



Registration of a Charge

Company name: **THE BRIGHTON PIER GROUP PLC**

Company number: **08687172**



X6L7SXQ0

Received for Electronic Filing: **13/12/2017**

Details of Charge

Date of creation: **08/12/2017**

Charge code: **0868 7172 0003**

Persons entitled: **BARCLAYS BANK PLC**

Brief description: **NOT APPLICABLE**

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

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

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

Certified by:

ADDLESHAW GODDARD LLP



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 8687172

Charge code: 0868 7172 0003

The Registrar of Companies for England and Wales hereby certifies that a charge dated 8th December 2017 and created by THE BRIGHTON PIER GROUP PLC was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 13th December 2017 .

Given at Companies House, Cardiff on 15th December 2017

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

a ADDLESHAW
g GODDARD

Date of delivery *8 December* 2017

THE BRIGHTON PIER GROUP PLC

BARCLAYS BANK PLC

FLOATING CHARGE

Contents

	Clause	Page
1	Definitions and interpretation.....	1
2	Covenant to pay	3
3	Default interest	3
4	Security.....	4
5	Enforcement	4
6	Liability of the Lender	6
7	Protection of Security	6
8	Representations and undertakings.....	9
9	Appropriation, payments and costs and expenses	11
10	Notices.....	13
11	Release	13
12	General.....	14
13	Governing law and jurisdiction	15
14	Counterparts and delivery	15

The Schedule : Deed of Release

This Floating Charge is delivered on

8 December

2017

Between

- (1) **The Brighton Pier Group plc**, a company incorporated in England (No. 08687172) and having its registered office at 36 Drury Lane, London WC2B 5RR (**Chargor**); and
- (2) **Barclays Bank PLC**, a company incorporated in England (No. 01026167) (**Lender**).

It is agreed

1 Definitions and interpretation

1.1 Definitions

In this Charge, the following definitions will apply:

Administrator means any person appointed to be an administrator of the Chargor pursuant to paragraph 14 of Schedule B1 to the Insolvency Act

Authorisation means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration

Business Day means any day (other than a Saturday, Sunday or public holiday) during which clearing banks in the City of London are open for normal business

Charged Assets means the whole of the property (including uncalled capital) which is or may from time to time, while this Charge is in force, be comprised in the property and undertaking of the Chargor

Companies Act means the Companies Act 2006

Default Rate means the rate of interest specified in, and calculated in accordance with, clause 10.3 (Default interest) of the Facility Agreement

Facility Agreement means the facility agreement originally dated 08 April 2016 and made between (amongst others) Brighton Palace Pier (Holdings) Limited (previously known as BarClub (Marylebone) Limited), Brighton Palace Pier (Assets) Limited (previously known as BarClub (Drury Lane) Limited) and Eclectic Bars Limited as Original Borrowers and the Lender (as lender) pursuant to which the Lender has agreed to make certain facilities available to the Borrowers, as amended and restated on or around the date of this Charge

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)

Insolvency Act means the Insolvency Act 1986

Receiver means any receiver or administrative receiver appointed in respect of the Charged Assets under this Charge and includes joint receivers

Relevant Jurisdiction means in relation to the Chargor:

- (a) its jurisdiction of incorporation or organisation
- (b) any jurisdiction where any Charged Asset is situated and
- (c) any jurisdiction where it conducts its business

Schedule means the schedule annexed as relative to this Charge

Secured Obligations means all monies and liabilities now or after the date of this Charge due, owing or incurred by the Obligors to the Lender whatsoever, 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 the Lender, except for any obligation which, if it were included here, would constitute unlawful financial assistance, or its equivalent in any other jurisdiction

Security means a mortgage, charge, pledge, trust, assignment by way of security, assignation in security, standard security, lien, hypothecation or other encumbrance, arrangement or security interest securing any obligation of any person or any other agreement or arrangement having a similar effect or any title retention rights or set-off rights created by agreement

Security Financial Collateral Arrangement has the meaning given to it in the Financial Collateral Regulations

Security Period means the period beginning on the date of this Charge and ending on the date on which the Lender is satisfied that the Secured Obligations have been unconditionally and irrevocably paid and discharged in full and all facilities made available by the Lender to the Borrowers (or any of them) have been cancelled

Taxes means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same)

1.2 Interpretation

- (a) Unless otherwise defined in this Charge a term defined in the Facility Agreement has the same meaning when used in this Charge or any notices, acknowledgements or other documents issued under or in connection with this Charge. In addition, in this Charge, unless the context otherwise requires:
 - (i) references to clauses or to schedules are to be construed as references to the clauses or schedules (as applicable) of this Charge;
 - (ii) a provision of law includes a reference to that provision as replaced, modified or re-enacted from time to time and any subordinate legislation made under that statutory provision from time to time, in each case whether before or after the date of this Charge;
 - (iii) words importing the plural shall include the singular and vice versa;
 - (iv) a person includes any individual, firm, company, corporation, government, state or agency of state or any association, trust, joint venture, consortium or partnership (whether or not having separate legal personality);

- (v) a **Party**, the **Chargor**, or the **Lender** shall be construed so as to include its successors in title, permitted assigns and permitted transferees;
- (vi) **disposal** includes any sale, transfer, assignment, grant, lease, licence, declaration of trust or other disposal, whether voluntary or involuntary and **dispose** will be construed accordingly;
- (vii) a company shall be construed so as to include any company, corporation or other body corporate, wherever and however incorporated or established;
- (viii) writing shall, subject to clause 10 (Notices), include any mode of reproducing words in a legible and non-transitory form;
- (ix) this Charge or any provision of this Charge or any other agreement, document or instrument is to this Charge, that provision or that agreement, document or instrument as amended, novated, supplemented, extended, restated or acceded to from time to time;
- (x) a time of day is a reference to London time;
- (xi) references to a **fixed security** mean a fixed security as defined by section 486 of the Companies Act 1985; and
- (xii) an Event of Default is **continuing** if it has not been waived by the Lender,

1.3 The contents table and headings in this Charge are for convenience only and do not affect the interpretation or construction of this Charge.

1.4 Words importing the singular include the plural and vice versa and words importing a gender include every gender.

1.5 The words **other**, **include**, **including** and **in particular** do not limit the generality of any preceding words and any words which follow them shall not be construed as being limited in scope to the same class as the preceding words where a wider construction is possible.

1.6 In the event that the terms of this Charge conflict with the terms of the Facility Agreement, the terms of the Facility Agreement shall prevail.

2 **Covenant to pay**

The Chargor covenants with the Lender that it will pay or discharge on demand the Secured Obligations when they become due for payment and discharge.

3 **Default interest**

3.1 Any amount which is not paid under this Charge when due shall bear interest in accordance with the terms of clause 10.3 (Default Interest) of the Facility Agreement.

3.2 Any amount payable under clause 9.7 (Costs and expenses) shall bear interest from the date such costs, fees or other expenses are incurred until the date on which such amount is unconditionally and irrevocably paid and discharged in full on a daily basis at the Default Rate.

4 Security

4.1 Floating Charge

As a continuing security for the payment of the Secured Obligations, the Chargor hereby grants a floating charge over the Charged Assets in favour of the Lender.

4.2 Qualifying floating charge

Paragraph 14 of Schedule B1 to the Insolvency Act applies to the floating charge created by or pursuant to this Charge (and such floating charge is a qualifying floating charge for the purposes of the Insolvency Act).

4.3 Negative pledge

The Chargor covenants with the Lender that, save as otherwise permitted in the Finance Documents and subject to section 464(2) of the Companies Act 1985:

- (a) the Chargor shall not create any fixed security or other floating charge over any part of the Charged Assets after its execution of this Charge; and
- (b) this Charge shall rank in priority to any fixed security or other floating charge created by the Chargor after its execution of this Charge, except any fixed security in favour of the Lender.

5 Enforcement

5.1 When Charge is enforceable

The security constituted by this Charge shall become immediately enforceable upon the occurrence of an Event of Default which is continuing.

5.2 Appointment of a Receiver or Administrator

- (a) At any time after this Charge has become enforceable the Lender shall be entitled:
 - (i) to appoint one or more persons as a Receiver or Receivers in respect of the Charged Assets, or apply to the Court for such appointment;
 - (ii) to appoint one or more persons as an Administrator of the Chargor;
 - (iii) to make an administration application in respect of the Chargor; or
 - (iv) to give notice of intention to appoint an Administrator in respect of the Chargor,
 - (v) in each case in accordance with and to the extent permitted by laws applicable to the Chargor and to this Charge.
- (b) The appointment of a Receiver or Receivers or an Administrator, or the giving of notice of intention to appoint an Administrator shall be effected by the Lender by written instrument or notice in accordance with and in such form as may be prescribed under the Insolvency Act. If any such person so appointed as Receiver or Administrator is removed from office by the Court or otherwise ceases to act, the Lender shall be entitled (subject to the provisions of the Insolvency Act) to appoint a replacement in the same manner.

5.3 Powers of Receiver

A Receiver appointed under this Charge shall have the following powers in addition to those specified in Schedule 2 of the Insolvency Act:

- (a) to promote or procure the incorporation of any new company (whether or not a subsidiary of the Chargor), to transfer any part of the Charged Assets to such company for any form of consideration (including shares, debentures, loan stock or loan capital in such company), and/or to subscribe for or otherwise acquire shares, debentures, loan stock or loan capital in such company in name of the Chargor, or the Receiver, or its or his/her nominee or trustee;
- (b) subject to the articles of association, to convene extraordinary general meetings of the Chargor;
- (c) to make any arrangement or compromise which the Receiver or the Lender may think fit;
- (d) generally, without prejudice to the other provisions of this clause to exercise all the rights, powers and discretions in respect of the Charged Assets it would be entitled to exercise if it were the absolute owner thereof and to do all acts and things the Receiver may consider necessary or expedient for the realisation of the Charged Assets and the application of the proceeds in or towards satisfaction of or their retention as continuing security for the Secured Obligations; and
- (e) in respect of any of the Charged Assets situated in England and Wales (or any other jurisdiction) to exercise in addition to the foregoing powers, all the powers conferred by the Insolvency Act or any other enactment or rule of law on receivers or receivers and managers (or analogous officers) in that jurisdiction.

5.4 Agent of the Chargor

The Receiver shall be the agent of the Chargor for all purposes of and in all respects arising under this Charge and, except as otherwise provided by the Insolvency Act, the Chargor alone shall be responsible for his/her acts, omissions, neglects and defaults and for all liabilities and obligations incurred by him/her, and his/her remuneration costs, charges and expenses.

5.5 Balance

The rights powers and discretions conferred on the Receiver under this clause are subject only to his/her obligation to account to the Chargor or any other person entitled thereto for any balance of the Charged Assets or their proceeds remaining in his/her hands after the Secured Obligations have been fully and unconditionally paid and discharged.

5.6 Third parties

- (a) No purchaser from or other person dealing with the Receiver in relation to the Charged Assets shall be concerned to enquire whether any of the powers exercised or purported to be exercised by him/her hereunder has become exercisable, whether any of the Secured Obligations remains outstanding, or generally as to the propriety or validity of the exercise or purported exercise of any power hereunder.
- (b) The receipt or discharge of the Receiver shall be an absolute discharge to any purchaser or other person dealing with the Receiver in relation to the Charged Assets

and any such purchaser or third party shall not have any obligation to enquire after or see to the application of any payments made by it to the Receiver or at its direction.

5.7 Security Financial Collateral Arrangement

- (a) At any time after the security constituted by this Charge has become enforceable and to the extent that any of the Charged Assets constitute Financial Collateral and are subject to a Security Financial Collateral Arrangement pursuant to this Charge, the Lender shall have the right to appropriate all or any part of those Charged Assets in or towards the payment or discharge of the Secured Obligations as are then due and payable as the Lender may think fit. The value of such Charged Assets appropriated in accordance with this clause 5.7(a) shall be the price of those Charged Assets at the time the right of appropriation is exercised as listed on any recognised market index, or as determined by such other method as the Lender may select (including independent valuation). The Chargor agrees that the methods of valuation provided for in this clause 5.7(a) are commercially reasonable.
- (b) To the extent that the Charged Assets constitute Financial Collateral, the Chargor agrees that such Charged Assets may, at the Lender's option, be held or designated so as to be under the control of the Lender for all purposes of the Financial Collateral Regulations.

6 Liability of the Lender

6.1 Liability

The Lender and any Receiver shall not in any circumstances be liable to the Chargor or any other person for losses, damages, liabilities or expenses arising from or in connection with the application or enforcement of this Charge or any realisation, appropriation or application of the Charged Assets or from any act, default or omission of the Lender or the Receiver or his/her or its officers, employees or agents in relation to the Charged Assets or otherwise in connection with this Charge, except to the extent caused by the gross negligence or wilful default of the Lender or the Receiver or his/her or its officers, employees or agents.

6.2 Indemnity

The Lender, any Receiver and every attorney, manager, agent, employee or other person appointed by the Lender under or in connection with this Charge shall be and is hereby indemnified by the Chargor in respect of all liabilities, costs, losses and expenses incurred by them or him in the execution (or purported execution) of any of the powers, authorities or discretions vested in them or him pursuant to the terms of this Charge (or by any law or regulation) and against all actions, proceedings, costs, claims and demands in respect of any matter or thing done or omitted in any way in connection with or relating to all or any of the Charged Assets and the Lender, any Receiver or any such other person may retain and pay all sums in respect of the same out of money received under the powers conferred by this Charge.

7 Protection of Security

7.1 Continuing security

- (a) This Charge shall be in addition to, and without prejudice to and shall not merge with, any other right, remedy, guarantee or Security which the Lender may at any time hold in respect of any of the Secured Obligations and this Charge may be enforced against

the Chargor without the Lender first having recourse to any other right, remedy, guarantee or Security held or available to it.

- (b) This Charge shall remain in full force and effect as a continuing security until the Lender shall have certified in writing that the Secured Obligations have been discharged in full.

7.2 Waiver of rights

- (a) The obligations of the Chargor under this Charge and the rights, powers and discretions of the Lender under this Charge will not be reduced, discharged or otherwise affected by:
 - (i) any time, waiver or consent granted to, or composition with the Chargor or any other person;
 - (ii) the release of the Chargor or any other person under the terms of any composition or arrangement with any creditor of the Chargor;
 - (iii) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights or remedies against, or Security over assets of the Chargor or any other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument;
 - (iv) the Lender failing to realise the full value of any Security held by it;
 - (v) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of the Chargor or any other person or any defective or excessive exercise of the Chargor's powers or authority;
 - (vi) any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) termination or replacement of the Secured Obligations or any document, guarantee or Security related to the Secured Obligations including any change in the purpose of, any extension of or increase in any facility or the addition of any new facility or other document or Security;
 - (vii) any unenforceability, illegality, invalidity, irregularity or frustration of any obligation (actual or purported) of any person under this Charge or any other document, guarantee or Security held in connection with the Secured Obligations;
 - (viii) any claim or enforcement of payment from the Chargor or any other person;
 - (ix) any insolvency, bankruptcy, liquidation, administration, winding-up, incapacity, dissolution, limitation, disability, the discharge by operation of law or any similar proceedings in respect of the Chargor or any other person;
 - (x) any change in the constitution, name or style of the Chargor or any other person, or if such other person is a partnership or other unincorporated organisation, its dissolution or any change in its status or membership; or

- (xi) anything done or omitted to be done by the Lender or any other person which but for this provision might operate to exonerate or discharge or otherwise reduce or extinguish the liability of the Chargor under this Charge.

7.3 Lender's protections

- (a) The Lender may make one or more demands under this Charge.
- (b) This Charge shall be in addition to, and without prejudice to and shall not merge with, any other right, remedy, guarantee or Security which the Lender may at any time hold in respect of any of the Secured Obligations and this Charge may be enforced without the Lender first having:
 - (i) recourse to any other right, remedy, guarantee or Security held or available to it;
 - (ii) to take action or obtain judgment in any court against the Chargor or any other person;
 - (iii) to make or file any claim in a bankruptcy, liquidation, administration or insolvency of the Chargor or any other person; or
 - (iv) to make demand, enforce or seek to enforce any claim, right or remedy against the Chargor or any other person.
- (c) The Chargor's liability under this Charge shall not be discharged or affected by anything that would not have discharged or affected it if the Chargor had been a principal debtor instead of a chargor under this Charge.

7.4 Further assurance

- (a) The Chargor shall promptly do all such acts or execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Lender may reasonably specify (and in such form as the Lender may reasonably require in favour of the Lender or its nominee(s)):
 - (i) to perfect the Security created or intended to be created under or evidenced by this Charge (which may include the execution of a pledge, charge, assignment, assignment or assurance or other Security over all or any of the assets which are, or are intended to be, the subject of this Charge) or for the exercise of any rights, powers and remedies of the Lender provided by law and/or pursuant to the Finance Documents;
 - (ii) to confer on the Lender Security over any property and assets of the Chargor located in any jurisdiction equivalent or similar to the Security intended to be conferred by or pursuant to this Charge;
 - (iii) creating any fixed security or charge over any of the Charged Assets;
 - (iv) to facilitate the exercise of any rights, powers and remedies exercisable by the Lender or any Receiver in respect of any of the Charged Assets or provided by or pursuant to the Finance Documents or by law; and/or

- (v) to facilitate the realisation of the assets which are, or are intended to be, the subject of this Charge.
- (b) The Chargor shall take all such action as is available to it (including making all filings and registrations) as may be necessary for the purpose of the creation, perfection, protection or maintenance of any Security conferred or intended to be conferred on the Lender by this Charge and/or pursuant to the Finance Documents.

7.5 Power of attorney

- (a) The Chargor by way of security irrevocably appoints the Lender to be its agent and attorney in its name and on its behalf to:
 - (i) do all things which the Chargor may be required to do under this Charge but has failed so to do within 5 Business Days of request;
 - (ii) sign, execute (using the company seal where appropriate), deliver and otherwise perfect any Security required to be signed or executed pursuant to the terms of this Charge; and
 - (iii) sign, execute (using the company seal where appropriate), deliver and complete any deeds, instruments or other documents and to do all acts and things which may be required by the Lender in the exercise of any of its powers under this Charge, or to perfect or vest in the Lender, its nominees or any purchaser, title to any Charged Assets or which the Lender may deem expedient in connection with the getting in, disposal, or realisation of any Charged Assets.
- (b) Each agent and attorney may appoint a substitute or delegate his authority.
- (c) The Chargor ratifies and confirms (and agrees to ratify and confirm) anything which an attorney does or may purport to do in the exercise or purported exercise of the power of attorney conferred by clause 7.5(a).

8 Representations and undertakings

8.1 Representations and warranties

The Chargor represents and warrants to the Lender that:

- (a) it is a public limited company duly organised, validly existing and registered under the relevant laws of its jurisdiction of incorporation;
- (b) it has the power and all necessary governmental and other consents, approvals, licences and authorities to own its assets and carry on its business as it is being conducted;
- (c) it is empowered to enter into and perform its obligations contained in this Charge and has taken all necessary action to authorise the execution, delivery and performance of this Charge, to create the security to be constituted by this Charge and to observe and perform its obligations under this Charge;
- (d) the obligations expressed to be assumed by it in this Charge are legal, valid, binding and enforceable obligations;

- (e) (without limiting the generality of clause 8.1(d)), this Charge creates the security interests which it purports to create and those security interests are valid and effective;
- (f) the entry into and performance by it of, and the transactions contemplated by, this Charge and the granting of this Charge and security constituted by this Charge do not and will not conflict with:
 - (i) any law or regulation applicable to it;
 - (ii) its constitutional documents; or
 - (iii) any agreement or instrument binding upon it or any of its assets or constitute a default or termination event (however described) under any such agreement or instrument;
- (g) all Authorisations required or desirable:
 - (i) to enable it lawfully to enter into, exercise its rights and comply with its obligations in this Charge; and
 - (ii) to make this Charge admissible in evidence in its Relevant Jurisdictions,
 - (iii) have been obtained or effected and are in full force and effect;
- (h) it has not entered into any agreement or granted any option to sell or otherwise dispose of the Charged Assets or any interest therein, or agreed, conditionally or unconditionally, to do so; and
- (i) other than by way of the Transaction Security Documents, it has not granted or created any other Security, charge or encumbrance over the Charged Assets or any interest therein, or agreed, conditionally or unconditionally, to do so.

8.2 Matters represented

Each of the representations and warranties set out in this clause 8.1 shall survive the execution of this Charge and are deemed to be repeated by reference to the facts and circumstances then existing on each date on which the Repeating Representations are deemed to be repeated.

8.3 Undertakings

The Chargor hereby undertakes to the Lender that it will conduct its business and affairs in a proper and efficient manner and comply with all its obligations under the Facilities Agreement and the other Finance Documents to which it is a party.

8.4 Power to Remedy

Without prejudice to the powers granted to the Lender under clause 5 (Enforcement), if the Chargor defaults at any time in complying with any of its obligations contained in this Charge, the Lender shall, without prejudice to any other rights arising as a consequence of such default, be entitled (but not bound) to make good such default and the Chargor hereby irrevocably authorises the Lender by way of security to do all such things necessary or desirable in connection therewith. Any monies so expended by the Lender shall be repayable by the Chargor to the Lender on demand together with interest thereon.

9 Appropriation, payments and costs and expenses

9.1 Application of proceeds

All monies received by the Lender under this Charge shall (subject to the rights and claims of any person having a security ranking in priority to the security constituted by this Charge) be applied in the following order:

- (a) in payment of the costs, charges and expenses incurred by the Lender, and payments made by the Lender, in connection with this Charge or the Charged Assets;
- (b) in or towards the satisfaction of the Secured Obligations in accordance with clause 9.5; and
- (c) any surplus shall be paid to the Chargor or other person entitled to it.

9.2 Protection of third parties

No purchaser from or other person dealing with the Lender in relation to the Charged Assets shall be obliged or concerned to enquire whether the right of the Lender to exercise any of the powers conferred by this Charge in relation to the Charged Assets or any part of the Charged Assets have arisen or become exercisable by the Lender, nor be concerned with notice to the contrary, nor with the propriety of the exercise or purported exercise of any such powers and the title of such a purchaser and the position of such a person shall not be affected by reference to any of those matters.

9.3 Notice of subsequent Security – new accounts

- (a) If the Lender receives notice (whether actual or otherwise) of any subsequent Security affecting any part of the Charged Assets and/or the proceeds of sale of the Charged Assets, it may open a new account or accounts for the Chargor in its books.
- (b) If the Lender does not open a new account immediately on receipt of notice under clause 9.3(a), then (unless the Lender gives express written notice to the contrary to the Chargor) all payments made by the Chargor to the Lender 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, as from the time of receipt of the relevant notice by the Lender.

9.4 Currency

- (a) Clause 29.7 (Currency of account) of the Facility Agreement shall apply to this Charge as if set out here in full but so that references to the Facility Agreement shall be construed as references to this Charge and any Security created by or under it.
- (b) If a payment is made to the Lender under this Charge in a currency (**Payment Currency**) other than the currency in which it is expressed to be payable (**Contractual Currency**), the Lender may convert that payment into the Contractual Currency with the Payment Currency on or around the date of receipt of the payment and to the extent that the converted amount of the payment falls short of the amount due and payable the Chargor will remain liable for such shortfall.

9.5 Appropriation and suspense account

- (a) Subject to clause 9.5(c), the Lender may appropriate all payments received in respect of the Secured Obligations in reduction of any part of those liabilities as it thinks fit.
- (b) Any such appropriation shall override any appropriation by the Chargor.
- (c) All monies received, recovered or realised by the Lender under this Charge may at the discretion of the Lender be credited to any suspense account for so long as the Lender determines (with interest accruing thereon at such rate, if any, as the Lender may determine for the account of the Chargor) without the Lender having any obligation to apply such monies or any part of them in or towards the discharge of any of the Secured Obligations.

9.6 Payments

- (a) Subject to clause 9.6(b), all payments to be made by the Chargor in respect of this Charge, shall be made in immediately available funds to the credit of such account as the Lender may designate. All such payments shall be made free and clear of, and without any deduction for, or on account of, any set-off or counterclaim or, except to the extent compelled by law, any deduction on account of any Taxes.
- (b) If the Chargor is compelled by law to withhold or deduct any Taxes from any sum payable hereunder to the Lender, the sum so payable by the Chargor shall be increased so as to result in the receipt by the Lender of a net amount equal to the full amount expressed to be payable hereunder.
- (c) Any demand, notification or certificate given by the Lender specifying amounts due and payable under or in connection with any of the provisions of the Finance Documents shall, in the absence of manifest error, be conclusive and binding on the Chargor.

9.7 Costs and expenses

- (a) The Chargor shall within 5 Business Days of demand by the Lender reimburse the Lender, every Receiver and Delegate in respect of any cost, loss, liability or expense, including legal, valuation, accountancy and consultancy fees (and any value added or similar tax thereon) incurred by any of them in connection with:
 - (i) the negotiation, preparation, execution and completion of this Charge, or any of the documents referred to herein; and
 - (ii) any actual or proposed amendment, replacement, restatement or extension of, or any waiver or consent under, this Charge; and
 - (iii) the enforcement, attempted enforcement or preservation of any of their respective rights under this Charge, or any of the documents referred to herein.
- (b) The Chargor shall pay all present and future stamp, registration and similar taxes or charges which may be payable, or determined to be payable, in connection with the execution, delivery, performance or enforcement of this Charge or any judgment given in connection therewith and shall indemnify the Lender and any Receiver against any and all liabilities, including penalties with respect to, or resulting from, its delay or omission to pay any such stamp, registration and similar taxes or charges.

9.8 Assignment and transfer

The Lender may assign or transfer all or any part of its rights under this Charge in accordance with the terms of the Finance Documents. The Chargor may not assign, transfer, charge, make the subject of a trust or deal in any other manner with this Charge or any of its rights under this Charge or purport to do any of the same.

9.9 Contingencies

If this Charge is enforced at a time when no amounts are due to the Lender (but at a time when amounts may become so due), the Lender may pay the proceeds of any recoveries effected by it into a blocked suspense account bearing interest at such rate (if any) as the Lender usually grants for accounts of that size and nature.

10 Notices

Any communication under this Charge or any other Security or Finance Document created by or under this Charge shall be made and given in accordance with the terms of clause 31 (Notices) of the Facility Agreement but so that references to this Charge and any Security created by or under it and reference to the Obligors shall be construed as references to the Chargor.

11 Release

11.1 Release

Upon the expiry of the Security Period the Lender shall, at the reasonable request and cost of the Chargor, release (without recourse or warranty) the Charged Assets from the Security created by this Charge by executing a deed of release substantially in the form set out in the Schedule to this Charge.

11.2 Reinstatement

Any release, discharge or settlement between the Chargor and the Lender shall be conditional upon no security, disposition or payment to the Lender by the Chargor or any other person being void, set aside or ordered to be refunded pursuant to any enactment or law relating to liquidation, administration or insolvency or for any other reason whatsoever and if such condition is not fulfilled the Chargor's liability under this Charge shall continue and the Lender shall be entitled to enforce this Charge as if such release, discharge or settlement had not occurred and any such payment had not been made.

11.3 Retention of Security

If any payment or realisation in respect of the Secured Obligations is, in the Lender's reasonable opinion, liable to be avoided or otherwise invalidated or adjusted by law, including any enactment or rule of law relating to insolvency, the Lender shall be entitled to retain this Charge undischarged until the expiry of the period during which it may be challenged on any such ground.

11.4 Avoidance of payments

The Lender's right to recover the Secured Obligations in full shall not be affected or prejudiced by any payment or realisation which is avoided or otherwise invalidated or adjusted by law,

including any enactment or rule of law relating to insolvency, or by any release or discharge given by the Lender on the faith of any such payment or realisation.

12 General

12.1 Amendments and waivers

No variation to this Charge shall be effective unless made in writing and signed by or on behalf of all the parties to this Charge. A waiver given or consent granted by the Lender under this Charge will be effective only if given in writing and then only in the instance and for the purpose for which it is given.

12.2 Severability

Each provision of this Charge is severable and distinct from the others. If at any time any provision of this Charge is or becomes unlawful, invalid or unenforceable to any extent or in any circumstances for any reason, it shall to that extent or in those circumstances be deemed not to form part of this Charge but (except to that extent or in those circumstances in the case of that provision) the legality, validity and enforceability of that and all other provisions of this Charge shall not be affected in any way.

12.3 Illegality

If any provision of this Charge is found to be illegal, invalid or unenforceable but would be legal, valid or enforceable if some part of the provision were deleted, the provision in question shall apply with such modification(s) as may be necessary to make it legal, valid or enforceable.

12.4 Remedies and waivers

The failure or delay in exercising a right or remedy provided by this Charge or by law does not constitute a waiver of that (or any other) right or remedy. No single or partial exercise, or non-exercise or non-enforcement of any right or remedy provided by this Charge or by law prevents or restricts any further or other exercise or enforcement of that (or any other) right or remedy.

12.5 Exercise of discretion

Any right or power which may be exercised or any determination which may be made under this Charge by the Lender may be exercised or made in its absolute and unfettered discretion and it shall not be obliged to give reasons therefore.

12.6 Rights cumulative

The Lender's rights and remedies contained in this Charge are cumulative and not exclusive of any rights or remedies provided by law.

12.7 Delegation

The Lender may delegate, by power of attorney or in any other manner, to any person, any right, power or discretion exercisable by it under this Charge upon any terms (including power to sub-delegate) which it may think fit. The Lender shall not be in any way liable or responsible to the Chargor for any loss or liability arising from any act, default, omission or misconduct on the part of any such delegate.

12.8 Consent to registration

The Chargor consents to the registration of this Charge and of any certificate referred to in clause 9.6(c) for preservation and execution.

13 Governing law and jurisdiction

13.1 Governing law

This Charge together with any non-contractual disputes or claims arising out of or in connection with this Charge shall in all respects be governed by and interpreted in accordance with Scots law.

13.2 Jurisdiction

- (a) For the exclusive benefit of the Lender, the Chargor irrevocably agrees that the courts of Scotland are to have jurisdiction to settle any disputes which may arise out of or in connection with this Charge and that any proceedings may be brought in those courts.
- (b) Nothing contained in this clause shall limit the right of the Lender to commence any proceedings against the Chargor in any other court of competent jurisdiction nor shall the commencement of any proceedings against the Chargor in one or more jurisdictions preclude the commencement of any proceedings in any other jurisdiction, whether concurrently or not.
- (c) The Chargor irrevocably waives any objection which it may now or in the future have to the laying of the venue of any proceedings in any court referred to in this clause and any claim that those proceedings have been brought in an inconvenient or inappropriate forum, and irrevocably agrees that a judgment in any proceedings commenced in any such court shall be conclusive and binding on it and may be enforced in the courts of any other jurisdiction.

14 Counterparts and delivery

14.1 Counterpart execution

This Charge may be executed in any number of counterparts and by the parties on separate counterparts.

14.2 Delivery where Charge is executed in counterpart

Where executed in counterpart:

- (a) this Charge shall not take effect until all of the counterparts have been delivered;
- (b) each counterpart will be held as undelivered until the parties agree a date on which the counterparts are to be treated as delivered; and
- (c) the parties may choose to evidence the date of delivery of this Charge by inserting this on the front page of this Charge.

14.3 Delivery where Charge is not executed in counterpart

If this Charge is not executed in counterparts, this Charge shall be delivered on the date inserted on the front page of this Charge or, if no such date is inserted, the date on which the Chargor signed this Charge.

14.4 Appointment of nominated person

The parties to this Charge, in accordance with section 2(1) of the Legal Writings (Counterparts and Delivery)(Scotland) Act 2015 (**Counterparts Act**), nominate Addleshaw Goddard LLP to take delivery of all counterparts of this Charge. The parties agree that the provisions of section 2(3) of the Counterparts Act shall not apply to any counterpart of this Charge.

In witness whereof these presents consisting of this and the preceding 15 pages and the schedule annexed as relative hereto are executed by the parties hereto as follows:

Subscribed for and on behalf of
The Brighton Pier Group plc
at
LONDON
on
7 DECEMBER 2017
in the presence of:

)
) Director
)
)
) Full Name

Signature of witness

Full name DAVID DUNN

Address BATES WELLS BRAITHWAITE
10 QUEEN STREET PLACE
LONDON EC4R 1BE

Subscribed for and on behalf of
Barclays Bank PLC
at
on

)
) Authorised Attorney
)
) Full Name

in the presence of:

Signature of witness

Full name

Address

14.3 **Delivery where Charge is not executed in counterpart**

If this Charge is not executed in counterparts, this Charge shall be delivered on the date inserted on the front page of this Charge or, if no such date is inserted, the date on which the Chargor signed this Charge.

14.4 **Appointment of nominated person**

The parties to this Charge, in accordance with section 2(1) of the Legal Writings (Counterparts and Delivery)(Scotland) Act 2015 (**Counterparts Act**), nominate Addleshaw Goddard LLP to take delivery of all counterparts of this Charge. The parties agree that the provisions of section 2(3) of the Counterparts Act shall not apply to any counterpart of this Charge.

In witness whereof these presents consisting of this and the preceding 15 pages and the schedule annexed as relative hereto are executed by the parties hereto as follows:

Subscribed for and on behalf of)
The Brighton Pier Group plc) Director
at)
on) Full Name

In the presence of:

.....
Signature of witness

Full name

Address

Subscribed for and on behalf of)
Barclays Bank PLC) Authorised Attorney
at **LONDON**)
on **7/12/2017**) Full Name

In the presence of:

.....
Signature of witness

Full name **DAVID BROWN**

Address **BARCLAYS BANK**

LONDON, E14, U.K.

This is the Schedule referred to in the foregoing Floating Charge between Barclays Bank PLC and The Brighton Pier Group plc

The Schedule: Deed of Release

This Deed of Release is delivered on

20♦

and is made between

- (1) **Barclays Bank PLC**, a company incorporated in England (No. 01026167) and having its registered office at 1 Churchill Place, London E14 5HP (**Chargee**); and
- (2) **The Brighton Pier Group plc**, a company incorporated in England (No. 08687172) and having its registered office at 36 Drury Lane, London WC2B 5RR (**Chargor**).

It is agreed

1 Interpretation

1.1 In this deed:

Floating Charge means the floating charge granted by the Chargor in favour of the Chargee and dated [♦]

1.2 In this deed, a reference to:

- (a) a clause or the schedule is, unless otherwise stated, a reference to a clause of, this deed;
- (b) a provision of law includes a reference to that provision as replaced, modified or re-enacted from time to time and any subordinate legislation made under that statutory provision from time to time, in each case whether before or after the date of this deed;
- (c) a **person** includes any individual, firm, company, corporation, government, state or agency of state or any association, trust, joint venture, consortium or partnership (whether or not having separate legal personality); and
- (d) this deed or any provision of this deed or any other agreement, document or instrument is to this deed, that provision or that agreement, document or instrument as amended, novated, supplemented, extended or restated.

1.3 Words importing the singular include the plural and vice versa and words importing a gender include every gender.

1.4 The words **other**, **include**, **including** and **in particular** do not limit the generality of any preceding words and any words which follow them shall not be construed as being limited in scope to the same class as the preceding words where a wider construction is possible.

2 Release

2.1 The Chargee, without recourse, representation or warranty of title:-

- (a) releases to the Chargor all the property, assets and undertaking charged or otherwise secured in favour of the Chargee by the Chargor pursuant to the Floating Charge and confirms that the Chargee is no longer relying on the Floating Charge; and

- (b) releases the Chargor from all guarantees, covenants, liabilities and obligations of the Chargor under or pursuant to the Floating Charge.

3 Further assurance

The Chargee undertakes (at the cost of the Chargor) to do all things, give all notices and execute and sign all such deeds and documents as may reasonably be required to perfect the discharge and release of the Floating Charge.

4 Costs and expenses

The Chargor shall within 5 Business Days of demand by the Chargee reimburse the Chargee in respect of any cost, loss, liability or expense, including legal, valuation, accountancy and consultancy fees (and any value added or similar tax thereon) incurred by it in connection with the negotiation, preparation, execution and completion of this deed, or any of the documents referred to herein.

5 Counterparts

- 5.1 This deed may be executed in any number of counterparts and by the parties on separate counterparts.

- 5.2 Where executed in counterpart:

- (a) this deed shall not take effect until all of the counterparts have been delivered;
- (b) each counterpart will be held as undelivered until the parties agree a date on which the counterparts are to be treated as delivered; and
- (c) the parties may choose to evidence the date of delivery of this deed by inserting this on the front page of this deed.

- 5.3 If this deed is not executed in counterparts, this deed shall be delivered on the date inserted on the front page of this deed or, if no such date is inserted, the date on which the last party signed this deed.

- 5.4 The parties to this deed, in accordance with section 2(1) of the Legal Writings (Counterparts and Delivery)(Scotland) Act 2015 (the **Counterparts Act**), nominate [] to take delivery of all counterparts of this deed. The parties agree that the provisions of section 2(3) of the Counterparts Act shall not apply to any counterpart of this deed.

6 Governing law

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

7 Jurisdiction

- 7.1 The courts of Scotland have exclusive jurisdiction to settle any dispute arising out of or in connection with this deed (including a dispute relating to the existence, validity or termination of this deed or any non-contractual obligation arising out of or in connection with this deed) (Dispute).

- 7.2 The parties agree that the courts of Scotland are the most appropriate and convenient courts to settle Disputes and accordingly no party will argue to the contrary.

In witness whereof the parties have duly executed this deed as a deed and it is delivered on the date first set out above