



**Registration of a Charge**

Company name: **HEATHROW T2 HOTEL LIMITED**

Company number: **09892323**

Received for Electronic Filing: **04/01/2019**



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**Details of Charge**

Date of creation: **21/12/2018**

Charge code: **0989 2323 0001**

Persons entitled: **SANTANDER UK PLC**

Brief description:

**Contains fixed charge(s).**

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

**Contains negative pledge.**

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**Authentication of Form**

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

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**Authentication of Instrument**

Certification statement: **I CERTIFY THAT 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: **NATASHA ANDERSON**



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

Company number: 9892323

Charge code: 0989 2323 0001

The Registrar of Companies for England and Wales hereby certifies that a charge dated 21st December 2018 and created by HEATHROW T2 HOTEL LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 4th January 2019 .

Given at Companies House, Cardiff on 8th January 2019

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**

**DATE:** 21 December 2018

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**DEBENTURE**

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Between

**HEATHROW T2 HOTEL LIMITED**  
(as Chargor)

and

**SANTANDER UK PLC**  
(as Secured Party)

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CMS Cameron McKenna Nabarro Olswang LLP  
Cannon Place  
78 Cannon Street  
London EC4N 6AF  
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cms.law

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THIS DEED is made on the 21 day of December 2018

**BETWEEN:**

- (1) **HEATHROW T2 HOTEL LIMITED** (registered in England and Wales with registration number 09892323) whose registered office is situate at World Business Centre 3, Newall Road, London Heathrow Airport, Hounslow, England, TW6 2TA as chargor (the “**Chargor**”); and
- (2) **SANTANDER UK PLC** of 2 Triton Square, Regent’s Place, London NW1 3AN as Lender and Hedge Counterparty (in each case as defined in the Facilities Agreement (as defined below) (the “**Secured Party**”).

**WHEREAS:**

1. The Chargor enters into this Deed in connection with a term facilities agreement (the “**Facilities Agreement**”) dated on or about the date hereof and made between (1) the Chargor and (2) the Lender.
2. The Board of Directors of the Chargor is satisfied that the giving of the security contained or provided for in this Deed is in the interests of the Chargor and has passed a resolution to that effect.

**NOW IT IS AGREED** as follows:

**1. Definitions and Interpretation**

*Definitions*

- 1.1 Terms defined in the Facilities Agreement shall, unless otherwise defined in this Deed, have the same meanings when used in this Deed and in addition in this Deed:

“**Charged Property**”: means all the assets of the Chargor which from time to time are the subject of any security created or expressed to be created in favour of the Secured Party by or pursuant to this Deed.

“**Debt Proceeds**”: means any proceeds of any book debts and other debts or monetary claims (including any chose in action which may give rise to a monetary claim) owing to the Chargor (including, without limitation, any sums of money received by the Chargor from any of the assets charged under Clause 3.2.6 (*Book debts*) and/or Clause 3.2.8 (*Bank accounts and deposits*)).

“**Declared Default**”: means the occurrence of an Event of Default which is continuing in respect of which a notice has been served by the Agent in accordance with the terms of clause 26.39 (*Acceleration*) of the Facilities Agreement.

“**Delegate**”: means any person appointed by the Secured Party or any Receiver pursuant to Clauses 12.2 to 12.4 (*Delegation*) and any person appointed as attorney of the Secured Party and/or any Receiver or Delegate.

“**Expenses**”: means all costs (including legal fees), charges, expenses and damages sustained or incurred by the Secured Party or any Receiver or Delegate at any time in connection with the Charged Property or the Secured Liabilities or in taking, holding or perfecting this Deed or in protecting, preserving, defending or enforcing the security constituted by this Deed or in exercising any rights, powers or remedies provided by or pursuant to this Deed (including any right or power to make payments on behalf of the Chargor under the terms of this Deed) or by law in each case on a full indemnity basis.

“**Insurances**”: means all of the contracts and policies of insurance or assurance from time to time taken out by or for the benefit of the Chargor or in which the Chargor from time to time

has an interest, together with all bonuses and other moneys, benefits and advantages that may become payable or accrue under them or under any substituted policy.

**“Intellectual Property”:** means:

- (a) all patents, trademarks, service marks, designs, business names, design rights, moral rights, inventions and all other registered or unregistered intellectual property rights;
- (b) all copyrights (including rights in software), database rights, domain names, source codes, brand names and all other similar registered or unregistered intellectual property rights;
- (c) all applications for intellectual property rights and the benefit of any priority dates attaching to such applications and all benefits deriving from intellectual property rights, including royalties, fees, profit sharing agreements and income from licences;
- (d) all know-how, confidential information and trade secrets; and
- (e) all physical material in which any intellectual property might be incorporated;

**“Liability Period”:** means the period beginning on the date of this Deed and ending on the date on which the Secured Party is satisfied, acting in good faith, that all the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full.

**“LPA”:** means the Law of Property Act 1925.

**“Mortgaged Property”:** means any freehold, commonhold or leasehold property the subject of the security constituted by this Deed and references to any **“Mortgaged Property”** shall include references to the whole or any part or parts of it.

**“Planning Acts”:** means all legislation from time to time regulating the development, use, safety and control of property including, without limitation, the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Planning (Hazardous Substances) Act 1990, the Planning (Consequential Provisions) Act 1990, the Planning and Compensation Act 1991 and the Planning and Compulsory Purchase Act 2004 and any other instrument, plan, regulation, permission or direction made or issued under any such legislation.

**“Premises”:** means all buildings and erections from time to time situated on or forming part of any Mortgaged Property.

**“Receiver”:** means a receiver, receiver and manager or administrative receiver of the whole or any part or parts of the Charged Property.

**“Related Rights”:** means, in relation to the Securities, all dividends, interest, benefits, property, rights, accretions, moneys, advantages, credits, rebates, refunds (including rebates and refunds in respect of any tax, duties, imposts or charges) and other distributions paid or payable in respect of the Securities, whether by way of bonus, capitalisation, conversion, preference, option, substitution, exchange, redemption or otherwise.

**“Secured Liabilities”:** means all present and future indebtedness, moneys, obligations and liabilities of each Transaction Obligor to the Secured Party under the Finance Documents (including this Deed), in whatever currency denominated, whether actual or contingent and whether owed jointly or severally or as principal or as surety or in some other capacity, including any liability in respect of any further advances made under the Finance Documents, together with all Expenses and all interest under Clause 2.2 (*Interest*).

**“Securities”:** means all stocks, shares, loan notes, bonds, certificates of deposit, depository receipts, loan capital indebtedness, debentures or other securities from time to time legally or beneficially owned by or on behalf of the Chargor, including, without limitation, any of the same specified in Schedule 2 (*Securities*), together with all property and rights of the Chargor in respect of any account held by or for it as participant, or as beneficiary of a nominee or trustee participant, with any clearance or settlement system or depository or custodian or sub-custodian or broker in the United Kingdom or elsewhere.

**“Specified Contracts”:**

- (a) each Hotel Operator Document;
- (b) each Development Document;
- (c) each Headlease Document;
- (d) a Shareholder Loan Agreement; and
- (e) any other document designated as such by the Lender and the Borrower.

***Construction***

1.2 Any reference in this Deed to:

- 1.2.1 the **“Lender”**, the **“Secured Party”**, the **“Hedge Counterparty”**, the **“Chargor”** or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees;
- 1.2.2 **“assets”** includes present and future properties, revenues and rights of every description;
- 1.2.3 **“indebtedness”** includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
- 1.2.4 the security constituted by this Deed becoming **“enforceable”** shall mean that the security created under this Deed has become enforceable under Clause 8 (*Enforcement of Security*);
- 1.2.5 a **“person”** includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium or partnership (whether or not having separate legal personality);
- 1.2.6 a **“regulation”** includes any regulation, rule, official directive, request or guideline of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation which has the force of law or if not having the force of law is of a type with which any person to which it applies is accustomed to apply; and
- 1.2.7 a provision of law is a reference to that provision as amended or re-enacted.

1.3 Clause and Schedule headings are for ease of reference only.

1.4 Any reference in this Deed to a mortgage, charge or assignment of any asset shall be construed so as to include:

- 1.4.1 the benefit of any covenants for title given or entered into by any predecessor in title of the Chargor in respect of that asset and all other rights, benefits, claims, contracts, warranties, remedies, security or indemnities in respect of that asset;
  - 1.4.2 the proceeds of sale of any part of that asset and any other moneys paid or payable in respect of or in connection with that asset; and
  - 1.4.3 in respect of any Mortgaged Property, all Premises and all fixtures and fittings (including trade fixtures and fittings and tenants' fixtures and fittings) from time to time in or on that Mortgaged Property.
- 1.5 Each term in any Finance Document is, to the extent not set out in or otherwise incorporated into this Deed, deemed to be incorporated into this Deed insofar as is necessary to comply with Section 2 of the Law of Property (Miscellaneous Provisions) Act 1989 but, except where stated otherwise, if there is any conflict between that incorporated term and any other term of this Deed that other term shall prevail.
- 1.6 Any reference in this Deed to any Finance Document or any other agreement or other document shall be construed as a reference to that Finance Document or that other agreement or document as the same may have been, or may from time to time be, restated, varied, amended, supplemented, extended, substituted, novated or assigned, whether or not as a result of any of the same:
  - 1.6.1 there is an increase or decrease in any facility made available under that Finance Document or other agreement or document or an increase or decrease in the period for which any facility is available or in which it is repayable;
  - 1.6.2 any additional, further or substituted facility to or for such facility is provided;
  - 1.6.3 any rate of interest, commission or fees or relevant purpose is changed;
  - 1.6.4 the identity of the parties is changed;
  - 1.6.5 the identity of the providers of any security is changed;
  - 1.6.6 there is an increased or additional liability on the part of any person; or
  - 1.6.7 a new agreement is effectively created or deemed to be created.
- 1.7 Any reference in this Deed to **"this Deed"** shall be deemed to be a reference to this Deed as a whole and not limited to the particular Clause, Schedule or provision in which the relevant reference appears and to this Deed as amended, novated, assigned, supplemented, extended, substituted or restated from time to time and any reference in this Deed to a **"Clause"** or a **"Schedule"** is, unless otherwise provided, a reference to a Clause or a Schedule of this Deed.
- 1.8 Unless the context otherwise requires, words denoting the singular number only shall include the plural and vice versa.
- 1.9 Where any provision of this Deed is stated to include one or more things, that shall be by way of example or for the avoidance of doubt only and shall not limit the generality of that provision.
- 1.10 It is intended that this document shall take effect as and be a deed of the Chargor notwithstanding the fact that the Secured Party may not execute this document as a deed.
- 1.11 Any change in the constitution of the Secured Party or its absorption of or amalgamation with any other person or the acquisition of all or part of its undertaking by any other person shall not in any way prejudice or affect its rights under this Deed.



### ***Third Party Rights***

- 1.12 Nothing in this Deed is intended to confer on any person any right to enforce or enjoy the benefit of any provision of this Deed which that person would not have had but for the Contracts (Rights of Third Parties) Act 1999.

## **2. Covenant to Pay**

### ***Covenant to Pay***

- 2.1 The Chargor covenants with the Secured Party that it shall pay, perform and discharge the Secured Liabilities as and when the same fall due for payment, performance or discharge in accordance with the terms of the Finance Documents or, in the absence of any such express terms, on demand.

### ***Interest***

- 2.2 The Chargor covenants with the Secured Party to pay interest on any amounts due under Clause 2.1 (*Covenant to Pay*) from day to day until full discharge (whether before or after judgment, liquidation, winding-up or administration of the Chargor) at the rate and in the manner specified in clauses 10.6 to 10.8 (*Default Interest*) of the Facilities Agreement, **provided that**, in the case of any Expense, such interest shall accrue and be payable as from the date on which the relevant Expense arose without the necessity for any demand being made for payment.

## **3. Fixed Security**

### ***Charges***

- 3.1 The Chargor, as security for the payment, performance and discharge of all the Secured Liabilities, charges in favour of the Secured Party by way of a first legal mortgage all of its right, title and interest in and to the freehold, commonhold and leasehold property now vested in it (including, but not limited to, the freehold, commonhold and leasehold property (if any) specified in Schedule 1 (*Real Property*)).
- 3.2 The Chargor, as security for the payment, performance and discharge of all the Secured Liabilities, charges in favour of the Secured Party by way of first fixed charge all of its right, title and interest in and to the following assets, both present and future:
- 3.2.1 all estates or interests in any freehold, commonhold or leasehold property (other than such property effectively mortgaged under Clause 3.1 above);
  - 3.2.2 all licences held by it to enter upon or use land and/or to carry on the business carried on upon that land and all agreements relating to land to which it is a party or otherwise entitled;
  - 3.2.3 where any Mortgaged Property is leasehold property, any right or interest arising by virtue of any enfranchising legislation (including, but not limited to, the Leasehold Reform Act 1967 and the Leasehold Reform Housing and Urban Development Act 1993 but excluding Part II of the Landlord and Tenant Act 1954) which confers upon a tenant of property whether individually or collectively with other tenants of that or other properties the right to acquire a new lease of that property or to acquire, or require the acquisition by a nominee of, the freehold or any intermediate reversionary interest in that property;
  - 3.2.4 all amounts owing to it by way of rent, licence fee, service charge, dilapidations, ground rent and/or rent charge in respect of any Mortgaged Property or Premises;

- 3.2.5 all fixed and other plant and machinery, computers, vehicles, office equipment and other chattels in its ownership (but excluding any of those items to the extent that they are part of its stock in trade);
- 3.2.6 all Insurances, including all claims, the proceeds of all claims and all returns of premium in connection with Insurances to the extent of its interests in the same;
- 3.2.7 all book debts and all other debts or monetary claims (including all choses in action which may give rise to a debt or monetary claim), all proceeds thereof and, in each case, any cheque, bill, note, negotiable instrument or other document representing the same;
- 3.2.8 all moneys from time to time deposited in or standing to the credit of any bank account with the Secured Party or any other bank or financial institution (including, without limitation, any rent deposit given to secure liabilities in relation to land and any retention or similar sum arising out of a construction contract or any other contract (and, in each case, any cheque, bill, note, negotiable instrument or other document representing the same));
- 3.2.9 all Securities and their Related Rights;
- 3.2.10 all of its goodwill and uncalled capital;
- 3.2.11 all Intellectual Property;
- 3.2.12 all Authorisations (statutory or otherwise) held in connection with its business or the use of any Charged Property and the right to recover and receive all compensation which may be payable in respect of them,
- 3.2.13 each of the Specified Contracts, together with:
  - (a) all contracts, guarantees, appointments, warranties and other documents to which it is a party or in its favour or of which it has the benefit relating to any letting, development, sale, purchase or the operation of any Mortgaged Property or Premises;
  - (b) all agreements entered into by it or of which it has the benefit under which credit of any amount is provided to any person;
  - (c) all contracts for the supply of goods and/or services by or to it or of which it has the benefit (including, without limitation, any contracts of hire or lease of chattels); and
  - (d) any currency or interest swap or any other interest or currency protection, hedging or financial futures transaction or arrangement entered into by it or of which it has the benefit (whether entered into with the Secured Party or any other person),

including, in each case, but without limitation, the right to demand and receive all moneys whatsoever payable to or for its benefit under or arising from any of them, all remedies provided for in any of them or available at law or in equity in relation to any of them, the right to compel performance of any of them and all other rights, interests and benefits whatsoever accruing to or for its benefit arising from any of them.

#### **4. Floating Charge**

##### ***Creation of Floating Charge***

- 4.1 The Chargor, as security for the payment, performance and discharge of all the Secured Liabilities, charges in favour of the Secured Party by way of a first floating charge all of its undertaking and all its other property, assets and rights, present and future, including all of its stock in trade and all property, assets and rights not otherwise validly and effectively mortgaged, charged or assigned (whether at law or in equity) by way of fixed security pursuant to Clause 3 (*Fixed Security*).

##### ***Qualifying Floating Charge***

- 4.2 The provisions of paragraph 14 of Schedule B1 to the Insolvency Act 1986 shall apply to the floating charge created pursuant to Clause 4.1 (*Creation of Floating Charge*).

##### ***Conversion by Notice***

- 4.3 The Secured Party may by notice in writing at any time to the Chargor convert the floating charge created pursuant to Clause 4.1 (*Creation of Floating Charge*) with immediate effect into a fixed charge (either generally or specifically as regards any assets of the Chargor specified in the notice) if:

- 4.3.1 a Declared Default has occurred which is continuing; or
- 4.3.2 the Secured Party reasonably considers that any of the Charged Property may be in jeopardy or in danger of being seized or sold pursuant to any form of legal process or that it is desirable to do so in order to protect or preserve the security constituted by this Deed over any of the Charged Property and/or the priority of that security.

##### ***Automatic Conversion***

- 4.4 Notwithstanding Clause 4.3 (*Conversion by Notice*) and without prejudice to any law which may have a similar effect, the floating charge created by Clause 4.1 (*Creation of Floating Charge*) will automatically be converted (without notice) with immediate effect into a fixed charge as regards all of the undertaking and assets subject to that floating charge if:

- 4.4.1 the Chargor creates or attempts to create any Security over any of the Charged Property (except as expressly permitted under the Facilities Agreement);
- 4.4.2 any person levies or attempts to levy any distress, execution or other process against any of the Charged Property; or
- 4.4.3 a resolution is passed or an order is made for the winding-up, dissolution, administration or re-organisation of the Chargor or an administrator is appointed in respect of the Chargor.

#### **5. Perfection of Security**

##### ***Registration at HM Land Registry***

- 5.1 For the purposes of panel 8 of each Form RX1 that may be required to be completed by the Secured Party in relation to any Mortgaged Property registered or required to be registered at HM Land Registry, the Chargor hereby consents to an application being made by or on behalf of the Secured Party to the Chief Land Registrar to enter the following restriction in Form P against its title to such Mortgaged Property:

“No disposition of the registered estate by the proprietor of the registered estate is to be registered without a written consent signed by the proprietor for the time being of the charge dated [●] in favour of Santander UK plc referred to in the charges register or their conveyancer.”.

- 5.2 If the title to any Mortgaged Property is not registered at HM Land Registry, the Chargor shall ensure that no person (other than itself) shall be registered under the Land Registration Act 2002 as the proprietor of all or any part of that Mortgaged Property without the prior consent in writing of the Secured Party.
- 5.3 Whether or not the title to any of the Mortgaged Property is registered at HM Land Registry, in the event that any caution against first registration or any notice (whether agreed or unilateral) is registered against the Chargor's title to any Mortgaged Property, the Chargor shall promptly provide the Secured Party with full particulars of the circumstances relating to such registration or notice and, if such caution or notice shall have been registered in order to protect a purported interest the creation of which is not permitted under this Deed, the Chargor shall immediately and at its own expense take such steps as the Secured Party may require to ensure that the caution or notice, as applicable, is withdrawn or cancelled.

#### *Further Advances*

- 5.4 Subject to the provisions of the Facilities Agreement, the Secured Party is under an obligation to make further advances to the Borrower under (and as defined in) the Facilities Agreement and that obligation will be deemed to be incorporated into this Deed as if set out in this Deed.

#### *Acquisition of New Land*

- 5.5 In relation to any freehold, commonhold or leasehold property which is acquired by or on behalf of the Chargor after the date of this Deed:
- 5.5.1 if the title to any such property is registered at HM Land Registry, the Chargor shall promptly apply to be registered as the proprietor of the registered estate acquired (or procure that such application is made on its behalf) and (for the purposes of panel 11 of Form AN1) hereby consents to an application being made by the Secured Party to the Chief Land Registrar for the registration of an agreed notice in Form AN1 to protect this Deed against its title to that property;
- 5.5.2 if the title to any such property is required to be registered at HM Land Registry under the provisions of the Land Registration Act 2002, the Chargor shall promptly apply for first registration of the estate acquired in Form FR1 (or procure that such application is made on its behalf) and shall disclose or procure that the existence of this Deed is disclosed to HM Land Registry either in the Form DL accompanying such application or in panel 12 of Form FR1; and
- 5.5.3 if the title to any such property represents the transfer of either part of a commonhold unit or part of the common parts of land registered as a freehold estate in commonhold land under the Commonhold and Leasehold Reform Act 2002, the Chargor shall also procure that the application to register the transfer is accompanied by an application in Form CM3 to register the commonhold community statement that has been amended in relation to the transfer as required by Rule 15 or, as the case may be, Rule 16 of the Commonhold (Land Registration) Rules 2004,

and, in each such case, the Chargor shall, promptly after receiving notice of registration of it as the proprietor of the relevant registered estate, provide the Secured Party with an official copy of the register recording the same.

### ***Notices of Charge***

- 5.6 The Chargor shall, promptly upon the request of the Secured Party from time to time, give or join the Secured Party in giving:
- 5.6.1 a notice in the form set out in Part 1 of Schedule 3 (*Form of Notice of Charge – Specified Contracts*) or, as applicable, Part 1 of Schedule 4 (*Form of Notice of Charge – Accounts not with the Secured Party*) or in such other form as the Secured Party may reasonably require to each of the counterparties to each Specified Contract and to each bank or financial institution (other than the Secured Party) in respect of each account of the Chargor opened or maintained with it; and
- 5.6.2 in respect of any other asset which is charged pursuant to Clause 3 (*Fixed Security*), a notice of charge in such form as the Secured Party may reasonably require to the relevant obligor, debtor or other third party (as the case may be).
- 5.7 Each such notice shall be duly signed by or on behalf of the Chargor and it shall use its reasonable endeavours to procure that each of the persons on whom any such notice is served promptly provides to the Secured Party a duly signed acknowledgement of that notice in the form set out in Part 2 of Schedule 3 or, as applicable, Part 2 of Schedule 4 or in such other form in any case as the Secured Party may reasonably require.

### ***Acknowledgement of Notice***

- 5.8 The execution of this Deed by the Chargor and the Secured Party shall constitute notice to the Secured Party of the charge created by this Deed over any account opened or maintained by the Chargor with the Secured Party.

### ***Deposit of Documents of Title***

- 5.9 The Chargor shall promptly deposit with the Secured Party (unless already held by its solicitors on behalf of and to the Secured Party's order or at HM Land Registry for the purpose of registration of the security constituted by this Deed) all deeds, certificates and other documents of title held by it from time to time relating to the Mortgaged Property.

### ***Deposit of Securities***

- 5.10 The Chargor shall, in respect of any Securities which are in certificated form, promptly:
- 5.10.1 deposit with the Secured Party or as it may direct all stock and share certificates and other documents of title or evidence of ownership from time to time relating to such Securities; and
- 5.10.2 execute and deliver to the Secured Party all share transfers and other documents as the Secured Party may from time to time request in order to enable the Secured Party (or its nominee(s)) to be registered as the owner or otherwise obtain a legal title to or to perfect its security interest in such Securities, with the intent that the Secured Party may at any time without notice following an Event of Default which is continuing complete and present such transfers and documents for registration.
- 5.11 The Chargor shall, in respect of any Securities which are in uncertificated form, promptly upon being requested to do so by the Secured Party, give or procure the giving of, in accordance with and subject to the facilities and requirements of the relevant system, all instructions necessary to effect a transfer of title to such Securities into an account in the name of the Secured Party (or its nominee(s)) and to cause the Operator to register on the relevant register of securities the transfer of such title.

- 5.12 For the purposes of Clauses 5.10 and 5.11 above, the expressions “**certificated**”, “**instruction**”, “**Operator**”, “**relevant system**” and “**uncertificated**” shall have the meanings given to those terms in the Uncertificated Securities Regulations 2001.

## **6. Further Assurance**

### *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 Secured Party or any Receiver may reasonably specify (and in such form as the Secured Party or any Receiver may reasonably require in favour of the Secured Party or its nominee(s)) to:

- 6.1.1 perfect the security created or intended to be created in respect of the Charged Property (which may include the execution by the Chargor of a mortgage, charge, assignment or other Security over all or any of the assets forming part of, or which are intended to form part of, the Charged Property);
- 6.1.2 confer on the Secured Party Security over any property and assets of the Chargor located in any jurisdiction equivalent or similar (and on terms no more onerous) to the security intended to be conferred by or pursuant to this Deed;
- 6.1.3 facilitate the exercise of any rights, powers and remedies of the Secured Party or any Receiver or Delegate provided by or pursuant to this Deed or by law;
- 6.1.4 facilitate the realisation of the assets which form part of, or are intended to form part of, the Charged Property; and/or
- 6.1.5 create any charge by way of legal mortgage over any freehold, commonhold or leasehold property which becomes vested in the Chargor after the date of this Deed.

### *Necessary Action*

- 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 Secured Party by or pursuant to this Deed.

### *Acquisition of New Land*

- 6.3 The Chargor shall immediately notify the Secured Party of any acquisition by it of any freehold, commonhold or leasehold property or of any agreement entered into by it or of which it has the benefit for the acquisition of any such property.

### *Implied Covenants for Title*

- 6.4 Each of the mortgages, charges and assignments granted by the Chargor under this Deed are granted with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994, save that the covenants set out in Section 2(1)(a), Section 3 and Section 4 of that Act shall extend to the Chargor without, in each case, the benefit of Section 6(2) of that Act.

## **7. Undertakings**

### *General*

- 7.1 The undertakings in this Clause 7 remain in force from the date of this Deed for so long as any amount is outstanding under this Deed.

### *Negative Pledge*

- 7.2 The Chargor shall not create or extend or permit to arise or subsist any Security (other than any Security constituted by this Deed or otherwise permitted under the Facilities Agreement) over the whole or any part of the Charged Property or enter into any arrangement or transaction as described in clause 25.5 (*Negative Pledge*) of the Facilities Agreement in respect of any asset forming part of, or intended to form part of, the Charged Property, other than with the prior consent of the Secured Party.

### *Restriction on Disposals*

- 7.3 The Chargor shall not enter into a single transaction or a series of transactions (whether related or not) and whether voluntary or involuntary to sell, lease, transfer or otherwise dispose of the whole or any part of the Charged Property, other than any disposal of any Charged Property which is subject only to the floating charge created by Clause 4.1 (*Creation of Floating Charge*) for full consideration in the ordinary and usual course of the Chargor's business as it is presently conducted or as permitted under the Facilities Agreement or with the prior consent of the Secured Party.

### *Access*

- 7.4 The Chargor shall permit the Secured Party and any other professional person nominated by it free access at all reasonable times and on reasonable notice to enter upon and/or view the state and condition of the Charged Property (without, in any case, becoming liable to account as mortgagee in possession).

### *Insurance*

- 7.5 The Chargor shall insure and keep insured (or where, in the case of any leasehold property, insurance is the responsibility of the landlord under the terms of the lease, either procure that the landlord insures and keeps insured or, if and to the extent that the landlord does not do so, itself insure and keep insured) the Charged Property in accordance with the terms of the Facilities Agreement and deal with any monies received in relation to any Insurances in accordance with the terms of the Facilities Agreement.

### *Voting Rights and Dividends relating to Securities*

- 7.6 At any time before the security constituted by this Deed has become enforceable the Chargor shall:
- 7.6.1 be entitled to exercise all voting and other rights and powers in respect of the Securities or, if any of the same are exercisable by the Secured Party (or its nominee(s)), to direct in writing the exercise of those voting and other rights and powers, **provided that** the Chargor shall not exercise or direct the exercise of any voting or other rights and powers in any manner which would breach the provisions of the Facilities Agreement or would, in the reasonable opinion of the Secured Party, prejudice the value of the Securities or otherwise jeopardise the security constituted by this Deed; and
  - 7.6.2 pay all dividends, interest and other moneys arising from the Securities in accordance with the Facilities Agreement.
- 7.7 At any time after the security constituted by this Deed has become enforceable, the Secured Party may at its discretion (in the name of the Chargor or otherwise and without any further consent or authority from the Chargor):
- 7.7.1 exercise (or refrain from exercising) all voting and other rights and powers in respect of the Securities;

- 7.7.2 apply all dividends, interest and other moneys arising from the Securities in accordance with Clause 15.1 (*Order of Application*) and, if any of the same are paid or payable to the Chargor, the Chargor shall hold all such dividends, interest and other moneys on trust for the Secured Party and pay the same immediately to the Secured Party or as it may direct to be applied in accordance with Clause 15.1;
- 7.7.3 if not already so transferred, transfer the Securities into the name of, or (as applicable) into an account in the name of, the Secured Party (or its nominee(s)); and
- 7.7.4 in addition to any other power created under this Deed, exercise (or refrain from exercising) all the powers and rights conferred on or exercisable by the legal or beneficial owner of the Securities and, except as expressly provided for in the Deed, all the powers and discretions conferred on trustees by the Trustee Act 1925 and the Trustee Act 2000, including, without limitation, the general power of investment set out in Section 3 of the Trustee Act 2000, *provided that* the duty of care set out in Section 1 (1) of the Trustee Act 2000 shall not apply to the exercise of any other power of investment (however conferred) by the Secured Party (or its nominee(s)) in respect of securities or property subject to a trust.

#### ***Calls and Other Obligations in respect of Securities***

- 7.8 The Chargor shall promptly pay all calls and other payments which may be or become due in respect of all or any part of the Securities and, if it fails to do so, the Secured Party may elect (but shall not be obliged) to make such payments on behalf of the Chargor. Any sums so paid by the Secured Party shall be reimbursed by the Chargor to the Secured Party on demand and shall carry interest at the rate specified in Clause 2.2 (*Interest*) from the date of payment by the Secured Party until reimbursed (after as well as before any judgment).
- 7.9 The Chargor shall remain liable to observe and perform all of the other conditions and obligations assumed by it in respect of any of all or any part of the Securities.
- 7.10 Neither the Secured Party nor its nominee(s) shall be liable to make any payment in respect of any calls or other payments which may be or become due in respect of the Securities or be under any duty to make any enquiry into the nature or sufficiency of any payment received by it in respect of the Securities or to present or file or make any claim, take any action or do any other act or thing for the purpose of collecting and/or enforcing the payment of any amount to which it may be entitled in respect of the Securities.
- 7.11 The Chargor shall copy to the Secured Party and comply with all requests for information which is within its knowledge and which are made under Section 793 of the Companies Act 2006 or any similar provision contained in any articles of association or other constitutional documents relating to all or any part of the Securities and, if it fails to do so, the Secured Party may elect (but shall not be obliged) to provide such information as it may have on behalf of (and at the expense of) the Chargor.
- 7.12 The Chargor shall not, without the prior written consent of the Secured Party, do or cause or permit to be done anything which shall require any company in which any of the Securities is held to treat any person who is not the registered holder of any of the Securities as entitled to enjoy or exercise any rights of a member in relation to the whole or any part of the Securities, except pursuant to the terms of this Deed.

#### ***Book Debts and Other Debts***

- 7.13 The Chargor shall get in and realise its book debts and other debts and monetary claims in the ordinary and usual course of its business and pay all Debt Proceeds into the relevant Account in accordance with the terms of the Facilities Agreement. The Chargor shall, pending such payment in, hold all such Debt Proceeds upon trust for the Secured Party.



- 7.14 At any time before the security constituted by this Deed has become enforceable, the Chargor shall be entitled to receive, withdraw or otherwise transfer any credit balance which arises on the Operating Account and the General Account as a result of Debt Proceeds being credited or transferred to that account from time to time as permitted in accordance with the terms of Facilities Agreement.

***Bank Accounts***

- 7.15 The Chargor shall promptly deliver to the Secured Party, on the date of this Deed and, if any change occurs thereafter, on the date of such change, details of each account maintained by it with any bank or financial institution (other than the Secured Party) (if any). The Chargor undertakes that it shall not, unless permitted in accordance with the terms of the Finance Documents, without the Secured Party's prior written consent, permit or agree to any variation of the rights attaching to any such account or close any such account.
- 7.16 The Chargor agrees with the Secured Party that it shall not be entitled to receive, utilise, transfer or withdraw any credit balance from time to time on any account with any bank or financial institution (other than the Secured Party) except, in any case, with the prior written consent of the Secured Party or as permitted in accordance with the Facilities Agreement..
- 7.17 At any time after the security constituted by this Deed has become enforceable, the Chargor shall not be entitled to receive, utilise, transfer or withdraw any credit balance from time to time on any account except with the prior written consent of the Secured Party.

***Premises, Plant and Machinery***

- 7.18 The Chargor shall, or shall use its reasonable endeavours to procure that, at all times, to the Secured Party's reasonable satisfaction, repair and keep:
- 7.18.1 the Premises in good and substantial repair and condition; and
- 7.18.2 the fixtures, plant, machinery, implements and other effects and chattels owned by it and which are in or upon the Premises or elsewhere in a good state of repair and in good working order and condition and shall, as and when necessary, renew and replace such items when they shall become obsolete, worn out or destroyed with items of similar quality and of equal or greater value.
- 7.19 If default shall be made by the Chargor in complying with Clause 7.18 above, the Secured Party may (but shall not be obliged to) carry out any necessary repairs and the Chargor shall permit the Secured Party and its agents and contractors to take any of the steps referred to in Clause 7.26 below for this purpose. All moneys expended by the Secured Party in taking any such steps shall be reimbursed by the Chargor to the Secured Party within 5 Business Days of demand and until so reimbursed shall carry interest at the rate specified in Clause 2.2 (*Interest*) from the date of payment by the Secured Party until reimbursed (after as well as before any judgment).
- 7.20 Save as permitted under the terms of the Facilities Agreement, the Chargor shall not, without the prior written consent of the Secured Party, carry out or permit to be carried out any material demolition, rebuilding, reconstruction or structural alteration of any Premises.

***Mortgaged Property***

- 7.21 The Chargor shall not, except as expressly permitted under the Facilities Agreement or Clause 7.3 of this Deed or with the prior written consent of the Secured Party:
- 7.21.1 exercise any statutory or other power of leasing or letting, or accept or agree to accept surrenders of any leases, or enter into any agreement for lease or letting, in respect of any Mortgaged Property; or

- 7.21.2 except to the Hotel guests in the normal course of running the Hotel, create any licence in respect of any Mortgaged Property, or let any person into occupation of, or share occupation of, any Mortgaged Property or grant any other proprietary or other right or interest in any Mortgaged Property.
- 7.22 The Chargor shall:
- 7.22.1 observe and perform all the terms on its part contained in any lease or agreement for lease comprised within the Mortgaged Property; and
- 7.22.2 duly and punctually perform and observe and indemnify the Secured Party for any breach of any covenants, stipulations and obligations (restrictive or otherwise) affecting the Mortgaged Property.
- 7.23 The Chargor shall not:
- 7.23.1 enter into any onerous or restrictive covenants affecting the Mortgaged Property; or
- 7.23.2 sever or unfix or remove any of the fixtures from any Mortgaged Property (except for the purpose of effecting necessary repairs to any such items or renewing or replacing the same in accordance with Clause 7.18 above).
- 7.24 The Chargor shall punctually pay or cause to be paid (except when contested on reasonable grounds) and shall indemnify the Secured Party and any Receiver or Delegate on demand against all present and future rents, rates, Taxes, assessments and outgoings of whatsoever nature imposed upon or payable in respect of the Mortgaged Property or by the owner or occupier of the Mortgaged Property upon the same becoming due and payable or within any applicable grace period. If any of the foregoing shall be paid by the Secured Party or any Receiver or Delegate they shall be reimbursed by the Chargor to the Secured Party or such Receiver or Delegate on demand and shall carry interest at the rate specified in Clause 2.2 (*Interest*) from the date of payment by the Secured Party or such Receiver or Delegate until reimbursed (after as well as before any judgment).
- 7.25 Save as permitted by the terms of the Facilities Agreement, the Chargor shall not:
- 7.25.1 make or, insofar as it is able, permit others to make any application for planning permission in respect of any Mortgaged Property;
- 7.25.2 carry out or permit to be carried out on any Mortgaged Property any development (within the meaning of that expression in the Planning Acts); or
- 7.25.3 make any VAT election in relation to any Mortgaged Property.

***Remedying Mortgaged Property Defaults***

- 7.26 In case of any default which is outstanding by the Chargor in performing or complying with any covenant, undertaking, restriction, applicable law or regulations affecting the Mortgaged Property, the Chargor shall permit the Secured Party and its agents and contractors to:
- 7.26.1 enter on the Mortgaged Property;
- 7.26.2 comply with or object to any notice served on the Chargor in respect of the Mortgaged Property; and
- 7.26.3 take any action as the Secured Party may reasonably consider necessary or desirable to prevent or remedy any breach of any such covenant, undertaking, restriction, applicable law or regulations or to comply with or object to any such notice.

- 7.27 All moneys expended by the Secured Party in taking any steps referred to in Clause 7.26 above shall be reimbursed by the Chargor to the Secured Party within 5 Business Days of demand and until so reimbursed shall carry interest at the rate specified in Clause 2.2 (*Interest*) from the date of payment by the Secured Party until reimbursed (after as well as before any judgment).

***Specified Contracts***

- 7.28 The Chargor shall not make or agree to make any amendments, variations or modifications to the Specified Contracts or waive any of its rights under the Specified Contracts which could, in each case, reasonably be expected to materially and adversely affect the rights of the Secured Party under this Deed or the security constituted by this Deed, without the prior written consent of the Secured Party or except as expressly permitted under the Facilities Agreement.

***Information***

- 7.29 The Chargor shall promptly supply to the Secured Party such information as the Secured Party may reasonably require about the Charged Property and its compliance with the terms of this Deed.
- 7.30 The Chargor shall promptly notify the Secured Party in writing of any action, claim or demand made by or against it in connection with all or any part of the Charged Property or of any fact, matter or circumstance which is reasonably likely to, with the passage of time, give rise to such an action, claim or demand which could, in each case, reasonably be expected to materially and adversely affect the rights of the Secured Party under this Deed or the security constituted by this Deed, together with the Chargor's proposals for settling, liquidating, compounding or contesting the same and shall, subject to the Secured Party's approval of such proposals, implement them at its own expense.

***Notices relating to Charged Property***

- 7.31 The Chargor shall, within 14 days after the receipt by it of any material application, requirement, order or notice served or given by any public or local or any other authority with respect to the whole or any part of the Charged Property:
- 7.31.1 deliver a copy to the Secured Party;
  - 7.31.2 inform the Secured Party of the steps taken or proposed to be taken by it to comply with the relevant application, requirement, order or notice; and
  - 7.31.3 comply with any reasonable request by the Secured Party to take such action as the Secured Party may believe necessary to preserve or protect the Charged Property or the security constituted or intended to be constituted by this Deed.

***Not Jeopardise Security***

- 7.32 The Chargor shall not do or cause or permit to be done anything which might in any way depreciate, jeopardise or otherwise prejudice the value to the Secured Party of the security constituted or intended to be constituted by this Deed, except to the extent expressly permitted by the terms of this Deed or under the Finance Documents.

**8. Enforcement of Security**

***When Security becomes Enforceable***

- 8.1 The security constituted by this Deed shall become immediately enforceable if a Declared Default has occurred and the power of sale and other powers conferred by Section 101 of the LPA, as varied or extended by this Deed, shall be immediately exercisable upon and at any time after the security constituted by this Deed is enforceable.

- 8.2 After the security constituted by this Deed is enforceable, the Secured Party may in its absolute discretion enforce all or any part of that security at the times, in the manner and on the terms it thinks fit and take possession of and hold or dispose of all or any part of the Charged Property.

***Right of Appropriation***

- 8.3 To the extent that any of the Charged Property constitutes “**financial collateral**” and this Deed and the obligations of the Chargor under this Deed constitute a “**security financial collateral arrangement**” (in each case as defined in, and for the purposes of, the Financial Collateral Arrangements (No. 2) Regulations 2003 (the “**FCA Regulations**”)), the Secured Party shall have the right, at any time after the security constituted by this Deed has become enforceable, to appropriate all or any part of such financial collateral in or towards discharge of the Secured Liabilities. For this purpose, the parties agree that the value of such financial collateral shall be (in the case of cash) the amount standing to the credit of each bank account of the Chargor, together with any accrued but unpaid interest, at the time the right of appropriation is exercised and (in the case of Securities) the market price of such Securities determined by the Secured Party by reference to a public index or by such other process as the Secured Party may select, including independent valuation. In each case, the parties agree that the manner of valuation provided for in this Clause 8.3 shall constitute a commercially reasonable manner of valuation for the purposes of the FCA Regulations.

***Redemption of Prior Mortgages***

- 8.4 The Secured Party or any Receiver may at any time:
- 8.4.1 redeem any prior Security over any Charged Property; or
  - 8.4.2 procure the transfer of that Security to the Secured Party; or
  - 8.4.3 settle and pass the accounts of the person or persons entitled to such Security (and any accounts so settled and passed shall be conclusive and binding on the Chargor).
- 8.5 All principal moneys, interest, costs, charges and expenses of and incidental to any such redemption or transfer shall be paid by the Chargor to the Secured Party and every Receiver on demand and shall be secured by this Deed.

**9. Extension and Variation of the LPA**

***General***

- 9.1 For the purposes of all powers implied by the LPA, such powers shall arise (and the Secured Liabilities shall be deemed to have become due and payable for that purpose) on the date of this Deed.
- 9.2 Section 103 of the LPA (restricting the power of sale) and Section 93 of the LPA (restricting the right of consolidation) shall not apply to the security constituted by this Deed.
- 9.3 The statutory powers of leasing conferred on the Secured Party are extended so as to authorise the Secured Party and any Receiver at any time after the security constituted by this Deed has become enforceable to make any lease or agreement for lease, accept surrenders of leases and/or grant options on such terms as it or he shall think fit, without the need to comply with any restrictions imposed by Sections 99 and 100 of the LPA.

***Privileges***

- 9.4 Each Receiver and the Secured Party is entitled to all the rights, powers, privileges and immunities conferred by the LPA on mortgagees and receivers.

## **10. Appointment of Receiver and Administrator**

### ***Appointment***

10.1 At any time after the security constituted by this Deed has become enforceable or if an application is presented for the making of an administration order in relation to the Chargor or any person who is entitled to do so gives written notice of its intention to appoint an administrator of the Chargor or files such a notice with the court or if the Chargor so requests the Secured Party in writing (in which case, in each such case, the security constituted by this Deed shall become immediately enforceable), the Secured Party may without prior notice to the Chargor:

10.1.1 appoint free from the restrictions imposed by Section 109(1) of the LPA either under seal or in writing under its hand any one or more persons to be a Receiver of the whole or any part or parts of the Charged Property in like manner in every respect as if the Secured Party had become entitled under the LPA to exercise the power of sale conferred under the LPA; or

10.1.2 appoint one or more persons to be an administrator of the Chargor.

### ***Removal***

10.2 The Secured Party may by writing under its hand (or by an application to the court where required by law):

10.2.1 remove any Receiver appointed by it; and

10.2.2 appoint, whenever it deems it expedient, any one or more persons to be a new Receiver in the place of or in addition to any Receiver.

### ***Statutory Powers of Appointment***

10.3 The powers of appointment of a Receiver conferred by this Deed shall be in addition to all statutory and other powers of appointment of the Secured Party under the LPA (as extended by this Deed) or otherwise and such powers shall be and remain exercisable from time to time by the Secured Party in respect of any part or parts of the Charged Property.

### ***Capacity of Receiver***

10.4 Each Receiver shall be deemed to be the agent of the Chargor for all purposes. The Chargor alone shall be responsible for a Receiver's contracts, engagements, acts, omissions, defaults and losses and for liabilities incurred by him, other than those arising as a consequence of the gross negligence or wilful default of the Receiver.

10.5 The agency of each Receiver shall continue until the Chargor goes into liquidation and after that the Receiver shall act as principal and shall not become the agent of the Secured Party.

10.6 If there is more than one Receiver holding office at the same time, each Receiver shall (unless the document appointing him states otherwise) be entitled to act (and to exercise all of the powers conferred on a Receiver under this Deed) individually or together with any other person appointed or substituted as Receiver.

### ***Remuneration of Receiver***

10.7 The Secured Party may fix the remuneration of any Receiver appointed by it without any restriction imposed by Section 109(6) of the LPA and the remuneration of the Receiver shall be a debt secured by this Deed, which shall be due and payable immediately upon its being paid by the Secured Party.

## 11. Powers of Receiver

### *General*

- 11.1 Each Receiver has, and is entitled to exercise, all of the rights, powers and discretions set out below in this Clause 11 in addition to those conferred by law.
- 11.2 Without prejudice to the generality of this Clause 11, each Receiver shall have all the rights, powers and discretions of an administrative receiver under Schedule 1 to the Insolvency Act 1986 whether he falls within the statutory definition of an administrative receiver or not.

### *Specific Powers*

- 11.3 Each Receiver shall have the following powers (and every reference in this Clause 11.3 to the **“Charged Property”** shall be read as a reference to that part or parts of the Charged Property in respect of which that Receiver was appointed):
- 11.3.1 power to purchase or acquire land and purchase, acquire or grant any interest in or right over land as he thinks fit;
  - 11.3.2 power to take immediate possession of, get in and collect any Charged Property;
  - 11.3.3 power to carry on the business of the Chargor as he thinks fit;
  - 11.3.4 power (but without any obligation to do so) to:
    - (a) make and effect all repairs, alterations, additions and insurances and do all other acts which the Chargor might do in the ordinary conduct of its business as well for the protection as for the improvement of the Charged Property;
    - (b) commence or complete any building operations on the Charged Property;
    - (c) apply for and maintain any planning permission, building regulation approval or any other permission, consent or licence in respect of the Charged Property; and
    - (d) negotiate for compensation with any authority which may intend to acquire or be in the process of acquiring all or any part of the Charged Property and make objections to any order for the acquisition of all or any part of the Charged Property and represent the Chargor at any enquiry to be held to consider such objections or otherwise relating to any such acquisition,in each case as he thinks fit;
  - 11.3.5 power to appoint and discharge managers, officers, agents, advisers, accountants, servants, workmen, contractors, surveyors, architects, lawyers and others for the purposes of this Deed upon such terms as to remuneration or otherwise as he thinks fit and power to discharge any such persons appointed by the Chargor (and the costs incurred by any Receiver in carrying out such acts or doing such things shall be reimbursed to that Receiver by the Chargor on demand and until so reimbursed shall carry interest at the rate specified in Clause 2.2 (*Interest*) from the date of payment by the Receiver until reimbursed (after as well as before any judgment));
  - 11.3.6 power to raise and borrow money either unsecured or (with the prior consent of the Secured Party) on the security of any Charged Property either in priority to the security constituted by this Deed or otherwise and generally on any terms and for whatever purpose he thinks fit;

- 11.3.7 power to sell, exchange, convert into money and realise any Charged Property by public auction or private contract and generally in any manner and on any terms as he thinks fit;
- 11.3.8 power to sever and sell separately any fixtures from the property containing them without the consent of the Chargor;
- 11.3.9 power to let any Charged Property for any term and at any rent (with or without a premium) as he thinks fit and power to accept a surrender of any lease or tenancy of any Charged Property on any terms which he thinks fit (including the payment of money to a lessee or tenant on a surrender);
- 11.3.10 power to settle, adjust, refer to arbitration, compromise and arrange any claims, accounts, disputes, questions and demands with or by any person who is or claims to be a creditor of the Chargor or relating in any way to any Charged Property;
- 11.3.11 power to bring, prosecute, enforce, defend and abandon all actions, suits and proceedings in relation to any Charged Property or in relation to the Chargor which may seem to him to be expedient;
- 11.3.12 power to give valid receipts for all moneys and execute all assurances and things which may be proper or desirable for realising any Charged Property;
- 11.3.13 power to form a subsidiary of the Chargor and transfer to that subsidiary any Charged Property;
- 11.3.14 power to do all such acts as may seem to him to be necessary or desirable in order to initiate or continue any development of any Charged Property and for these purposes to appoint and to enter into such contracts with such building and engineering contractors or other contractors and professional advisers as he may think fit;
- 11.3.15 power to call any meeting of the members or directors of the Chargor in order to consider such resolutions or other business as he thinks fit;
- 11.3.16 power to exercise in relation to any Charged Property all the powers and rights which he would be capable of exercising if he were the absolute beneficial owner of the same;
- 11.3.17 power to do all other acts and things which he may consider desirable or necessary for realising any Charged Property or incidental or conducive to any of the rights, powers or discretions conferred on a Receiver under or by virtue of this Deed; and
- 11.3.18 power to exercise any of the above powers in the name of or on behalf of the Chargor or in his own name and, in each case, at the cost of the Chargor.

***Secured Party's Powers***

- 11.4 To the fullest extent permitted by law, any right, power or discretion conferred by this Deed (either expressly or impliedly) upon a Receiver may after the security constituted by this Deed has become enforceable be exercised by the Secured Party in relation to any Charged Property, irrespective of whether or not it has taken possession of any Charged Property and without first appointing a Receiver or notwithstanding the appointment of a Receiver.

## **12. Discretions and Delegation**

### ***Discretion***

- 12.1 Any liberty or power which may be exercised or any determination which may be made under this Deed by the Secured Party or any Receiver may be exercised or made in its absolute and unfettered discretion without any obligation to give reasons.

### ***Delegation***

- 12.2 Each of the Secured Party and any Receiver may delegate (either generally or specifically) by power of attorney or in any other manner to any person any right, power, authority or discretion conferred on it by this Deed (including the power of attorney).
- 12.3 Any such delegation may be made upon such terms and conditions (including the power to sub-delegate) as the Secured Party or any Receiver (as the case may be) shall think fit.
- 12.4 Neither the Secured Party nor any Receiver shall 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 Delegate.

## **13. Power of Attorney**

### ***Appointment and Powers***

- 13.1 The Chargor, by way of security, irrevocably appoints the Secured Party, every Receiver and every Delegate severally and independently to be its attorney and in its name, on its behalf and as its act and deed and after the occurrence of a Declared Default to execute, deliver and perfect all documents and do all things which the attorney may consider to be required or desirable for:
- 13.1.1 carrying out any obligation imposed on the Chargor by this Deed; and/or
- 13.1.2 enabling the Secured Party or any Receiver or Delegate to exercise, or delegate the exercise of, any of the rights, powers, authorities and discretions conferred on it or him by or pursuant to this Deed or by law (including the exercise of any right of an absolute legal or beneficial owner of the Charged Property).

### ***Ratification***

- 13.2 The Chargor shall ratify and confirm whatever any attorney does or purports to do pursuant to its appointment under Clause 13.1 (*Appointment and Powers*).

## **14. Protection of Purchasers**

### ***Consideration***

- 14.1 The receipt of the Secured Party or any Receiver or Delegate shall be a conclusive discharge to a purchaser and, in making any sale or other disposal of any of the Charged Property (including a disposal by a Receiver or Delegate to any subsidiary of the Chargor) or in making any acquisition in the exercise of their respective powers, the Secured Party, every Receiver and every Delegate may do so for such consideration, in such manner and on such terms as it or he thinks fit.

### ***Protection of Third Parties***

- 14.2 No person (including a purchaser) dealing with the Secured Party, any Receiver or any Delegate shall be bound to enquire:



- 14.2.1 whether the Secured Liabilities have become payable; or
- 14.2.2 whether any power which the Secured Party or any Receiver or Delegate is purporting to exercise has arisen or become exercisable; or
- 14.2.3 whether any money remains due under the Finance Documents; or
- 14.2.4 how any money paid to the Secured Party or to any Receiver or Delegate is to be applied,

or shall be concerned with any propriety, regularity or purpose on the part of the Secured Party or any Receiver or Delegate in such dealings or in the exercise of any such power.

## **15. Application of Proceeds**

### ***Order of Application***

- 15.1 All moneys received or recovered by the Secured Party, any Receiver or any Delegate pursuant to this Deed, after the security constituted by this Deed has become enforceable, shall (subject to the claims of any person having prior rights thereto and by way of variation of the provisions of the LPA) be applied in the following order (but without prejudice to the right of the Secured Party to recover any shortfall from the Chargor):
  - 15.1.1 in or towards payment of all costs, losses, liabilities and expenses of and incidental to the appointment of any Receiver or Delegate and the exercise of any of his rights and powers, including his remuneration, and all outgoings paid by him;
  - 15.1.2 in or towards payment of all other Expenses;
  - 15.1.3 in or towards payment of all other Secured Liabilities or such part of them as is then due and payable to the Secured Party in accordance with the order of application set out in clauses 31.5 and 31.6 (*Partial Payments*) of the Facilities Agreement; and
  - 15.1.4 in payment of the surplus (if any) to the Chargor or other person entitled to it.
- 15.2 Clause 15.1 (*Order of Application*) will override any appropriation made by the Chargor.

### ***New Accounts***

- 15.3 If the Secured Party at any time receives, or is deemed to have received, notice of any subsequent Security or other interest affecting any Charged Property, the Secured Party may open a new account with the Chargor.
- 15.4 If the Secured Party does not open a new account, it shall nevertheless be treated as if it had done so at the time when it received, or was deemed to have received, such notice. As from that time all payments made by or on behalf of the Chargor to the Secured Party shall be credited or be treated as having been credited to the new account of the Chargor and not as having been applied in reduction of the Secured Liabilities.

### ***Currency Conversion***

- 15.5 For the purpose of or pending the discharge of any of the Secured Liabilities, the Secured Party may (in its absolute discretion) convert any moneys received or recovered by the Secured Party or any Receiver or Delegate pursuant to this Deed or any moneys subject to application by the Secured Party or any Receiver or Delegate pursuant to this Deed from one currency to another and any such conversion shall be made at the Secured Party's spot rate of exchange for the time being for obtaining such other currency with the first currency and the Secured Liabilities shall be discharged only to the extent of the net proceeds of such conversion realised by the Secured

Party. Nothing in this Deed shall require the Secured Party to make, or shall impose any duty of care on the Secured Party in respect of, any such currency conversion.

**16. No Liability as Mortgagee in Possession**

- 16.1 Neither the Secured Party nor any Receiver or Delegate shall in any circumstances (either by reason of entering into or taking possession of any Charged Property or for any other reason and whether as mortgagee in possession or on any other basis) be liable to account to the Chargor for anything, except actual receipts, or be liable to the Chargor for any costs, charges, losses, liabilities or expenses arising from the realisation of any Charged Property or from any act, default or omission of the Secured Party, any Receiver, any Delegate or any of their respective officers, agents or employees in relation to the Charged Property or from any exercise or purported exercise or non-exercise by the Secured Party or any Receiver or Delegate of any power, authority or discretion provided by or pursuant to this Deed or by law or for any other loss of any nature whatsoever in connection with the Charged Property or the Finance Documents.

**17. Effectiveness of Security**

*Continuing Security*

- 17.1 The security constituted by this Deed shall remain in full force and effect as a continuing security for the Secured Liabilities, unless and until discharged by the Secured Party, and will extend to the ultimate balance of all the Secured Liabilities, regardless of any intermediate payment or discharge in whole or in part.

*Cumulative Rights*

- 17.2 The security constituted by this Deed and all rights, powers and remedies of the Secured Party provided by or pursuant to this Deed or by law shall be cumulative and in addition to, and independent of, any other guarantee or Security now or subsequently held by the Secured Party for the Secured Liabilities or any other obligations or any rights, powers and remedies provided by law. No prior Security held by the Secured Party over the whole or any part of the Charged Property shall be superseded by, or supersede or merge into, the security constituted by this Deed.

*Reinstatement*

- 17.3 If any discharge, release or arrangement (whether in respect of the obligations of the Chargor or any Security for those obligations or otherwise) is made by the Secured Party in whole or in part on the faith of any payment, Security or other disposition which is avoided or must be restored in insolvency, liquidation, administration or otherwise, without limitation, then the liability of the Chargor under, the security constituted by this Deed will continue or be reinstated as if the discharge, release or arrangement had not occurred.
- 17.4 The Secured Party may concede or compromise any claim that any payment or any discharge is liable to avoidance or restoration.

*No Security held by a Chargor*

- 17.5 No Chargor shall take or receive any Security from a Transaction Obligor or any other person in connection with its liability under this Deed. However, if any such Security is so taken or received by a Chargor:
- 17.5.1 it shall be held by that Chargor on trust for the Secured Party, together with all moneys at any time received or held in respect of such Security, for application in or towards payment and discharge of the Secured Liabilities; and

- 17.5.2 on demand by the Secured Party, that Chargor shall promptly transfer, assign or pay to the Secured Party all Security and all moneys from time to time held on trust for it by that Chargor under this Clause 17.5.

**18. Counterparts**

- 18.1 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 by e-mail attachment or telecopy shall be an effective mode of delivery.

**19. Assignment**

- 19.1 The Secured Party may assign, charge or transfer all or any of its rights under this Deed without the consent of the Chargor. The Secured Party may disclose any information about the Chargor and this Deed as the Secured Party shall consider appropriate to any actual or proposed direct or indirect successor or to any person to whom information is required to be disclosed by any applicable law or regulation.

**20. Releases**

- 20.1 Upon the expiry of the Liability Period (but not otherwise) and subject to Clauses 17.3 and 17.4 (*Reinstatement*), the Secured Party shall promptly, at the request and cost of the Chargor, take whatever action is necessary to release the Charged Property from the security constituted by this Deed, re-assign any rights assigned under this Deed, return all deeds and documents of title delivered to the Secured Party under this Deed and execute and deliver such further deeds or documents as may reasonably be necessary to give effect to this Clause (including, without limitation, any filings required to be made in order to remove the restriction referred to at Clause 5.1 (*Registration at HM Land Registry*) of this Deed).

**21. Governing Law**

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

**22. Enforcement**

***Jurisdiction***

- 22.1 The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute regarding the existence, validity or termination of this Deed or any non-contractual obligation arising out of or in connection with this Deed) (a “**Dispute**”).
- 22.2 The Chargor agrees that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly it will not argue to the contrary or take proceedings relating to a Dispute in any other courts.
- 22.3 Clauses 22.1 and 22.2 above are for the benefit of the Secured Party only. As a result, the Secured Party shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Secured Party may take concurrent proceedings in any number of jurisdictions.

**IN WITNESS** of which this Deed has been entered into as a deed and is intended to be and is delivered on the day and year first before written.

## **Schedule 1**

### **Real Property**

#### **Part 1 - Registered Land**

**(Freehold, commonhold or leasehold property (if any) in England and Wales of which the Chargor is registered as the proprietor at the Land Registry)**

NONE AS AT THE DATE OF THIS DEED

#### **Part 2 - Unregistered Land**

**(Freehold or leasehold property (if any) in England and Wales title to which is not registered at the Land Registry of which the Chargor is the owner)**

NONE AS AT THE DATE OF THIS DEED

## **Schedule 2**

### **Securities**

#### **Part 1 - Shares**

NONE AS AT THE DATE OF THIS DEED

#### **Part 2 – Other Securities**

NONE AS AT THE DATE OF THIS DEED

## Schedule 3

### Form of Notice of Charge – Specified Contracts

#### Part 1 – Form of Notice

To: [Name of relevant counterparty to Specified Contract]

Address: [ ] [Date]

Dear Sirs

Santander UK PLC (the “**Secured Party**”) and Heathrow T2 Hotel Limited (the “**Company**”) HEREBY GIVE NOTICE that by a charge contained in a mortgage debenture dated [•] and made between the Company and the Secured Party (the “**Debenture**”) the Company charged to the Secured Party by way of first fixed charge all of its present and future right, title and interest in and to the following agreement:

[describe agreement]

(the “**Agreement**”) including, but not limited to, the right to demand and receive all moneys whatsoever payable to or for the benefit of the Company under or arising from the Agreement, all remedies provided for in the Agreement or available at law or in equity in relation to the Agreement, the right to compel performance of the Agreement and all other rights, interests and benefits whatsoever accruing to or for the benefit of the Company arising from the Agreement.

All moneys payable by you to the Company pursuant to the Agreement shall be paid to the Company’s account (account number [insert account number], sort code [insert sort code] and account reference “[insert account name]”) with the Secured Party unless and until you receive notice from the Secured Party to the contrary, in which event you should make all future payments as directed by the Secured Party.

Notwithstanding the charge referred to above or the making of any payment by you to the Secured Party pursuant to it, the Company shall remain liable under the Agreement to perform all the obligations assumed by it under the Agreement and neither the Secured Party nor any receiver nor any delegate appointed by the Secured Party or any such receiver shall be at any time under any obligation or liability to you under or in respect of the Agreement. The Company shall also remain entitled to exercise all its rights, powers and discretions under the Agreement and you should continue to give notices under the Agreement to the Company in each case unless and until you receive notice from the Secured Party to the contrary when all such rights, powers and discretions shall be exercisable by, and notices shall be given to, the Secured Party or as it directs.

Please note that, pursuant to the Debenture, the Company and the Secured Party have agreed that the Company will not make or agree to make any amendments, variations or modifications to the Agreement or waive any of its rights under the Agreement, without the prior written consent of the Secured Party or except as expressly permitted by the terms of the Debenture.

The Company confirms that:

- (i) in the event of any conflict between communications received from it and from the Secured Party, the communication from the Secured Party shall prevail;
- (ii) none of the instructions, authorisations or confirmations in this Notice of Charge (the “**Notice**”) can be revoked or varied in any way except with the Secured Party’s specific written consent; and
- (iii) any written notice or instructions given to you by the Secured Party in accordance with this Notice shall be conclusive.

Kindly acknowledge receipt of this Notice and confirm your agreement to it by signing the enclosed form of acknowledgement and returning it to the Secured Party at 17 Ulster Terrace, Regent’s Park, London NW1 4PJ for the attention of [the Head of Hotels and Healthcare Finance].

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

Yours faithfully,

for and on behalf of  
Heathrow T2 Hotel Limited

for and on behalf of  
Santander UK PLC

## Part 2 - Form of Acknowledgement

*[on duplicate]*

To: Santander UK PLC

Address: [ ]

Attention: [ ]

[Date]

Dear Sirs

We acknowledge receipt of the Notice of Charge of which this is a copy. Terms and expressions defined in that Notice shall have the same meanings when used in this acknowledgment. We give any consent to the creation of the charge required pursuant to the Agreement and agree to and confirm that:

- (a) we will pay all moneys hereafter becoming due to the Company in respect of the Agreement as directed in the Notice and accept and will comply with the terms of the Notice;
- (b) we will send to you copies of any notices which we may give to the Company under the Agreement at the same time as we send them to the Company;
- (c) we have not received notice of any other charge, assignment or other third party right or interest whatsoever in, of, over, or affecting, the Agreement or any other notice relating to the Agreement; and
- (d) this acknowledgement is freely assignable or transferable by you, by any subsequent assignee, transferee or successor in title in accordance with the terms of the Agreement ("**Subsequent Party**") and by any receiver appointed by you or by any Subsequent Party pursuant to the Debenture.

Yours faithfully

.....

for and on behalf of

*[Name of relevant counterparty to Specified Contract]*

## Schedule 4

### Form of Notice of Charge – Accounts not with the Secured Party

#### Part 1 - Form of Notice

To: [Name of relevant bank or financial institution]

Address: [ ] [Date]

Dear Sirs

Santander UK PLC (the “**Secured Party**”) and Heathrow T2 Hotel Limited (the “**Company**”) HEREBY GIVE NOTICE that by a charge contained in a mortgage debenture dated [•] and made between the Company and the Secured Party (the “**Debenture**”) the Company charged to the Secured Party by way of first fixed charge all of its present and future right, title and interest in and to all moneys from time to time deposited in or standing to the credit of any bank account with any bank or financial institution, including the following account(s) (each a “**Relevant Account**”) maintained with you:

[Specify accounts: account name, account number, details of branch etc].

Accordingly, the Company hereby irrevocably and unconditionally instructs and authorises you:

- (a) to disclose to the Secured Party, without any reference to or further authority from the Company and without any enquiry by you as to the justification for such disclosure, such information relating to any of the Relevant Accounts and the moneys from time to time deposited in or standing to the credit of any of the Relevant Accounts as the Secured Party may at any time and from time to time request you to disclose to it;
- (b) not to permit any withdrawal by the Company of all or any part of the moneys from time to time deposited in or standing to the credit of any of the Relevant Accounts without the prior written consent of the Secured Party or except as expressly permitted by the terms of the Debenture;
- (c) to hold all moneys from time to time deposited in or standing to the credit of any of the Relevant Accounts to the order of the Secured Party and to pay or release all or any part of such moneys in accordance with the written instructions of the Secured Party at any time and from time to time; and
- (d) to comply with the terms of any other written notice or instructions that you receive at any time and from time to time from the Secured Party in any way relating to the Debenture, any of the Relevant Accounts or the moneys from time to time deposited in or standing to the credit of any of the Relevant Accounts without any reference to or further authority from the Company and without any enquiry by you as to the justification for or validity of such notice or instructions.

The Company confirms that:

- (i) in the event of any conflict between communications received from it and from the Secured Party, the communication from the Secured Party shall prevail;
- (ii) none of the instructions, authorisations or confirmations in this Notice of Charge (the “**Notice**”) can be revoked or varied in any way except with the Secured Party’s specific written consent; and
- (iii) any written notice or instructions given to you by the Secured Party in accordance with this Notice shall be conclusive.

Kindly acknowledge receipt of this Notice and confirm your agreement to it by signing the enclosed form of acknowledgement and returning it to the Secured Party at 17 Ulster Terrace, Regent’s Park, London NW1 4PJ for the attention of [the Head of Hotels and Healthcare Finance].



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

Yours faithfully,

for and on behalf of  
Heathrow T2 Hotel Limited

for and on behalf of  
Santander UK PLC

## **Part 2 - Form of Acknowledgement**

*[on duplicate]*

To: Santander UK PLC

Address: [     ]

Attention: [     ]

[Date]

Dear Sirs

We acknowledge receipt of the Notice of Charge of which this is a copy. Terms and expressions defined in that Notice shall have the same meanings when used in this acknowledgment. We agree to and confirm the following:

- (a) we accept and will comply with the terms of the Notice;
- (b) we have not received notice of any other charge, assignment or other third party right or interest whatsoever in, of, over or affecting any of the Relevant Accounts;
- (c) we have not claimed or exercised and will not claim or exercise (except with the Secured Party's prior written consent) any security interest, right of set-off, consolidation or counterclaim or any other right against or in respect of any of the Relevant Accounts, except in respect of our usual administrative and transactional fees and charges in relation to the Relevant Account in question; and
- (d) we shall not permit the Company to make any withdrawal from any of the Relevant Accounts without the prior written consent of the Secured Party or except as expressly permitted by the terms of the Debenture.

Yours faithfully

.....

for and on behalf of

*[name of relevant bank or financial institution]*

EXECUTION PAGE

THE CHARGOR

Executed as a deed by  
**HEATHROW T2 HOTEL LIMITED**

acting by

*Azizos Y. Litanis*

being a director

in the presence of:

)  
)  
)  
)  
)  
)  
)



.....  
Director

Signature of witness:



Name:

*RUTH PARSON*

Address:

*c/o WORLD BUSINESS CENTRE 3,  
NEWALL ROAD HOUNSLOW TW6 2TH .*

Occupation:

*CHARTEDED ACCOUNTANT .*

**THE SECURED PARTY**

Executed as a deed by )  
SANTANDER UK PLC )  
on being signed by its duly authorised attorney )



Duly Authorised Attorney

*Angie Phillips*.....  
in the presence of:

Signature of witness:



Name:

*Tom Fuller*.....

Address:

*17 Ulster Terrace*.....

*Regent Park London NW14 8T*.....

Occupation:

*Banker*.....