



**Registration of a Charge**

Company name: **THE ABBOTSFORD TRADING COMPANY LIMITED**  
Company number: **SC328817**

Received for Electronic Filing: **18/12/2013**



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**Details of Charge**

Date of creation: **29/11/2013**  
Charge code: **SC32 8817 0001**  
Persons entitled: **THE CHARITY BANK LIMITED**  
Brief description:

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

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

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**Authentication of Form**

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

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**Authentication of Instrument**

Certification statement: **I CERTIFY THAT 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:

**MORTON FRASER LLP**



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

Company number: 328817

Charge code: SC32 8817 0001

The Registrar of Companies for Scotland hereby certifies that a charge dated 29th November 2013 and created by THE ABBOTSFORD TRADING COMPANY LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 18th December 2013 .

Given at Companies House, Edinburgh on 18th December 2013



**Companies House**



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES

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**BOND AND FLOATING CHARGE**

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by

**The Abbotsford Trading Company Limited**

in favour of

**The Charity Bank Limited**

## **THE CHARITY BANK LIMITED**

### **FLOATING CHARGE**

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#### **BOND AND FLOATING CHARGE**

by

- (1) The Abbotsford Trading Company Limited incorporated and registered in Scotland with company number SC328817 whose registered office is at Abbotsford, Melrose, Roxburghshire, TD6 9BQ (the "Chargor")

in favour of

- (2) The Charity Bank Limited a company limited by shares registered in England and Wales under company number 4330018 whose registered office is at 194 High Street, Tonbridge, Kent, TN9 1BE (hereinafter referred to as "CBL")
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#### **BOND & GRANT OF FLOATING CHARGE**

The Chargor hereby undertakes to pay or discharge to CBL on demand the Secured Liabilities (as defined in the Schedule (the "Schedule") annexed and executed as relative to this Bond and Floating Charge) as the same fall due to CBL from time to time; in security of the Chargor's obligation to pay or discharge on demand the Secured Liabilities (as so defined) the Chargor hereby GRANTS a Floating Charge in favour of CBL over the whole of the property (heritable and moveable) comprised in the assets and undertaking of the Chargor from time to time.

Paragraph 14 of Schedule B1 to the Insolvency Act 1986 (incorporated by Schedule 16 to the Enterprise Act 2002) shall apply to this Floating Charge.

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#### **TERMS AND CONDITIONS**

The terms and conditions set out in the Schedule shall have effect as if they were incorporated in this Bond and Floating Charge.

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## CONSENT TO REGISTRATION

The Chargor consents to registration of this Bond and Floating Charge for preservation and execution.

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IN WITNESS WHEREOF this Bond and Floating Charge, consisting of this and the preceding page, together with the Schedule annexed, is executed as follows:-

SIGNED on behalf of the said The Abbotsford Trading Company Limited

at Abbotsford

on the 29<sup>th</sup> day of November 2013 by

.....  
Name: LORD CHARLES RUSSELL  
SAMBERSON

.....  
Name: ANTHONY RICHARD TAYLOR  
witness

CHRISTINE STANTON

ABBOTSFORD

MELROSE

ROY BURGH SHIRE

This is the Schedule referred to in the preceding Bond and Floating Charge by The Abbotsford Trading Company Limited in favour of The Charity Bank Limited

## **SCHEDULE**

### **TERMS AND CONDITIONS APPLYING TO BOND AND FLOATING CHARGE (“the Conditions”)**

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## Interpretation

- 1.1 IN the Conditions,
- 1.1.1 **"the Security"** means the Bond and Floating Charge to which this Schedule is annexed;
- 1.1.2 words and expressions defined in the Security shall bear the same respective meanings in this Schedule.
- 1.2 In the Conditions and in the Security where the context allows:
- 1.2.1 obligations undertaken by more than one person are joint and several obligations;
- 1.2.2 any reference to a statute or statutory instrument (whether specifically named or not) includes any amendment or re-enactment thereof for the time being in force and any instrument order notice regulation bye-law direction plan or permission for the time being issued made or given thereunder or deriving validity therefrom;
- 1.2.3 **"the Borrower"** means The Abbotsford Trust a company limited by guarantee incorporated in Scotland with registered number SC328535 which is a Scottish charity (charity number SC037425) whose registered office is at Abbotsford, Melrose, Roxburghshire, TD6 9BQ, and includes the persons deriving title under it and **"CBL"** includes its successors and assignees including all successors and assignees of CBL as the lender under the Facility Letter, and the masculine includes the feminine and the singular the plural and vice versa;
- 1.2.4 **"Consent"** means the previous written consent of CBL or as permitted or provided for in accordance with the terms of the Facility Letter;
- 1.2.5 **"costs"** include all costs and expenses properly incurred by CBL in relation to the Property or the protection or enforcement of its security under the Security whether involving litigation or not, on a basis of full indemnity;
- 1.2.6 **"the Facility Letter"** means a facility letter made between CBL and the Borrower prior to the date hereof or any subsequent facility letter amending or replacing the same;
- 1.2.7 **"Fixed Security"** has the meaning attributed to it in section 486 of the Companies Act 1985;
- 1.2.8 **"the Property"** means the property or properties of the Chargor or any part thereof and includes all buildings and erections from time to time thereon fixtures and fittings and fixed plant and machinery thereon and all roads ways sewers drains pipes wires and cables thereon and all rights servitudes advantages and privileges belonging or appertaining thereto;
- 1.2.9 **"Receiver"** and/or **"Administrator"** in this Security means one or more persons appointed by CBL (or otherwise appointed) as receiver or

appointed by CBL or the court as administrator, whichever is relevant, including any substitute receiver and/or administrator, in terms of the Insolvency Act 1986, and where two or more persons are so appointed the powers conferred upon them by the Insolvency Act 1986 and by this Security may be exercised jointly and severally;

**1.2.10 "the Security Assets"** means all the assets and other items over which the Security extends from time to time;

**1.2.11 "Secured Liabilities"** means:

- (a) any and all indebtedness or liabilities of the Chargor to CBL whatsoever present future actual and/ or contingent and whether alone or jointly with any other person and in whatever style or name and whether as principal debtor or guarantor;
- (b) all costs and other expenses incurred by CBL in relation to the Security and/or any such indebtedness and/or liabilities;
- (c) interest and charges upon or relating to all such indebtedness liabilities unpaid interest and/or costs until demand at such rate as may have been agreed between CBL and the Borrower and in any event from and after demand until full discharge (as well after as before decree) at 3% per annum above the base rate from time to time of The Royal Bank of Scotland plc;

**1.2.12 "the Stocks"** means all stocks shares bonds debentures notes or other securities of any kind whatsoever (including all rights and benefits and advantages accruing offered or arising in respect of the same) now or at any time belonging to the Chargor.

#### **Repayment by instalments**

- 2.** THE Chargor must repay the Secured Liabilities on demand when the same are due for payment.

#### **Other Charges**

- 3.1** This Security shall, subject to section 464(2) of the Companies Act 1985, rank in priority to any fixed security (other than any fixed security granted by the Chargor in favour of CBL which shall rank in priority to this Security) and to any other floating charge.
- 3.2** The Chargor hereby undertakes in favour of CBL not without Consent to create or permit to subsist any charge or other encumbrance in favour of any third party or affecting the Property or any of the goodwill undertaking assets and revenues charged by the Security or any part or parts thereof nor to seek or permit to increase the amount secured by any such charge or other encumbrance.

#### **Representations Warranties and Undertakings by the Chargor**

- 4.1** The Chargor represents and warrants to CBL and undertakes that:-

- 4.1.1 it has and will at all times have the necessary power to enter into and perform its obligations under this Security;
  - 4.1.2 this Security constitutes its legal valid binding and enforceable obligations and is a security over the Security Assets and every part thereof effective in accordance with its terms;
  - 4.1.3 all necessary authorisations and consents to enable or entitle it to enter into this Security and to enable it to carry on its activities as they are currently being conducted have been obtained and will remain in full force and effect during the subsistence of the security constituted by the Security;
  - 4.1.4 the Chargor has obtained and maintained at all relevant times all such insurance policies as would be maintained by prudent companies carrying on activities of the type carried on by the Chargor and has complied in all material respects with the terms and conditions of such policies.
- 4.2 The Chargor undertakes to CBL that it shall keep its books of account and prepare all financial statements to be delivered under this Security in accordance with accounting principles generally accepted in Scotland consistently applied and procure that there are furnished to CBL:
  - 4.2.1 as soon as practicable and in any event not later than nine months after the end of each financial year, the annual audited accounts of the Chargor for and as at the end of the financial year then ended which shall be prepared so as to give a true and fair view of the financial condition of the Chargor as at the end of the period to which those financial statements relate and of the results of its operations during such period;
  - 4.2.2 such other information, financial or otherwise, as CBL may from time to time reasonably request regarding the affairs of the Chargor including, within six weeks of the quarter end, the management accounts of the Chargor for that quarter; and
  - 4.2.3 with reasonable promptness, details of any litigation, arbitration or administrative proceedings in progress pending or, to the knowledge of the Chargor, threatened against it which might have a material adverse effect on the Chargor's ability to perform its obligations under the Security.
- 4.3 During the continuance of this Security the Chargor undertakes to:-
  - 4.3.1 keep all buildings and erections on the Property and all plant machinery fixtures fittings implements utensils and other effects used thereon for the purpose of or in connection with the activities of the Chargor and every part thereof in a good state of repair and in good working order and condition;
  - 4.3.2 insure and keep insured in an office to be approved by and in the name of CBL such of the Security Assets as are insurable against loss or damage by fire and such other risks and contingencies as are in accordance with sound commercial practice and in such respective amounts as CBL may from time to time require to the full insurable value thereof and produce to CBL the receipts for the current premiums within seven days after their becoming due and payable failing which

CBL may at the expense of the Chargor effect or renew any such insurances as CBL shall deem fit;

- 4.3.3 at all times during the continuance of this Security duly and promptly effect and maintain in such office as aforesaid and in such amounts as shall be approved by CBL all such insurances against risks and liabilities to employees or third parties and contingencies arising under any Act or at common law or in any other manner whatsoever as CBL shall from time to time direct;
- 4.3.4 carry on and conduct its activities in a proper and efficient manner and not make any substantial alteration in the nature of those activities.
- 4.4 Unless otherwise agreed in writing by CBL all moneys to be received by virtue of any such insurance as aforesaid shall so far as they are in respect of any part of the Security Assets be deemed part of the Security Assets and shall be paid to CBL and shall if the Chargor so requests and CBL thinks fit be applied in making good or in recouping expenditure incurred in making good any loss or damage which may so arise in the Security Assets or any part thereof.
- 4.5 The Chargor shall on demand indemnify and keep CBL indemnified on a full indemnity basis in respect of all actions proceedings demands and costs occasioned by any breach of any of its obligations under this Security together with interest from the date of payment by CBL until repayment whether before or after judgement and any costs damages and other liabilities incurred or sustained by CBL by reason of any such breach shall be included in the sums secured by the Security.
- 4.6 None of the obligations in this clause 4 shall be construed as limiting any powers exercisable by any Receiver under the Security being an agent of the Chargor.

#### **Powers of CBL and of Receiver and/or Administrator**

- 5.1 At any time after the monies and liabilities hereby secured shall have become immediately payable CBL may from time to time appoint by writing under the hand of a duly authorised officer of CBL a person to be a Receiver and/or Administrator and may from time to time in writing under the hand of a duly authorised officer of CBL remove any Receiver and/or Administrator so appointed and appoint another in his stead.
- 5.2 A Receiver and/or Administrator so appointed shall be the agent of the Chargor and the Chargor shall be solely responsible for his acts defaults and remuneration.
- 5.3 A Receiver and/or Administrator so appointed shall (in addition to all the powers available to a receiver and/or administrator under statute or otherwise) have power:-
  - 5.3.1 To take possession of collect and get in the property in respect of which he is appointed or any part thereof and for that purpose to take any proceedings in the name of the Chargor or otherwise as may seem expedient;
  - 5.3.2 To carry on or manage or concur in carrying on or managing the activities of the Chargor and for that purpose to raise money on any part of the Security Assets in priority to this security or otherwise;

- 5.3.3** To sell or concur in selling let or concur in letting and to accept renunciations of leases of any part of the Security Assets in such manner and generally on such terms and conditions as he thinks fit and to carry any such sale letting or renunciation into effect by conveying leasing letting or accepting renunciations in the name of or on behalf of the Chargor or otherwise and any such sale may be for cash debentures or other obligations shares stock or other valuable consideration and may be payable in a lump sum or by instalments spread over such period as CBL shall think fit and so that any consideration or part thereof received in a form other than cash shall *ipso facto* fall within the assets over which the Security extends; plant machinery and other fixtures may be severed and sold separately from the premises containing them without the consent of the Chargor being obtained thereto;
- 5.3.4** To sell and assign all or any of the book debts in respect of which the Receiver and/or Administrator is appointed in such manner and generally on such terms and conditions as he thinks fit;
- 5.3.5** To make any arrangement or compromise which he or CBL may think expedient;
- 5.3.6** To make and effect any repairs renewals and improvements of the Chargor's plant machinery and effects which he or CBL may think expedient and to maintain or renew all insurances;
- 5.3.7** (where the Chargor has share capital) To make calls conditionally or unconditionally on the members of the Chargor (being a body corporate) in respect of the uncalled capital with such powers for that purpose and for the purpose of enforcing payment of any calls so made as are by the Articles of Association of the Chargor conferred on the Directors thereof in respect of calls authorised to be made by them in the names of the Directors or in that of the Chargor or otherwise and to the exclusion of the Directors' power in that behalf;
- 5.3.8** To appoint managers officers employees workmen and agents for the aforesaid purposes at such salaries and for such periods as he may determine;
- 5.3.9** To take any indemnity from the Chargor from and against all actions claims expenses demands and liabilities whether arising out of contract or out of delict or in any other way incurred by him or by any manager agent officer employee or workman for whose debt default or miscarriage he may be answerable for anything done or omitted to be done in the exercise or purported exercise of his powers or under any appointment duly made under the provisions of this clause and if he thinks fit but without prejudice to the foregoing to effect with any insurance office or underwriters any policy or policies of insurance either in lieu or satisfaction of or in addition to such indemnity from the Chargor;
- 5.3.10** To do all such other acts and things as may be considered to be incidental or conducive to any of the matters or powers aforesaid and which the Receiver and/or Administrator lawfully may or can do as agent for the Chargor.
- 5.4** All moneys received by the Receiver and/or Administrator shall be applied by him for the following purposes subject to the claims of secured and unsecured

creditors (if any) ranking in priority to this Security and in the following order:-

- 5.4.1** In payment of all costs and charges of and incidental to the appointment of the Receiver and/or Administrator and the exercise of all or any of the powers aforesaid and of all outgoings properly paid by him;
  - 5.4.2** In payment of remuneration to the Receiver and/or Administrator at such rate as may be agreed between him and the person by whom the appointment is made;
  - 5.4.3** In or towards payment to CBL of all monies and liabilities payment of which is hereby secured;
  - 5.4.4** Any surplus shall be paid to the Chargor or such other person as may be entitled thereto.
- 5.5** CBL shall not nor shall any Receiver or Receivers and/or Administrator or Administrators appointed hereunder be liable for any loss upon realisation or for any neglect or default of any nature whatsoever in connection with the Security Assets or any part thereof for which they might otherwise be liable and all costs and charges incurred by CBL or any Receiver or Receivers and/or Administrator or Administrators appointed hereunder (including the costs of any proceedings to enforce the security hereby given) shall be paid by the Chargor on a Solicitor and own client basis.
- 5.6** The foregoing powers of appointment of a Receiver and/or Administrator shall be in addition and without prejudice to all statutory and other powers of CBL and so that such powers shall be and remain exercisable by CBL in respect of which no appointment of a Receiver and/or Administrator by CBL shall from time to time be subsisting and that notwithstanding that an appointment shall have subsisted and been withdrawn in respect of that part of the Security Assets or shall be subsisting in respect of any other part of the Security Assets.

#### **Power of Attorney**

- 6.1** The Chargor irrevocably appoints by way of security CBL each person deriving title from CBL and the Receiver and/or Administrator jointly and severally to be its attorney (with full power to appoint substitutes and to sub-delegate) for it in its name on its behalf or otherwise to sign or execute any deed or document or do any act or thing which the Chargor is or may become obliged to sign execute or do pursuant hereto or which CBL the Receiver and/or Administrator or any person deriving title from CBL or the Receiver and/or Administrator may in the discretion of such person think fit in connection with the exercise of any of the powers of such person or the realisation of any security constituted by the Security.
- 6.2** Without prejudice to the generality of the foregoing the Chargor unconditionally undertakes to CBL and separately to the Receiver and/or Administrator and to each person deriving title from CBL or the Receiver and/or Administrator that it shall ratify and confirm anything done or purported to be done by any attorney appointed pursuant to this clause.

#### **Suspension of Payments**

- 7.** CBL may at its absolute discretion from time to time suspend reduce or cancel any payment whether in respect of the Secured Liabilities or interest or other moneys

hereby secured upon such terms and from such date (whether then already passed or not) as it may think proper and may at such discretion give further time for payment of any money hereby secured or generally make other arrangements with the Chargor as to the mode or time of payment provided that no such suspension reduction cancellation giving of further time or arrangement shall affect CBL's powers of sale and other remedies or render CBL liable in damages or otherwise for the exercise of any such power where no such liability would have arisen if such suspension reduction or cancellation giving of further time or arrangement had not been made.

#### **Notices**

- 8.1 ANY notice to be given or served on the Chargor may be served by posting a written notice to the latest address of the Chargor in CBL's records or to the Property.
- 8.2 If the person to be served under this clause is more than one person a notice shall be well and sufficiently served if served on any one of them.
- 8.3 Any notice to be served on CBL may be served by posting it to the Chief Executive for the time being of CBL at its registered office.
- 8.4 Any notice sent by pre-paid first class post shall be deemed to have been served forty-eight hours after posting.

#### **Continuing Security**

- 9.1 THE Security shall be in addition to and shall be independent of every other security which CBL may at any time hold whether for the Secured Liabilities or other liabilities of any kind whatsoever owed by the Chargor to CBL and it is hereby declared that no prior security held by CBL over the whole or any part of the property comprised in this Bond and Floating Charge shall merge in the security created by the Security.
- 9.2 The Security shall remain in full force and effect as a continuing security unless and until CBL discharges this Security, irrespective of any intermediate payment of satisfaction of the Secured Liabilities or any of them.

#### **Conclusive Evidence**

- 10. Any notice given by CBL specifying any amount due to CBL or as to the amount of the Secured Liabilities will, in the absence of manifest or demonstrable error, be conclusive and binding on the Chargor for all purposes.

#### **Encumbrances**

- 11. AT any time after the Security shall have become enforceable or after any powers conferred by any security having priority to the Security shall have become exercisable CBL may redeem such or any other prior security or procure the transfer thereof to itself and may settle and pass the accounts of the security holder; any accounts so settled and passed shall be conclusive and binding on the Chargor and all moneys paid by CBL to the security holder in accordance with such accounts shall as from such payment be due from the Chargor to CBL and shall bear interest and be secured as part of the Secured Liabilities.

**Waiver**

12. NO failure delay or other relaxation or indulgence on the part of CBL in the exercise of any right power or remedy hereunder or at law shall operate as a waiver thereof nor shall any single or partial exercise or waiver of any such right power or remedy preclude its further exercise or the exercise of any other right power or remedy.

**Governing law and submission to Jurisdiction**

- 13.1 THE Security shall be governed and construed in accordance in all respects with Scots Law.
- 13.2 The parties hereto hereby irrevocably submit to the exclusive jurisdiction of the Scottish Courts for all purposes of this Security or any matter in connection therewith howsoever arising.