



Registration of a Charge

Company name: **Edwardian Investments Ltd**

Company number: **08735649**



X5YJ6F2Q

Received for Electronic Filing: **20/01/2017**

Details of Charge

Date of creation: **13/01/2017**

Charge code: **0873 5649 0001**

Persons entitled: **AAREAL BANK AG AS SECURITY AGENT FOR ITSELF AND THE OTHER FINANCE PARTIES (SECURITY AGENT)**

Brief description: **NOT APPLICABLE.**

Contains fixed charge(s).

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

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

Certified by:

ADDLESHAW GODDARD LLP



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 8735649

Charge code: 0873 5649 0001

The Registrar of Companies for England and Wales hereby certifies that a charge dated 13th January 2017 and created by Edwardian Investments Ltd was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 20th January 2017 .

Given at Companies House, Cardiff on 23rd January 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**

Dated 13 January 2017

EDWARDIAN INVESTMENTS LIMITED
as Chargor

AAREAL BANK A.G.
as Security Agent

**CONFIRMATORY SHAREHOLDER'S
SECURITY AGREEMENT - SHARE
CHARGE**

ADDLESHAW GODDARD

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This Deed is made on

13 January

2017

Between

- (1) **Edwardian Investments Limited** (registered in England and Wales with number ~~01310001~~ ⁰⁸⁷³⁵⁶⁴⁹) whose registered address is 140 Bath Road, Hayes, Middlesex, UB3 5AW (**Chargor**); and *AG UP*
- (2) **Aareal Bank AG** whose registered office is at Paulinenstrasse, Wiesbaden, D65189, Germany as security agent for itself and the other Finance Parties (**Security Agent**, which term shall include any person appointed as security agent or as an additional agent in accordance with the terms of the Facility Agreement).

It is agreed**1 Definitions and interpretation****1.1 Definitions**

In this Deed:

Borrower means Edwardian Hotel Investments Limited (registered in England and Wales with number 08664048) whose registered address is 140 Bath Road, Hayes, Middlesex, UB3 5AW

Facility Agreement means the £190,000,000 facility agreement between Edwardian Hotel Investments Ltd as borrower, Edwardian Grafton Hotel Ltd as original guarantor, Aareal Bank AG as Arranger, Aareal Bank AG as Original Lender, Aareal Bank AG as Original Hedge Counterparty, and Aareal Bank AG as Agent and Security Agent and dated 27 November 2013 under which the Lenders agree to make available to the Borrower the term loan facility as amended by an amendment and restatement agreement dated on or around the date of this Deed and as amended or varied from time to time

Party means a party to this Deed

Receiver means any receiver appointed over any Secured Assets whether under this Deed or by order of the court on application by the Security Agent and includes a receiver and manager

Related Rights means in respect of any Share:

- (a) all monies paid or payable in respect of that Share (whether as income, capital or otherwise)
- (b) all shares, investments or other assets derived from that Share and
- (c) all rights derived from or incidental to that Share

Secured Assets means all of the assets the subject of any Security created by or under this Deed in favour of the Security Agent

Secured Obligations means all monies and liabilities now or after the date of this Deed due owing or incurred to the Finance Parties (or any of them):

- (a) by the Obligors (or any of them) under the Finance Documents (or any of them) and/or

(b) by the Chargor under this Deed

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 any Finance Party, except for any obligation which, if it were included here, would constitute unlawful financial assistance, or its equivalent in any other jurisdiction

Security Period means the period beginning on the date of this Deed and ending on the date on which the Security Agent is satisfied that the Secured Obligations have been irrevocably and unconditionally satisfied in full and all facilities made available by the Finance Parties (or any of them) under the Finance Documents (or any of them) have been cancelled

Shares means all shares in the Borrower present and future held by the Chargor, including the 1 shares of £1 each in the Borrower registered in the name of the Chargor on the date of this Deed

1.2 Interpretation

- (a) Unless otherwise defined in this Deed, a term defined in the Facility Agreement has the same meaning when used in this Deed or any notices, acknowledgements or other documents issued under or in connection with this Deed.
- (b) In this Deed, the term **dispose** includes any sale, lease, licence, transfer or loan.
- (c) Clause 1.2 (Interpretation) of the Facility Agreement is incorporated in this Deed as if set out here in full but so that each reference in that clause to this Agreement shall be read as a reference to this Deed.

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.

2 Charging provisions

2.1 General

All Security created by the Chargor under clause 2.2 is:

- (a) a continuing security for the payment and discharge of the Secured Obligations;
- (b) granted with full title guarantee;
- (c) granted in respect of all the right, title and interest (if any), present and future, of the Chargor in and to the relevant Secured Assets; and

- (d) granted in favour of the Security Agent as security agent for the Finance Parties.

2.2 Fixed charge

The Chargor charges by fixed charge the Shares and all Related Rights.

3 General security provisions

3.1 Continuing security

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.

3.2 Additional security

This Deed is in addition to and is not in any way prejudiced by any other guarantee or Security now or subsequently held by any Finance Party.

3.3 Settlements conditional

- (a) If the Security Agent (acting reasonably and taking into account advice from English counsel) believes that any amount paid by any 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.
- (b) Any settlement, discharge or release between the Chargor and any Finance Party shall be conditional upon no Security or payment to or for that Finance Party 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.

3.4 Waiver of defences

The liability of the Chargor under this Deed will not be affected by an act, omission, matter or thing which, but for this clause 3.4, would reduce, release or prejudice any of its liability under this Deed (without limitation and whether or not known to it or any Finance Party) including:

- (a) any time, waiver or consent granted to, or composition with, any Obligor or other person;
- (b) the release of any Obligor or any other person under the terms of any composition or arrangement with any creditor of any Obligor;
- (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, any Obligor 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 any Obligor or any other person;
- (e) any amendment (however fundamental) or replacement of a Finance Document or any other document or Security;

- (f) any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document or any other document or Security; or
- (g) any insolvency or similar proceedings.

3.5 **Chargor intent**

Without prejudice to the generality of clause 3.4, the Chargor expressly confirms that it intends that this Security shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any of the Finance Documents and/or any facility or amount made available under any of the Finance Documents for the purposes of or in connection with any of the following:

- (a) 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.

3.6 **Immediate recourse**

The Chargor waives any right it may have of first requiring any Finance Party (or any trustee or agent on its behalf) to proceed against or enforce any other rights or Security or claim payment from any person before enforcing its rights under this Deed. This waiver applies irrespective of any law or any provision of a Finance Document to the contrary.

3.7 **Appropriations**

Until all amounts which may be or become payable by the Obligors under or in connection with the Finance Documents have been irrevocably paid in full, each Finance Party (or any trustee or agent on its behalf) may:

- (a) refrain from applying or enforcing any other monies, Security or rights held or received by that Finance Party (or any trustee or agent on its behalf) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and the Chargor shall not be entitled to the benefit of the same; and
- (b) hold in an interest-bearing suspense account any moneys received from the Chargor or on account of the Chargor's liability under this Deed.

3.8 **Deferral of Chargor's rights**

Until all amounts which may be or become payable by the Obligors under or in connection with the Finance Documents have been irrevocably paid in full and unless the Security Agent otherwise directs, the Chargor will not exercise any rights which it may have by reason of performance by it of its obligations under this Deed:

- (a) to be indemnified by any Obligor;
- (b) to claim any contribution from any guarantor of, or person providing Security for, any Obligor's obligations under the Finance Documents; and/or
- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Finance Parties under the Finance Documents or of any other guarantee or Security taken pursuant to, or in connection with, the Finance Documents by any Finance Party.

3.9 **Limitation of liability**

Notwithstanding any other provision of this Deed, the Chargor shall have no liability in respect of the Secured Obligations except by way of the enforcement of the Security constituted by this Deed over the Secured Assets.

4 **Negative pledge**

- 4.1 The Chargor shall not create nor permit to subsist any Security, other than Security arising under this Deed, over any of the Secured Assets.
- 4.2 The Chargor shall not dispose of any of the Secured Assets on terms whereby they are or may be re-acquired by the Chargor or any Obligor or any other Subsidiary of the Chargor in circumstances where the arrangement or transaction is entered into primarily as a method of raising Financial Indebtedness or of financing the acquisition of an asset.

5 **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 assign, factor, pledge, charge, exchange or otherwise dispose of any of the Secured Assets nor permit any other person to do any such thing.

6 **Further assurance**

- 6.1 The Chargor shall promptly do all such acts and execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Security Agent or any Receiver may reasonably specify (and in such form as the Security Agent or any Receiver may reasonably require) in favour of the Security Agent or its nominee(s):
 - (a) 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 the Security Agent or the Finance Parties provided by or pursuant to this Deed or by law; and/or
 - (b) (if an Event of Default is continuing) to facilitate the realisation of the Secured Assets.

6.2 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 the Security Agent or the Finance Parties by or pursuant to this Deed.

6.3 Any document required to be executed by the Chargor under this clause 6 will be prepared at the cost of the Chargor.

7 Representations

The Chargor makes the representations set out in this clause 7 to the Security Agent for the benefit of each Finance Party.

7.1 Status

- (a) It is a limited liability corporation, duly incorporated and validly existing under English law.
- (b) It has the power to own its assets and carry on its business as it is being conducted.

7.2 Binding obligations

Subject to the Legal Reservations:

- (a) the obligations expressed to be assumed by it in this Deed are legal, valid, binding and enforceable obligations; and
- (b) without limiting the generality of clause 7.2(a), this Deed creates the Security which this Deed purports to create and the Security is valid and effective.

7.3 Non-conflict with other obligations

The entry into and performance by it of, and the transactions contemplated by, this Deed and the granting of the Security contemplated by this Deed do not and will not conflict with:

- (a) any law or regulation applicable to it;
- (b) its constitutional documents; or
- (c) 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 to an extent that such conflict, default or termination event has or is reasonably likely to have a Material Adverse Effect.

7.4 Power and authority

- (a) 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.
- (b) No limit on its powers will be exceeded as a result of the grant of the Security contemplated by this Deed.

7.5 Validity and admissibility in evidence

All Authorisations required or desirable:

- (a) to enable it lawfully to enter into, exercise its rights and comply with its obligations in this Deed; and
- (b) to make this Deed admissible in evidence in England,

have been obtained or effected and are in full force and effect except any Authorisation referred to in clause 7.8 (*No filing or stamp taxes*) which Authorisation will be promptly obtained or effected after the date of this Deed.

7.6 Acting as principal

It is acting in all matters relating to this Deed as principal for its own account and not as agent or trustee or in any other capacity whatsoever on behalf of any third party.

7.7 Governing law and enforcement

- (a) The choice of English law as the governing law of this Deed will be recognised and enforced in England.
- (b) Any judgment obtained in England in relation to this Deed will be recognised and enforced in England.

7.8 No filing or stamp taxes

It is not necessary under the laws of England that this Deed be filed, recorded or enrolled with any court or other authority in England or that any stamp, registration or similar tax be paid on or in relation to this Deed or the transactions contemplated by this Deed except registration of a statement of particulars and a certified copy of this Deed at Companies House under the Companies Act 2006 and payment of associated fees, which registrations and filings will be made promptly after the date of this Deed.

7.9 Good title to assets

It has a good, valid and marketable title to the Secured Assets, in each case, free from Security (other than that created by or pursuant to this Deed).

7.10 Legal and beneficial ownership

- (a) The Chargor is the sole legal and beneficial owner of the Secured Assets.
- (b) Each Secured Asset is legally and beneficially owned by the Chargor free from any claims, third party rights or competing interests other than Security created by or pursuant to this Deed and the Security granted by the Chargor in favour of the Security Agent on 5 December 2013.
- (c) No breach of any law or regulation is outstanding which adversely affects or might reasonably be expected to adversely affect the effectiveness of the Security or the rights of the Finance Parties attaching to the Secured Asset.

7.11 Shares

- (a) The Shares constitute all of the issued share capital of the Borrower and are fully paid.

- (b) No Secured Asset is subject to any option to purchase or similar rights.
- (c) As at the date of this Deed, none of the Shares is in an uncertificated form.
- (d) The constitutional documents of the Borrower do not restrict or inhibit any transfer of the Secured Assets on creation or enforcement of this Security.

7.12 Repetition

The representations and warranties in this clause 7 are deemed to be made by the Chargor by reference to the facts and circumstances then existing on the date of this Deed and (other than in respect of clause 7.8 (No filing or stamp taxes)) the date of each Utilisation Request, each Utilisation Date and the first day of each Interest Period.

8 Undertakings

8.1 Duration

The Chargor undertakes to the Security Agent for the benefit of the Finance Parties in accordance with this clause 8. The undertakings in this clause 8 shall remain in force during the Security Period.

8.2 Authorisations

It shall promptly:

- (a) obtain, comply with and do all that is necessary to maintain in full force and effect; and
- (b) supply certified copies to the Security Agent of,

any Authorisation required under any law or regulation of England to enable it to perform its obligations under this Deed and to ensure the legality, validity, enforceability or admissibility in evidence of this Deed.

8.3 Shares

- (a) On the later of:
 - (i) the date of this Deed; and
 - (ii) the date of acquisition by the Chargor of any Shares or Related Rights,

the Chargor shall:

- (A) deliver to the Security Agent all certificates of title and other documents of title or evidence of ownership in respect of its Shares and the Related Rights; and
 - (B) deliver to the Security Agent such transfer documents (with the transferee left blank) or any other documents as the Security Agent may reasonably require in respect of its Shares and Related Rights.
- (b) Other than whilst an Event of Default is continuing:

- (i) the Chargor shall be entitled to receive and retain all dividends, distributions and other monies receivable in respect of the Shares and Related Rights; and
 - (ii) if any such dividends, distributions or other monies are paid or payable to the Security Agent or any of its nominees, the Security Agent will hold all those dividends, distributions or other monies received by it for the Chargor and will pay them to the Chargor promptly on request.
- (c) The Chargor shall not exercise its voting and other rights in respect of the Shares and Related Rights in a manner which is likely to be prejudicial to the interests of the Finance Parties.
- (d) The Chargor shall make all payments which may become due and payable in respect of any of the Shares and Related Rights. If the Chargor fails to make any such payments, the Security Agent may but shall not be obliged to make such payment on behalf of the Chargor. Any sums so paid by the Security Agent shall be repayable by the Chargor to the Security Agent on demand.
- (e) The Chargor shall remain liable to observe and perform all of the conditions and obligations assumed by it in respect of the Shares and the Security Agent shall not be required to perform or fulfil any obligation of any Chargor in respect of the Shares or Related Rights.
- (f) The Chargor shall comply with any notice served on it under the Companies Act 2006 or pursuant to the articles of association or any other constitutional document of the Borrower in respect of or in connection with the Shares or Related Rights and will promptly provide to the Security Agent a copy of that notice.
- (g) The Chargor shall ensure that none of the Shares are converted into uncertificated form without the prior written consent of the Security Agent.
- (h) Immediately on conversion of any Shares or Related Rights from a certificated to an uncertificated form, and on the acquisition of any Shares or Related Rights in an uncertificated form, the Chargor shall give such instructions or directions and take such other steps and enter into such documentation as the Security Agent may require in order to protect or preserve the Security intended to be created by this Deed.

8.4 Following an Event of Default

- (a) If an Event of Default is continuing, the Chargor shall on request by the Security Agent:
 - (i) deliver to the Security Agent such stock transfer forms or other transfer documents as the Security Agent may require to enable the Security Agent or its nominee or nominees to be registered as the owner of, and to obtain legal and beneficial title to, the Shares and/or Related Rights referred to in such request;
 - (ii) provide to the Security Agent certified copies of all resolutions and authorisations approving the execution of such transfer forms and registration of such transfers as the Security Agent may reasonably require;

- (iii) procure that each such transfer is promptly registered by the Borrower;
 - (iv) procure that, immediately on their issue, all share certificates or other documents of title in the appropriate form, in respect of the relevant Shares and/or Related Rights, are delivered to the Security Agent in each case showing the registered holder as the Security Agent or its nominee or nominees (as applicable); and/or
 - (v) exercise all voting rights in respect of the Shares and Related Rights only in accordance with the instructions of the Security Agent.
- (b) If the Chargor receives any dividends, distributions or other monies in respect of the Shares and Related Rights at a time when the Security Agent has made a request under clause 8.4(a) or taken any enforcement steps under clause 10.2 (Acts of enforcement), the Chargor shall promptly pay such sums received directly to the Security Agent for application in accordance with clause 33 (Sharing among the Finance Parties) of the Facility Agreement and shall hold all such sums on trust for the Security Agent pending payment of them to such account as the Security Agent shall direct.
- (c) At any time while an Event of Default is continuing, the Security Agent may complete the transfer documents delivered to it under clause 8.3 or take any other necessary steps to vest the Shares and Related Rights in itself or such other person or nominee as it shall select.

8.5 Retention of documents

Subject to clause 17.4, the Security Agent may retain any document delivered to it pursuant to clause 8.3 or otherwise.

8.6 General

The Chargor shall not exercise its voting rights in respect of the Shares in such a way that will materially depreciate, jeopardise or otherwise prejudice the value to the Finance Parties of the Security created by or under this Deed.

9 Security power of attorney

The Chargor, by way of security, irrevocably and severally appoints the Security Agent, 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 in the proper and lawful exercise, or purported exercise, of all its powers pursuant to its appointment under this clause 9.

10 Enforcement of security

10.1 When security is enforceable

The Security created by and under this Deed is immediately enforceable at any time whilst an Event of Default is continuing.

10.2 Acts of enforcement

The Security Agent may, in its absolute discretion, at any time whilst an Event of Default is continuing:

- (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 or powers conferred on a Receiver by this Deed whether or not it has taken possession of, or appointed a Receiver to any of, the Secured Assets;
- (c) appoint a Receiver to all or any part of the Secured Assets;
- (d) exercise its power of sale under section 101 of the Law of Property Act 1925 (as amended by this Deed);
- (e) sell all or any of the Secured Assets in any manner permitted by law and on such terms as the Security Agent shall in its absolute discretion determine; and/or
- (f) apply all dividends and other monies received in respect of the Secured Assets as though they were proceeds of sale.

10.3 Right of Appropriation

To the extent that the Security created by this Deed constitutes a "security financial collateral arrangement" and the Secured Assets constitute "financial collateral" for the purpose of the Financial Collateral Arrangements (No 2) Regulations 2003 (**Regulations**), the Security Agent shall have the right on giving prior notice to the Chargor, at any time whilst an Event of Default is continuing, to appropriate all or any part of those Secured Assets in or towards discharge of the Secured Obligations. The parties agree that the value of the appropriated Secured Assets shall be determined by the Security Agent by reference to any available publicly available market price in the absence of which by such other means as the Security Agent (acting reasonably) may select including, without limitation, an independent valuation. For the purpose of Regulation 18(1) of the Regulations, the Chargor agrees that any such determination by the Security Agent will constitute a valuation "in a commercially reasonable manner".

10.4 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) Each Receiver and the Security Agent 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.

10.5 Contingencies

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

10.6 Mortgagee in possession - no liability

Neither the Security Agent nor any Receiver shall 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 except to the extent caused by their gross negligence or wilful misconduct.

10.7 Redemption of prior mortgages

At any time whilst an Event of Default is continuing, the Security Agent may, at the sole cost of the Chargor (payable to the Security Agent on demand):

- (a) redeem any prior form of Security over any Secured Asset; and/or
- (b) procure the transfer of that Security to itself; and/or
- (c) settle and pass the accounts of any prior mortgagee, chargee or encumbrancer which once so settled and passed shall (in the absence of manifest error) be conclusive and binding on the Chargor.

11 Receiver**11.1 Appointment of Receiver**

- (a)
 - (i) At any time whilst an Event of Default is continuing, the Security Agent may appoint a Receiver to all or any part of the Secured Assets in accordance with clause 10.2(c) (Acts of enforcement).
 - (ii) At any time if so requested in writing by the Chargor, without further notice, the Security Agent may appoint one or more persons to be a Receiver of all or any part of the Secured Assets as if the Security Agent 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 the Security Agent be in any way responsible for any misconduct, negligence or default of the Receiver.
- (c) Where the Chargor is an eligible company within the meaning of paragraphs 2 to 4 (inclusive) of Schedule A1 of the Insolvency Act 1986 (a) obtaining a moratorium, or (b) anything done with a view to obtaining a moratorium including any preliminary decision or investigation in terms of paragraph 43 of Schedule A1 of the Insolvency Act 1986 shall not be grounds for appointment of a Receiver.

11.2 Removal

The Security Agent may by written notice remove from time to time any Receiver appointed by it and, whilst an Event of Default is continuing, appoint a new Receiver in the place of any Receiver whose appointment has terminated.

11.3 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 11.3.
- (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):
 - (A) do all other acts and things which he may consider expedient for realising any Secured Asset; and
 - (B) 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) 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 relating in any way to any Secured Asset.

(c) Delegation

A Receiver may delegate his powers in accordance with clause 12 (Delegation).

(d) 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.

(e) 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.

(f) 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.

(g) Deal with Secured Assets

A Receiver may, without restriction vary the terms of 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 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, and the Receiver may form and promote, or concur in forming and promoting, a company or companies to purchase 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 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.

(h) 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 monies so paid shall be deemed to be an expense properly incurred by the Receiver.

(i) 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 11.

11.4 Remuneration

The Security Agent may from time to time fix the remuneration of any Receiver appointed by it.

12 Delegation

12.1 The Security Agent 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 the Security Agent 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 the Security Agent and Receiver (as appropriate) may think fit.

12.2 The Security Agent 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.

13 Application of monies

13.1 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.

13.2 All monies received by the Security Agent or any Receiver under this Deed shall be applied in the following order:

- (a) in discharging any sums owing to the Security Agent, any Receiver or any Delegate;
- (b) in payment of all costs and expenses incurred by the Agent or any Secured Party in connection with any realisation or enforcement of the Transaction Security taken in accordance with the terms of the Facility Agreement and any other Finance Document;
- (c) in or to the Agent to be applied in or toward payment of the Secured Obligations in accordance with clause 31.11(a) (*Application*) of the Facility Agreement (as varied by clause 31.11(b) of the Facility Agreement); and
- (d) the balance (if any) will be applied as required by law.

13.3 The Security Agent and any Receiver may place any money received, recovered or realised pursuant to this Deed in or at 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.

14 Protection of third parties

14.1 No person (including a purchaser) dealing with the Security Agent or its agents has an obligation to enquire of the Security Agent, any Receiver or others:

- (a) whether the Secured Obligations have become payable;
- (b) whether any power purported to be exercised has become exercisable;
- (c) whether any Secured Obligations or other monies remain outstanding;
- (d) how any monies paid to the Security Agent or any other Finance Party or to the Receiver shall be applied; or
- (e) the status, propriety or validity of the acts of the Receiver or the Security Agent.

14.2 The receipt by the Security Agent 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 the Security Agent or any other Finance Party or any Receiver.

14.3 In clauses 14.1 and 14.2 **purchaser** includes any person acquiring, for monies 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.

15 Subsequent Security

If the Security Agent or any Finance Party 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 the Chargor or any Obligor 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 the Security Agent, all payments made by the Chargor to the Security Agent or to any other Finance Party shall not be treated as having been applied in reduction of the Secured Obligations.

16 Payments**16.1 Currency of account**

Subject to Clause 16.2, sterling is the currency of account and payment for any sum due from the Chargor under this Deed.

16.2 Change of currency

- (a) Unless otherwise prohibited by law, if more than one currency or currency unit are at the same time recognised by the central bank of any country as the lawful currency of that country, then:
 - (i) any reference in this Deed to, and any obligations arising under this Deed in, the currency of that country shall be translated into, or paid in, the currency or currency unit of that country designated by the Security Agent (after consultation with the Chargor); and
 - (ii) any translation from one currency or currency unit to another shall be at the official rate of exchange recognised by the central bank for the conversion of that currency or currency unit into the other, rounded up or down by the Security Agent (acting reasonably).
- (b) If a change in any currency of a country occurs, this Deed will, to the extent the Security Agent (acting reasonably and after consultation with the Chargor) specifies to be necessary, be amended to comply with any generally accepted conventions and market practice in the London interbank market and otherwise to reflect the change in currency.

16.3 No set-off by the Chargor

All payments to be made by the Chargor under this Deed shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim.

17 Miscellaneous**17.1 Certificates and determinations**

Any certification or determination by the Security Agent of a rate or amount under this Deed is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

17.2 Partial invalidity

If, at any time, any provision of this Deed is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

17.3 Remedies and waivers

No failure to exercise, nor any delay in exercising, on the part of the Security Agent, any right or remedy under this Deed shall operate as a waiver of any such right or remedy or constitute an election to affirm this Deed. No election to affirm this Deed on the part of the Security Agent shall be effective unless it is in writing. No single or partial exercise of any right or remedy shall 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.

17.4 Releases

Upon the expiry of the Security Period, the Security Agent shall, at the request and cost of the Chargor, take whatever action is necessary to:

- (a) release the Secured Assets from the Security created by and under this Deed;
- (b) reassign and/or transfer to the Chargor any Secured Assets that were assigned or transferred to the Security Agent;
- (c) release any relevant Secured Assets held by the Chargor pursuant to the terms of this Deed on trust for the Security Agent from such trust; and
- (d) return all relevant deeds of title and any other documents delivered to it under this Deed.

18 Notices

18.1 Communications in writing

Any communication to be made under or in connection with this Deed shall be made in writing and, unless otherwise stated, may be made by fax or by letter.

18.2 Addresses

The address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with this Deed is that identified with its name below or any substitute address, fax number or department or officer as that Party may notify to the other by not less than 5 Business Days' notice.

18.3 Delivery

- (a) Any communication or document made or delivered by one person to another under or in connection with this Deed will only be effective:

- (i) if by way of fax, when received in legible form; or
- (ii) if by way of letter, when it has been left at the relevant address or 5 Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address,

and, if a particular department or officer is specified as part of its address details provided under clause 18.2, if addressed to that department or officer.

- (b) Any communication or document to be made or delivered to the Security Agent will be effective only when actually received by the Security Agent and then only if it is expressly marked for the attention of the department or officer identified with the Security Agent's signature below (or any substitute department or officer as the Security Agent shall specify for this purpose).

- (c) Any communication or document which becomes effective, in accordance with clauses 18.3(a) and/or 18.3(b), after 5.00 pm in the place of receipt shall be deemed only to become effective on the following day.

18.4 Notification of address and fax number

Promptly upon a Party changing its address or fax number, that Party shall notify the other Party.

18.5 Electronic communication

- (a) Any communication to be made between the Parties under or in connection with this Deed may be made by electronic mail or other electronic means to such electronic mail address as notified by one Party to the other Party (and the Parties shall notify each other of any change to their address or any other such information supplied by them by not less than 5 Business Days' notice).
- (b) Any electronic communication made between the Parties will be effective only when actually received in intelligible form and in the case of any electronic communication made by the Chargor to the Security Agent only if it is addressed in such a manner as the Security Agent shall specify for this purpose.
- (c) Any electronic communication which becomes effective, in accordance with clause 18.5(b), after 5.00 pm in the place of receipt shall be deemed only to become effective on the following day.

19 Assignment

The Security Agent may assign or otherwise transfer all or any part of its rights under this Deed or any Security created by or under it in accordance with the terms of the Finance Documents.

20 Counterparts

This Deed or any Finance Document entered into under or in connection with 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. Delivery of a counterpart of this Deed or any such Finance Document entered into under or in connection with this Deed by e-mail attachment or telecopy shall be an effective mode of delivery.

21 Governing law

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

22 Enforcement and jurisdiction

- (a) The courts of England 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) (a **Dispute**).
- (b) The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.

- (c) This clause 22 is for the benefit of the Security Agent. As a result, the Security Agent shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Security Agent may take concurrent proceedings in any number of jurisdictions.

This Deed has been signed on behalf of the Security Agent and executed as a deed by the Chargor and is delivered on the date given at the beginning of this Deed.

SIGNATURES TO THE SHARE CHARGE

The Chargor

Executed as a deed by

Edwardian Investments Limited acting by a

director in the presence of

)

)

)

/ Director

Signature of witness

Name JAMIC CHEN

Address APPLESHAW GOODARD LLP

MILTON GATE, 60 CHISWELL STREET, LONDON, EC1Y 4AG

Address: 140 Bath Road, Hayes, Middlesex, UB3 5AW

Fax: 020 8757 7949

Attention: Vijay Wason

The Security Agent

Aareal Bank AG

By:

Address: Paulinenstrasse 15, 65189 Wiesbaden, Germany

Reference: CM-2-TM FP-Nr. 30813596