations, shares, stock or other valuable consideration and any such consideration may be payable in a lump sum or by instalments spread over such period as he thinks fit. Fixtures and any plant and machinery annexed to any part of the Secured Property may be severed and sold separately from the property containing them without the consent of the Chargor.

(m) **Subsidiaries**

A Receiver may form a subsidiary of the Chargor and transfer to that subsidiary any Secured Asset.

(n) **Deal with Secured Assets**

A Receiver may, without restriction sell, let or lease, or concur in selling, letting or leasing, or vary the terms of, determine, surrender or accept surrenders of, leases or tenancies of, or grant options and licences over or otherwise dispose of or deal with, all or any part of the Secured Assets without being responsible for loss or damage, and so that any such sale, lease or disposition may be made for cash payable by instalments, loan stock or other debt obligations or for shares or securities of another company or other valuable consideration. The Receiver may form and promote, or concur in forming and promoting, a company or companies to purchase, lease, licence or otherwise acquire interests in all or any of the Secured Assets or otherwise, arrange for such companies to trade or cease to trade and to purchase, lease, license or otherwise acquire all or any of the Secured Assets on such terms and conditions whether or not including payment by instalments secured or unsecured as he may think fit.

(o) **Security**

A Receiver may redeem any prior security and settle and pass the accounts of the person entitled to the prior security so that any accounts so settled and passed shall

(subject to any manifest error) be conclusive and binding on the Chargor and the money so paid shall be deemed to be an expense properly incurred by the Receiver.

**(p) Land**

The Receiver may purchase or acquire any land and purchase, acquire or grant any interest in or right over land. A Receiver may implement or continue the development of (and obtain all consents required in connection therewith) and/or complete any buildings or structures on, any real property comprised in the Secured Property and do all acts and things incidental to the Secured Property.

**(q) Incidental matters**

A Receiver may do all other acts and things including without limitation, signing and executing all documents and deeds as may be considered by the Receiver to be incidental or conducive to any of the matters or powers listed here or granted by law or otherwise incidental or conducive to the preservation, improvement or realisation of the Secured Assets and to use the name of the Chargor for all the purposes set out in this clause 14.

**14.4 Remuneration**

VWB may from time to time fix the remuneration of any Receiver appointed by it.

**15 Delegation**

15.1 VWB and any Receiver may delegate by power of attorney or in any other manner all or any of the powers, authorities and discretions which are for the time being exercisable by VWB and the Receiver (as appropriate) under this Deed to any person or persons as it shall think fit. Any such delegation may be made upon such terms and conditions (including the power to sub-delegate) as VWB and Receiver (as appropriate) may think fit.

15.2 VWB and any Receiver will not be liable or responsible to the Chargor or any other person for any losses, liabilities or expenses arising from any act, default, omission or misconduct on the part of any delegate.

**16 Application of monies**

16.1 Sections 109(6) and (8) (Appointment, powers, remuneration and duties of receiver) of the Law of Property Act 1925 shall not apply to a Receiver appointed under this Deed. All monies received by VWB or any Receiver under this Deed and applied in discharge of the Secured Obligations shall be applied to the Secured Obligations in such order as VWB may determine. VWB and any Receiver may place any money received, recovered or realised pursuant to this Deed in an interest bearing suspense account and it may retain the same for such period as it considers expedient without having any obligation to apply the same or any part of it in or towards discharge of the Secured Obligations.

**17 Remedies and waivers**

No failure to exercise, nor any delay in exercising, on the part of VWB or any Receiver, any right or remedy under this Deed shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Deed are cumulative and not exclusive of any rights or remedies provided by law. A waiver given or consent granted by

VWB under this Deed will be effective only if given in writing and then only in the instance and for the purpose for which it is given.

## **18 Protection of third parties**

- 18.1 No person (including a purchaser) dealing with VWB or a Receiver or its or his agents has an obligation to enquire of VWB, any Receiver or others whether the Secured Obligations have become payable, whether any power purported to be exercised has become exercisable, whether any Secured Obligations or other monies remain outstanding, how any monies paid to VWB or to the Receiver shall be applied, or the status, propriety or validity of the acts of the Receiver or VWB.
- 18.2 The receipt of VWB or any Receiver shall be an absolute and a conclusive discharge to a purchaser and shall relieve him of any obligation to see to the application of any monies paid to or by the direction of VWB or any Receiver.
- 18.3 In clauses 18.1 and 18.2 purchaser includes any person acquiring, for money or monies worth, any lease of, or Security over, or any other interest or right whatsoever in relation to, the Secured Assets or any of them.

## **19 Additional security**

The Security created by or under this Deed is in addition to and is not in any way prejudiced by any guarantee or security now or subsequently held by VWB.

## **20 Settlements conditional**

- 20.1 If VWB (acting reasonably) believes that any amount paid by the Chargor or any other person in respect of the Secured Obligations is capable of being avoided or set aside for any reason, then for the purposes of this Deed, such amount shall not be considered to have been paid.
- 20.2 Any settlement, discharge or release between the Chargor and VWB shall be conditional upon no security or payment to or for VWB by the Chargor or any other person being avoided or set aside or ordered to be refunded or reduced by virtue of any law relating to bankruptcy, insolvency or liquidation or otherwise.

## **21 Subsequent Security**

If VWB receives notice of any other subsequent security or other interest affecting all or any of the Secured Assets it may open a new account or accounts for VWB in its books. If it does not do so then, unless it gives express written notice to the contrary to the Chargor, as from the time of receipt of such notice by VWB, all payments made by the Chargor to VWB shall be treated as having been credited to a new account of the Chargor and not as having been applied in reduction of the Secured Obligations.

## **22 Set-off**

VWB may, set off any matured obligation due from the Chargor (to the extent beneficially owned by VWB) against any matured obligation owed by VWB to the Chargor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, VWB may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

## **23 Notices**

Any communication or notice under or in connection with this Deed shall be made in writing and shall be made by letter and shall be sufficiently served if it is served in any manner in which a notice may be served on a mortgagor under section 196 of the Law of Property Act 1925 or if it is sent by ordinary prepaid post addressed to the Chargor at its last known address and a notice so served shall be deemed to have been served on the Business Day following that on which the letter containing such notice shall have been posted.

## **24 Invalidity**

If at any time, any provision of a Finance Document is or becomes illegal, invalid or unenforceable in any respect, neither the legality, validity or enforceability of the remaining provisions will in any way be affected or impaired.

## **25 Assignment**

- (a) VWB may assign or otherwise transfer all or any part of its rights under this Deed or any security created by or under it.
- (b) The Chargor may not assign or otherwise transfer all or any part of its rights under this Deed or any security created by or under it.

## **26 Releases**

Upon the expiry of the Security Period, VWB shall, at the request and cost of the Chargor, take whatever action is necessary to release and reassign to the Chargor its rights arising under this Deed the Secured Assets from the security created by and under this Deed, and return all documents or deeds of title delivered to it under this Deed.

## **27 Certificates and determinations**

Any certificate or determination by VWB of a rate or amount under any Finance Document is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

## **28 Chargor's Indemnity**

- (a) The Chargor shall (within 3 Business Days of demand by VWB) indemnify VWB and every Receiver and Delegate (each an **Indemnified Person**) against any cost, loss or liability together with any associated VAT incurred by any of them as a result of:
  - (i) the taking, holding, protection or enforcement of this Deed;
  - (ii) the exercise of any of the rights, powers, discretions and remedies vested in VWB and each Receiver and Delegate by the Finance Documents or by law; and
  - (iii) any default by the Chargor in the performance of any of the obligations expressed to be assumed by it in the Finance Documents.
- (b) The Chargor shall indemnify VWB against any and all costs, losses, liabilities or expenses together with any associated VAT incurred by VWB arising (directly or indirectly) out of or in connection with:

- (i) any breach or potential breach of or liability (whether civil and/or criminal) under any Environmental Law;
  - (ii) any responsibility on the part of VWB in respect of any clean-up, repair or other corrective action; or
  - (iii) the business or any real property of the Chargor.
- (c) VWB may pay and retain, all sums necessary to give effect to the indemnity in this clause and shall have a lien on this Deed and the proceeds of the enforcement of this Deed for all monies payable to it.

## **29 Exclusion of liability**

### **29.1 No liability**

- (a) VWB will not be liable for any action taken by it (or any omission to take action) under or in connection with this Deed unless directly caused by its gross negligence or wilful misconduct.
- (b) Neither VWB nor any Receiver shall be liable in respect of all or any part of the Secured Assets or for any loss or damage which arises out of the exercise or the attempted or purported exercise of, or the failure to exercise any of, their respective powers unless such loss or damage is caused by its gross negligence or wilful acts of default and recklessness.

### **29.2 Officers and agents**

The Chargor may not take proceedings against any officer, employee or agent of VWB in respect of any claim it might have against VWB or in respect of any act or omission of any kind by that officer, employee or agent in relation to this Deed and any officer, employee or agent of VWB may rely on this clause.

## **30 Fees, costs and expenses**

### **30.1 Transaction expenses**

The Chargor shall promptly on demand pay VWB the amount of all costs, fees and expenses (including legal fees) together with any associated VAT incurred by it in connection with the negotiation, preparation, printing, execution and perfection of this Deed and each other Finance Document.

### **30.2 Amendment costs**

If the Chargor requests an amendment, waiver or consent of this Deed or any other Finance Document, the Chargor shall, within 3 Business Days of demand, reimburse VWB for the amount of all costs and expenses (including legal fees) together with any associated VAT reasonably incurred by VWB in responding to, evaluating, negotiating or complying with the request or requirement.

### **30.3 Enforcement and preservation costs**

The Chargor shall, within 3 Business Days of demand, pay to VWB the amount of all costs, fees and expenses (including legal fees) together with any associated VAT incurred by VWB in connection with the enforcement of or the preservation of any rights under any Finance



Document and proceedings instituted by or against VWB as a consequence of taking or holding this Deed or enforcing these rights.

**30.4 Interest on late payments**

- (a) If the Chargor fails to pay any amount payable by it under this Deed on its due date, interest shall accrue on the overdue amount from the due date up to the date of actual payment (both before and after judgment) at the rate of 2% per annum above the rate payable under the Facility Agreement. Any interest accruing under this clause 30.4 shall be immediately payable by the Chargor on demand by VWB.
- (b) Default interest (if unpaid) arising on such unpaid sums will be compounded with the overdue amount at the end of each period selected by VWB but will remain immediately due and payable.

**30.5 Tacking and Consolidation**

VWB must perform its obligations under the Facility Agreement (including any obligation to make further advances). The restriction on the right of consolidating mortgage securities contained in section 93 of the Law of Property Act 1925 shall not apply to the security created by this Deed.

**31 Counterparts**

This Deed may be executed in any number of counterparts, and by each party on separate counterparts. Each counterpart is an original, but all counterparts shall together constitute one and the same instrument.

**32 Governing Law**

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

**This Deed has been entered into as a deed on the date given at the beginning of this Deed.**

**Schedule 1**

**Property**

**Registered Land**

<b>Country and District (or Address or Description London Borough)</b>	<b>Title Number</b>
Brooklands Place, 107 Oyster Lane, Byfleet, Surrey KT14 7JF	SY561573

# SIGNATORIES TO THE DEED

## Chargor

Executed as a deed by J. WAESTRAP  
**BROOKLANDS PLACE LIMITED**  
 acting by a director in the presence of

) [Signature]  
 )  
 ) Director

Signature of witness

Name RICHARD J. WAESTRAP

Address 2 DOWLE COTTAGE, MILLAND  
N. LILYHOLM, HANTS, GU32 7LH

## VWB

Executed and delivered as a deed  
 by **VOLKSWAGEN BANK GMBH** acting by its  
 duly authorised attorneys:

)  
 )  
 )  
 )  
 ) [Signature] LS  
 ) (signature of attorney)  
 ) LISA STACEY  
 ) (name of attorney)

in the presence of:

Signature of witness

Name SONATHAN SLAUGHTER

Address c/o WFS, Madison House,  
Michigan Drive, Milton Keynes, MK15 8HQ

) [Signature] JS  
 ) (signature of attorney)  
 ) JEAN SMITH  
 ) (name of attorney)

in the presence of:

Signature of witness

Name SONATHAN SLAUGHTER

Address c/o WFS, Madison House,  
Michigan Drive, Milton Keynes, MK15 8HQ