



Registration of a Charge

Company Name: **AFRICAN ORIGINALS LIMITED**

Company Number: **13153069**



XCAOVNVF

Received for filing in Electronic Format on the: **25/08/2023**

Details of Charge

Date of creation: **23/08/2023**

Charge code: **1315 3069 0002**

Persons entitled: **PHOENIX BEVERAGES LIMITED**

Brief description:

Contains fixed charge(s).

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

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

Certification statement: **WE 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: **STEPHENSON HARWOOD LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 13153069

Charge code: 1315 3069 0002

The Registrar of Companies for England and Wales hereby certifies that a charge dated 23rd August 2023 and created by AFRICAN ORIGINALS LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 25th August 2023 .

Given at Companies House, Cardiff on 25th August 2023

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**

STEVENS & BOLTON

DATED

23 August

2023

(1) AFRICAN ORIGINALS LIMITED (AS THE COMPANY)

(2) PHOENIX BEVERAGES LIMITED (AS THE CHARGEES)

SECURITY AGREEMENT

Note: the application of recoveries under this security agreement is regulated by the terms of the Pari Passu Agreement

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THIS DEED is made on 23 August 2023 between:

- (1) **AFRICAN ORIGINALS LIMITED**, a private limited company incorporated under the laws of England and Wales with registered number 13153069 and whose registered office is at 35 Royal Crescent, London W11 4SN (the "**Company**"); and
- (2) **PHOENIX BEVERAGES LIMITED**, a company incorporated in Mauritius with registered number C07001183 whose registered office is at 4th Floor, IBL House, Caudan Waterfront, Port Louis, Mauritius (the "**Chargee**").

IT IS AGREED AS FOLLOWS

1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Deed:

Charged Assets means all the property, undertaking and assets of the Company for the time being subject to the Security created by this Deed (and references to the Charged Assets include references to any part of them);

Declared Default means an Event of Default which has resulted in the Chargee exercising any of its rights under Clause 11.8 (*Acceleration*) of the Facility Agreement;

Delegate means any delegate, agent, attorney or co-trustee appointed by the Chargee;

Event of Default has the meaning given to that term in the Facility Agreement;

Facility Agreement means facility agreement dated on or around the date of this Deed and made between the Company and the Chargee relating to a loan facility;

Finance Documents has the meaning given to that term in the Facility Agreement;

Floating Charge Assets means all the assets for the time being subject to the floating charge created by this Deed (and references to the Floating Charge Assets include references to any part of them);

Intellectual Property Rights means any present or future interests owned by the Company relating to:

- (a) any patents, trade marks, service marks, designs, business names, copyrights, database rights, design rights, domain names, moral rights, inventions, confidential information, knowhow and other intellectual property rights and interests (which may now or in the future subsist), whether registered or unregistered; and
- (b) the benefit of all licences and all applications and rights to use such assets of the Company (which may now or in the future subsist);

LPA means the Law of Property Act 1925;

Party means a party to this Deed;

Pari Passu Agreement means the pari passu agreement dated on or around the date of this Deed and made between the Company, the Chargee and certain other lenders to the Company;

Permitted Security means:

- (a) a lien or right of set-off securing an obligation which is not overdue beyond its standard payment date, arising by operation of law in the ordinary course;
- (b) a right of set-off in favour of a bank over amounts standing to the credit of an account of the Company in accordance with the bank's standard terms and conditions of business; or
- (c) any netting or set-off arrangement entered into by the Company in the ordinary course of its banking arrangements for the purpose of netting debit and credit balances;
- (d) any payment or close out netting or set-off arrangement pursuant to any foreign exchange or hedging transaction entered into by the Company for the purpose of:
 - (i) hedging any risk to which any member of the Company is exposed in its ordinary course of trading; or
 - (ii) its interest rate or currency management operations which are carried out in the ordinary course of business and for non-speculative purposes only,
 but excluding, in each case, any Security under a credit support arrangement in relation to a hedging transaction;
- (e) any Security arising under any retention of title, hire purchase or conditional sale arrangement or arrangements having similar effect in respect of goods supplied to the Company in the ordinary course of trading and on the supplier's standard or usual terms and not arising as a result of any default or omission by the Company;
- (f) any Security granted by the Company to certain of its other lenders under the security agreement dated 6 June 2023 and registered at Companies House with charge code 1315 3069 0001; or
- (g) any Security granted under or pursuant to the terms of any Security Document or with the prior consent of the Chargee;

Real Property means all registered or unregistered estates and interests in:

- (a) any freehold, leasehold or immovable property now or in the future owned by the Company or in which the Company has an interest from time to time (including but not limited to the registered and unregistered properties specified in Schedule 1 to this Deed, if any); and
- (b) any buildings, fixtures, fittings, fixed plant or machinery from time to time situated on or forming part of that freehold, leasehold or immovable property,

but excluding in each case for the purposes of Clause 3.1 and Clause 3.2 any Short Leasehold Properties;

Receivables means all actual or contingent book debts and other debts, receivables, rentals, royalties, fees, VAT, monetary claims and other amounts now and in the future due or owing to the Company, together with the benefit of all claims, rights, guarantees, security and remedies relating thereto and all proceeds of any of the foregoing;

Receiver has the meaning given to that term in Clause 9.3.1;

Repeating Representations has the meaning given to that term in the Facility Agreement;

Secured Obligations means all present and future liabilities and obligations at any time due, owing or incurred by the Company to the Chargee under or in connection with the Finance Documents, both actual and contingent and whether incurred solely or jointly, as principal or surety and/or in any other capacity;

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

Short Leasehold Property means any leasehold property subject to any lease granted to the Company (as tenant) by any third party on arm's length terms for a contractual term of less than seven years;

Tax means all forms of taxation, levies, duties, imposts, tariffs, charges, rates and contributions whether of the United Kingdom or elsewhere in the world, whenever charged, imposed or deducted and including any obligation to withhold or deduct in respect of any such taxation, levy, duty, impost, tariff, charge, rate or contribution;

VAT means:

- (a) any value added tax imposed by the VAT Act;
- (b) any tax imposed in compliance with the Council Directive of 28 November 2006 on the common system of value added tax (EC Directive 2006/112); and
- (c) any other tax of a similar nature, whether imposed in the United Kingdom or in a member state of the European Union in substitution for, or levied in addition to, such tax referred to in paragraph (a) or (b) above, or imposed elsewhere; and

VAT Act means the Value Added Tax Act 1994.

1.2 Interpretation

1.2.1 Capitalised terms defined in the Facility Agreement have the same meaning in this Deed unless expressly defined in this Deed.

1.2.2 In this Deed (unless the context requires otherwise) any reference to:

- (a) the "**Company**", the "**Chargee**", or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees;
- (b) "**assets**" includes any present and future properties, rights and revenues of every description;
- (c) this "**Deed**" or any other instrument, agreement or document shall be construed as a reference to this Deed or other instrument, agreement or document as amended, novated, supplemented, extended or restated (however fundamentally, including any amendment providing for any increase in the amount of any liability);
- (d) "**including**" or "**includes**" means including or includes without limitation and where the context permits, "**other**" and "**otherwise**" are illustrative and shall not limit the sense of the words preceding them;
- (e) "**owned**" includes having legal or equitable title to or a right to have legal or equitable title transferred;
- (f) a "**person**" includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium, partnership or other entity (whether or not having separate legal personality);
- (g) the "**Secured Obligations**" include obligations and liabilities which would be treated as such but for the liquidation, administration or dissolution of or similar event affecting the Company;
- (h) a provision of law is a reference to that provision as amended or re-enacted from time to time;
- (i) a time of day is a reference to London time;
- (j) the singular includes a reference to the plural and vice versa; and

- (k) the requirement or the consent (or cognate term) of the Chargee shall be deemed to be in the absolute discretion of the Chargee except where expressed to be otherwise.

1.2.3 Clause headings are for ease of reference only.

1.2.4 A reference to a Clause or Schedule is a reference to a Clause or Schedule to this Deed.

1.2.5 The Schedules form part of this Deed and shall be construed and have the same full force and effect as if expressly set out in the main body of this Deed.

1.2.6 For the purposes of section 2 of the Law of Property (Miscellaneous Provisions) Act 1989, the terms of any loan agreement or side letters between the Company and the Chargee are incorporated into this Deed.

1.2.7 The Parties intend that this Deed shall take effect as a deed notwithstanding the fact that a Party may only execute this document under hand.

1.2.8 An Event of Default is "**continuing**" if it has not been remedied or waived.

1.2.9 The security constituted by this Deed becoming "**enforceable**" shall mean that the security created under this Deed has become enforceable under Clause 8.1.

1.3 **Conflict with Facility Agreement**

If there is any conflict between the provisions of this Deed and the provisions of the Facility Agreement, the provisions of the Facility Agreement shall prevail.

2 **COVENANT TO PAY**

2.1 **Covenant to pay**

The Company hereby covenants with the Chargee that it will pay and discharge the Secured Obligations from time to time owing or incurred from or by the Company to the Chargee when they fall due in accordance with the terms of the Finance Documents, whether by acceleration or otherwise.

2.2 **Potential invalidity**

Neither the covenant to pay in Clause 2.1 nor the Security constituted by this Deed shall extend to or include any liability or sum which would, but for this clause, cause such covenant or Security to be unlawful under any applicable law.

3 **GRANT OF SECURITY**

3.1 **Legal mortgage**

The Company hereby charges to the Chargee by way of first legal mortgage all Real Property in which the Company holds an interest and which are listed in Schedule 1 to this Deed.

3.2 **Fixed charges**

The Company hereby charges to the Chargee by way of first fixed charge the following assets (wherever located) now or in the future vested in or belonging to the Company or in which it from time to time has an interest:

- 3.2.1 all Real Property not effectively mortgaged or charged by Clause 3.1 and all Real Property acquired by it after the date of this Deed, together in each case with all licences to enter upon or use such land and the proceeds of sale of all Real Property;
- 3.2.2 all plant, machinery, fixtures, fittings, furniture computers, vehicles, office equipment and other equipment not effectively mortgaged or charged by Clauses 3.1 or 3.2.1, and all rights, title and interest under any agreements, licences and warranties relating to any of the foregoing, including in respect of their purchase, lease, hire purchase or maintenance;
- 3.2.3 all goodwill and uncalled capital of the Company;

- 3.2.4 all stocks, shares, loan capital and other securities, all dividends, distributions and other income paid or payable upon the foregoing and all rights, money or property accruing or offered at any time in relation to the foregoing;
- 3.2.5 any money standing to the credit of any present or future account of the Company with a bank or financial institution;
- 3.2.6 all Intellectual Property Rights;
- 3.2.7 all Receivables;
- 3.2.8 its present and future right, title and interest in and to all insurance policies held by or in favour of the Company or in which the Company has an interest and all claims under and proceeds payable to the Company in respect of such insurance policies; and
- 3.2.9 the benefit of all agreements, licences, consents and authorisations relating to the business and/or assets of the Company not otherwise charged under this Clause.

3.3 **Floating charge**

The Company hereby charges to the Chargee by way of floating charge:

- 3.3.1 all the present and future undertaking, property, assets and rights of the Company (wherever located) not otherwise effectively mortgaged, charged or assigned pursuant to Clauses 3.1 and 3.2 above; and
- 3.3.2 all its assets situated in Scotland.

3.4 **Nature of security**

All security created pursuant to this Deed is created in favour of the Chargee with full title guarantee (in accordance with the Law of Property (Miscellaneous Provisions) Act 1994) as continuing security for the payment of the Secured Obligations.

3.5 **Leasehold security restrictions**

There shall be excluded from the Security created by Clauses 3.1 and 3.2 of this Deed, and from the operation of Clause 6, any leasehold property held by the Company under a lease which precludes either absolutely or conditionally (including requiring the consent of any third party) the Company from creating any charge or other Security over its leasehold interest in that property.

4 **CONVERSION OF FLOATING CHARGE**

4.1 **Automatic conversion**

Notwithstanding anything express or implied in this Deed (save as set out under Clause 4.3 below), and without prejudice to any law which may have similar effect, if:

- 4.1.1 a Declared Default has occurred; or
- 4.1.2 the Company creates or attempts to create any Security (other than any Permitted Security) or any trust in favour of another person over any Floating Charge Asset; or
- 4.1.3 the Company disposes or attempts to dispose of any Floating Charge Asset other than in the ordinary course of its trading; or
- 4.1.4 a receiver is appointed over all or any of the Floating Charge Assets or an administrator is appointed in respect of the Company or the Chargee receive notice of an intention to appoint such an administrator,

the floating charge created by this Deed will automatically and immediately (without notice) be converted into a fixed charge over all the Floating Charge Assets or, in the case of Clauses 4.1.1 and 4.1.3, over the relevant Floating Charge Asset.

4.2 **Assets acquired after floating charge conversion**

Any asset acquired by the Company after any conversion into a fixed charge of the floating charge created under this Deed which, but for such conversion, would be subject to a floating charge, shall be charged to the Chargee by way of first fixed charge.

4.3 **Moratorium**

Unless section A52(4) Insolvency Act 1986 allows, the floating charge created by this Deed may not be converted into a fixed charge solely by reason of:

- 4.3.1 the obtaining of a moratorium; or
 - 4.3.2 anything done with a view to obtaining a moratorium (including any preliminary decision or investigation),
- under Part A1 Insolvency Act 1986.

5 **REPRESENTATIONS AND WARRANTIES**

5.1 **Representations and warranties**

The Company represents and warrants to the Chargee on the date of this Deed as follows:

5.1.1 **Ownership of Charged Assets**

The Company is the sole legal and beneficial owner of all of the Charged Assets.

5.1.2 **No Security**

The Charged Assets are not subject to any Security other than Permitted Security.

5.1.3 **Avoidance of security**

No Security expressed to be created pursuant to this Deed is liable to be avoided or otherwise set aside on the liquidation or administration of the Company or otherwise.

5.2 **Repetition**

The representations and warranties set out in Clause 5.1 will be deemed to be repeated by the Company on each day the Repeating Representations are deemed to be repeated by reference to the facts and circumstances then existing.

6 **COVENANTS**

6.1 **Negative Pledge**

The Company shall not except for any Permitted Security or with the prior consent of the Chargee:

- 6.1.1 create or purport to create or permit to subsist any Security on or in relation to the Charged Assets;
- 6.1.2 (other than any Floating Charge Assets in the ordinary course of its trading) enter into a single transaction or a series of transactions (whether related or not) and whether voluntary or involuntary to sell, lease, transfer, surrender or otherwise dispose of or cease to exercise control of all, or part of any interest in any Charged Assets; or
- 6.1.3 create or grant any interest in the Charged Assets in favour of a third party.

6.2 **Land Registry restriction**

6.2.1 The Company consents to an application being made by the Chargee to the Land Registrar for the following restriction in Form P to be registered against its title to any Real Property charged pursuant to this Deed:

"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 [●] 20[●] in favour of [●] referred to in the charges register or their conveyancer".

6.2.2 If the title to any Real Property owned by the Company is not registered at the Land Registry, the Company 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 such Real Property, without the prior written consent of the Chargee.

7 **POWER TO REMEDY**

If the Company fails to perform any of its obligations under this Deed, the Chargee may (without prejudice to any of its other rights under this Deed) take any such action as it may deem necessary to remedy such failure (including taking out or renewing insurance or effecting repairs) and may recover the expenses so incurred from the Company on demand, and the exercise of such rights by the Chargee shall not render it liable as mortgagee in possession. The Company irrevocably authorises the Chargee to do all such things (including entering the Real Property) as are necessary or desirable for that purpose.

8 **POWERS OF THE CHARGEES AND ENFORCEMENT**

8.1 **Enforcement**

8.1.1 The security constituted by this Deed shall become immediately enforceable if Event of Default occurs and is continuing.

8.1.2 When this Deed is enforceable, the power of sale and other powers conferred by section 101 of the LPA will be immediately exercisable without the restrictions contained in the LPA as to the giving of notice or otherwise with respect to the whole or any part of the Charged Assets. After the security constituted by this Deed has become enforceable, the Chargee may (in its absolute discretion) enforce all or any part of the security in any manner it sees fit.

8.2 **Secured Obligations deemed due**

For the purposes of all powers implied by statute, the Secured Obligations will be deemed to have become due and payable on the date of this Deed, and sections 93, 103 and 109 of the LPA shall not apply.

8.3 **Statutory powers**

The statutory powers of leasing conferred on the Chargee will be extended so as to authorise the Chargee to lease, make agreements for leases, accept surrenders of leases, vary or reduce sums payable under leases and grant options as the Chargee may think fit and without the need to comply with sections 99 and 100 of the LPA.

8.4 **Prior Security**

At any time after the security constituted by this Deed has become enforceable, the Chargee may:

8.4.1 redeem any prior Security, or procure its transfer to itself; and

8.4.2 settle any account of the holder of any prior Security.

The settlement of any such account shall be conclusive and binding on the Company. All principal, interest, costs, charges and expenses of and incidental to any such redemption and/or transfer shall be paid by the Company to the Chargee on demand.

8.5 **Right of appropriation**

To the extent that any of the Charged Assets constitute "financial collateral", and this Deed and the obligations of the Company hereunder constitute a "security financial collateral arrangement" (in each case as defined in the Financial Collateral Arrangements (No. 2) Regulations 2003 (SI 2003 No. 3226)), the Chargee and any Receiver or Delegate shall have the right, at any time after the security constituted by this Deed has become enforceable, to appropriate all or any of those Charged Assets in or towards the payment and/or discharge of the Secured Obligations in such order as the Chargee or any Receiver or Delegate in its absolute discretion may from time to time determine. The value of any Charged Assets appropriated in accordance with this Clause shall be the price of those Charged Assets at the time the right of appropriation is exercised as listed on any recognised market index, or determined by such other method as the Chargee or any Receiver

or Delegate may reasonably select. The Company agrees that the methods of valuation provided for in this Clause are commercially reasonable.

9 **ADMINISTRATOR, RECEIVER, LIABILITY**

9.1 **Appointment of administrator**

At any time after the security created pursuant to this Deed has become enforceable, the Chargee shall be entitled to appoint an administrator under paragraph 14 of Schedule B1 to the Insolvency Act 1986.

9.2 **Qualifying floating charge**

Each floating charge created by or pursuant to this Deed is a qualifying floating charge for the purposes of the Insolvency Act 1986.

9.3 **Powers of the Chargee**

At any time after the security created pursuant to this Deed has become enforceable or at the request of the Company, the Chargee may:

- 9.3.1 appoint any person or persons to be a receiver or an administrative receiver (if permissible) or a receiver and manager or receivers and managers of all or any part of the Charged Assets and/or of the income of the Charged Assets ("**Receiver**"); and
- 9.3.2 exercise any of the powers conferred on mortgagees by the LPA (as amended or extended by this Deed) and/or any of the powers that are conferred by this Deed on a Receiver (in each case without first appointing a Receiver or notwithstanding the appointment of any Receiver),

and for these purposes the Company authorises the Chargee to opt to charge VAT under schedule 10 paragraph 2(1) of the VAT Act on behalf of the Company in respect of the Real Property.

9.4 **Remuneration of Receiver/agent of Company**

- 9.4.1 The Chargee may from time to time determine the remuneration of the Receiver and may remove the Receiver and appoint another in his place. If at any time there is more than one Receiver of all or any part of the Charged Assets or the income of the Charged Assets, each Receiver shall have the power to act individually.
- 9.4.2 Any Receiver shall be the Company's agent and the Company alone shall be responsible for his acts and omissions and for his remuneration.
- 9.4.3 Any exercise of powers by a Receiver may be on behalf of the Company, the directors of the Company or the Receiver.

9.5 **Powers of Receiver**

Any Receiver appointed by the Chargee shall have the powers set out in the LPA and in Schedule 1 to the Insolvency Act 1986, the powers which are conferred on the Chargee under this Deed, all powers conferred by any other law conferring powers on receivers, and the power to do each of the following matters:

- 9.5.1 to take possession of, collect and get in all or any part of the Charged Assets and/or the income thereon and for that purpose to take any proceedings in the Company's name or otherwise as he shall think fit;
- 9.5.2 to carry on or concur in carrying on the Company's business and manage the Charged Assets;
- 9.5.3 to borrow and raise money and to redeem any existing Security on the security of all or any part of the Charged Assets;
- 9.5.4 to sell, let and/or terminate or otherwise dispose of or to accept surrenders of leases or tenancies of or to grant options and licences over, all or any part of the Charged Assets, in such manner and on such terms as he thinks fit;

- 9.5.5 to take, continue or defend any proceedings and enter into any agreement, arrangement or compromise which the Chargee or he shall think fit in respect of the Charged Assets and/or the income thereon;
- 9.5.6 to make and effect all repairs, improvements and alterations to the Charged Assets and to insure such assets as he thinks fit;
- 9.5.7 to appoint such managers, officers, agents and professional advisers as he shall think fit, at such salaries as the Receiver may determine;
- 9.5.8 to sever and sell separately any fixtures or fittings from any Real Property without the consent of the Company;
- 9.5.9 to call up any of the Company's uncalled capital;
- 9.5.10 to promote the formation of a subsidiary company or companies of the Company, so that such subsidiary may purchase, lease, license or otherwise acquire interests in all or any part of the Charged Assets;
- 9.5.11 to operate any rent review clause in respect of any Real Property in relation to which he was appointed and to apply for any new or extended lease;
- 9.5.12 to give valid receipts for all monies;
- 9.5.13 to make such VAT options in relation to any Real Property as he thinks fit;
- 9.5.14 to exercise in relation to each Charged Asset all powers and rights as he would be capable of exercising if he were the absolute owner of such Charged Asset; and
- 9.5.15 to do all other acts and things which he may consider to be incidental or conducive to any of the above powers or which he considers to be necessary or desirable for the realisation of any Charged Asset, and to use the name of the Company for any of the above purposes.

9.6 **Application of proceeds**

Any moneys received under this Deed shall be applied:

- 9.6.1 **first**, in satisfaction of all costs, charges and expenses properly incurred and payments properly made by the Chargee or the Receiver and of the remuneration of the Receiver;
- 9.6.2 **secondly**, in or towards satisfaction of the Secured Obligations; and
- 9.6.3 **thirdly**, the surplus (if any) shall be paid to the Company or to any other person or persons entitled to it.

Neither the Chargee nor any Receiver shall be bound (whether by virtue of section 109(8) of the LPA, which is varied accordingly, or otherwise) to pay or appropriate any receipt or payment first towards interest rather than principal or otherwise in any particular order between any of the Secured Obligations.

9.7 **Suspense account**

All monies received by the Chargee or any Receiver under or in connection with this Deed (including monies received at a time when no amounts are due in respect of the Secured Obligations) may at the discretion of the Chargee or such Receiver be credited to a suspense account for so long as the Chargee or the Receiver thinks fit without the Chargee or Receiver having any obligation to apply such monies or any part of them in or towards the discharge of any of the Secured Obligations.

9.8 **No liability**

- 9.8.1 Neither the Chargee nor any Receiver shall be liable in respect of the Charged Assets or any part thereof, or for any loss or damage arising out of the exercise or the attempted or purported exercise of any of its powers or the failure to exercise any of its powers, or for any other reason whatsoever, and whether as mortgagee in possession or on any other basis.
- 9.8.2 Notwithstanding any of the provisions of this Deed, the Company shall remain liable to perform all obligations assumed by it in relation to the Charged Assets, and neither the

Chargee nor any Receiver shall be obliged to perform any such obligation or make any payment in respect thereof.

9.9 No duty to enquire

No purchaser or other person shall be obliged or concerned to enquire:

- 9.9.1 whether the Secured Obligations have become payable;
- 9.9.2 whether any right of the Chargee or any Receiver to exercise any of its powers has arisen or become exercisable or not;
- 9.9.3 whether any sums remain due from the Company to the Chargee;
- 9.9.4 how any money paid to the Chargee or a Receiver is to be applied, or
- 9.9.5 as to the propriety of the exercise or purported exercise of such powers.

9.10 Conclusive discharge to purchasers

The receipt of the Chargee or any Receiver shall be a conclusive discharge to a purchaser and, in making any sale or other disposal of any of the Charged Assets or in making any acquisition in the exercise of their respective powers, the Chargee and every Receiver may do so for such consideration, in such manner and on such terms as it or he thinks fit.

9.11 Moratorium

Unless section A52(4) Insolvency Act 1986 allows, the Chargee are not entitled to appoint a Receiver solely by reason of:

- 9.11.1 the obtaining of a moratorium; or
 - 9.11.2 anything done with a view to obtaining a moratorium (including any preliminary decision or investigation),
- under Part A1 Insolvency Act 1986.

10 FURTHER ASSURANCE

10.1 The Company shall, at its own expense, promptly do all acts and execute all documents as the Chargee or a Receiver may reasonably specify (and in such form as the Chargee or a Receiver may reasonably require) for:

- 10.1.1 creating, perfecting or protecting the security intended to be created by this Deed;
- 10.1.2 facilitating the realisation of any Charged Asset; and
- 10.1.3 facilitating the exercise of any rights, powers and remedies exercisable by the Chargee or any Receiver in respect of any Charged Asset or under this Deed.

10.2 The action that may be required under Clause 10.1 above includes (without limitation):

- 10.2.1 the re-execution of this Deed;
- 10.2.2 the execution of any legal mortgage, charge, transfer, conveyance, assignment, assignation or assurance of any property; and
- 10.2.3 the giving of any notice, order or direction and the making of any filing or registration, which, in any such case, the Chargee or a Receiver may think expedient.

11 POWER OF ATTORNEY

The Company by way of security irrevocably appoints the Chargee and any Receiver jointly and severally as its attorney, with full power of substitution and delegation, for it and in its name and on its behalf and as its act and deed or otherwise at any time after the security constituted by this Deed has become enforceable, to execute any documents and do any acts and things which the Company is required to execute and do under this Deed, and/or which the attorney may deem necessary in exercising any of the powers, authorities and discretions conferred on the Chargee or any Receiver. The Company ratifies and confirms whatever any attorney does or purports to do pursuant to its appointment under this Clause.

12 PAYMENTS AND INDEMNITY

12.1 Payments without deduction

All amounts due by the Company to the Chargee pursuant to this Deed shall be paid in full free and clear of and without deduction of or withholding for or on account of Tax unless the Company is required by law to make such payment subject to the deduction or withholding of Tax, in which event the Company shall account to HM Revenue & Customs for such withholding tax and provide evidence of such payment to the Chargee together with (if applicable) an interest deduction certificate.

12.2 Indemnity

The Company shall indemnify the Chargee for all reasonable costs, charges and legal expenses charged or incurred by the Chargee or by any Receiver:

12.2.1 in connection with enforcing this Deed; or

12.2.2 in exercising any power or any of its rights under this Deed or any other security held by the Chargee from time to time.

13 NOTICES

Any demand, notice, consent or communication to be made or given by or to the Company or the Chargee under or in connection with this Deed shall be made and delivered as provided for in Clause 13 (*Notices*) of the Facility Agreement.

14 GENERAL

14.1 Continuing and independent security

This Deed shall be:

14.1.1 a continuing security to the Chargee and shall extend to the ultimate balance of the Secured Obligations, notwithstanding any settlement of account or intermediate payment or discharge in whole or in part, and secures present and future advances from time to time;

14.1.2 without prejudice and in addition to any other security for the Secured Obligations (whether by way of mortgage, equitable charge or otherwise) which the Chargee may hold now or hereafter on all or any part of the Charged Assets;

14.1.3 in addition to any rights, powers and remedies at law available to the Chargee; and

14.1.4 enforceable against the Company without the Chargee first having recourse to any other right, remedy, guarantee or security held by or available to it.

14.2 New accounts

If the Chargee receive notice of any subsequent charge or other interest affecting any part of the Charged Assets, the Chargee may open a new account for the Company. If the Chargee do not open a new account, it shall nevertheless be treated as if it had done so at the time when it received notice, and as from that time all payments made by the Company to the Chargee shall be credited or be treated as having been credited to the new account and shall not operate to reduce the amount due from the Company to the Chargee at the time when it received notice as specified above.

14.3 Delay

No failure or delay by the Chargee in the exercise of any of its rights under this Deed or at law shall operate or be construed as a waiver. No waiver of any of the Chargee' rights shall preclude any further or other exercise of that right or of any other right.

14.4 Indulgence

The Chargee may give time or other indulgence, or make any other arrangement, variation or release with any person in respect of the Secured Obligations, and the Company may enter into any other security or guarantee for the Secured Obligations, in each case without derogating from the Company's liabilities or the Chargee's rights under this Deed.

14.5 Liability not discharged

The Company's liability under this Deed in respect of the Secured Obligations shall not be discharged, prejudiced or affected by any security, guarantee, indemnity, remedy or other right held by, or available to, the Chargee that is or becomes wholly or partially illegal, void or unenforceable on any ground, or any other act or omission which but for this Clause might have discharged, or otherwise prejudiced or affected the liability of the Company.

14.6 Release

Upon the discharge of the Secured Obligations, the Chargee shall, promptly after the request and at the cost of the Company, take whatever action is necessary to release (without recourse or warranty) the Charged Assets from the Security created under this Deed and execute and deliver any other documents as the Company may reasonably require in order to give effect to this Clause 14.6.

14.7 Waiver of set-off rights by Company

The Company waives any present or future right of set-off it may have in respect of the Secured Obligations (including sums payable by the Company under this Deed).

14.8 Delegation

The Chargee may delegate in any manner to any person, any right, power or discretion exercisable by it under this Deed upon any terms which it may think fit. The Chargee shall not be in any way liable or responsible for any loss or liability arising from any act, default, omission or misconduct on the part of any such delegate.

14.9 Perpetuity Period

If the rule against perpetuities applies to any trust created by this Deed, the perpetuity period shall be 125 years (as specified by section 5(1) of the Perpetuities and Accumulations Act 2009).

14.10 Certificates

Any certificate of or determination by the Chargee specifying the amount of any Secured Obligations due from the Company shall be, in the absence of manifest error, conclusive evidence against the Company of the matters to which it relates.

14.11 Amendments

The provisions of this Deed may be amended only if the Chargee and the Company so agree in writing and any breach of this Deed may be waived only if the Chargee so agree in writing.

15 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.

16 THIRD PARTY RIGHTS

No provision of this Deed shall be enforceable pursuant to the Contracts (Rights of Third Parties) Act 1999 by any person (except any Receiver or Delegate) who is not a Party. Notwithstanding any term of this Deed, the consent of any person who is not a Party is not required to rescind or vary this Deed at any time.

17 **ASSIGNMENT AND TRANSFER**

- 17.1 This Deed shall be binding upon, and enure for the benefit of, the Company and the Chargee and their respective successors or permitted assigns or permitted transferees.
- 17.2 No Party may assign any of its rights or transfer by novation any of its rights or obligations under this Deed or enter into any transaction which would result in any of those rights or obligations passing to another person.

18 **COUNTERPARTS**

This Deed may be executed in any number of counterparts, and this has the same effect as if the signatures (and seals, if any) on the counterparts were on a single copy of this Deed.

19 **GOVERNING LAW**

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

20 **JURISDICTION**

- 20.1 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**").
- 20.2 The Company and the Chargee 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.

This Deed has been executed by the Company as a deed and signed by the Chargee and delivered on the date set out at the beginning of this document.

SCHEDULE 1

REAL PROPERTY

None as at the date of this Deed

EXECUTION PAGE TO SECURITY AGREEMENT

THE COMPANY

EXECUTED as a DEED by **AFRICAN**)
ORIGINALS LIMITED acting by two)
directors or a director and the secretary

Signature Redacted
↳
Director

Signature Redacted
... Director/Secretary

THE CHARGE

SIGNED by PHOENIX BEVERAGES)
LIMITED)

Signature Redacted Signature Redacted

(Signature)

Name: Bernard Theys

Patrick Rivalland