



Registration of a Charge

Company name: **WIGRAMS TURN MARINA LIMITED**

Company number: **02797441**



X87AQ583

Received for Electronic Filing: **10/06/2019**

Details of Charge

Date of creation: **05/06/2019**

Charge code: **0279 7441 0007**

Persons entitled: **THE TRUSTEES OF THE CASTLEMORE SECURITIES FURBS SCHEME**

Brief description:

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

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

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

Certified by:

FIELDFISHER LLP



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 2797441

Charge code: 0279 7441 0007

The Registrar of Companies for England and Wales hereby certifies that a charge dated 5th June 2019 and created by WIGRAMS TURN MARINA LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 10th June 2019 .

Given at Companies House, Cardiff on 11th June 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: 5 June 2019

Wigrams Turn Marina Limited

as Chargor

The Castlemore Securities FURBS Scheme

as Lender

Floating Charge

Subject to the terms of the Intercreditor Agreement (as defined herein)

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THIS FLOATING CHARGE is made by way of deed the 5 day of June 2019

BETWEEN:

- (1) **WIGRAMS TURN MARINA LIMITED**, a company registered in England and Wales with number 02797441 whose registered office is at Birdham Pool Marina, Birdham, Chichester, West Sussex, PO20 7BG (the "**Chargor**"); and
- (2) **THE CASTLEMORE SECURITIES FURBS SCHEME**, acting by its trustees John Grahame Whateley and Diana Leslie Whateley, whose address for service is at Drayton House, Drayton, Belbroughton, Worcestershire DY9 0DG (the "**Lender**").

IT IS AGREED as follows:

1. Definitions and interpretation

1.1 Definitions

In this Deed:

"**Act**" means the Law of Property Act 1925;

"**Administrator**" means an administrator appointed under paragraph 14 of schedule B1 to the Insolvency Act 1986;

"**Bank**" means AIB Group (UK) p.l.c (company number NI018800);

"**Borrower**" means Castle Marinas Limited, a company registered in England and Wales with registration number 05686351;

"**Business Day**" means a day (other than a Saturday or Sunday) on which banks are open for general business in London;

"**Charged Assets**" means all assets of the Chargor from time to time the subject of any Security created or, where the context admits, to be created by this Deed;

"**Event of Default**" means each and every such event as so defined in any of the Finance Documents;

"**Finance Documents**" the Loan Agreement, the Guarantee and all other certificates, documents, instruments or existing and/or future agreements executed and delivered by the Chargor for the benefit of the Lender in connection with any of the above;

"**Guarantee**" means the guarantee dated on or about the date of this Deed by amongst others, the Chargor in favour of the Lender guaranteeing the liabilities of the Borrower to the Lender under the Loan Agreement;

"**Intercreditor Agreement**" means the intercreditor agreement dated on or around the date of this Deed, between, amongst others, the Chargor, the Borrower, the Lender and the Bank in its various capacities;

"**Loan Agreement**" means the loan agreement dated on or about the date of this Deed between the Borrower and the Lender;

"Material Adverse Effect" means a material adverse effect on the business or financial condition of the Chargor;

"Permitted Security" means:

- (a) any mortgage, charge, pledge, lien, assignment, or other security interest of any kind in favour of the Bank; and
- (b) any netting or right of set-off entered into by the Chargor in the ordinary course of its banking arrangements for the purposes of netting debit and credit balances;

"Real Property" means any freehold, leasehold or other immoveable property of the Chargor;

"Receiver" means any one or more persons appointed by the Lender as a receiver, receiver and manager or administrative receiver under this Deed;

"Regulations" means the Financial Collateral Arrangements (No. 2) Regulations 2003 (SI 2003 No. 3226) (as amended) or (where the context admits) equivalent legislation in any applicable jurisdiction bringing into effect Directive 2002/47/EC on financial collateral arrangements;

"Secured Obligations" means all present and future obligations and liabilities of the Chargor owed or expressed to be owed under the Guarantee to the Lender whether actual or contingent and whether owed or incurred alone or jointly and/or severally with another and as principal or as surety or in any other capacity or of any nature;

"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;

"Security Period" means the period beginning on the date of this Deed and ending on the date on which the Lender is satisfied that all the Secured Obligations have been unconditionally and irrevocably paid, released and discharged in full and no further Secured Obligations are capable of becoming outstanding; and

"VAT" means value added tax as provided for in the Value Added Tax Act 1994 and any other tax of a similar nature.

1.2 Construction

- (a) In this Deed, unless a contrary indication appears, any reference to:
 - (i) **"assets"** includes present and future properties, revenues and rights of every description and includes the proceeds of sale of any such asset;
 - (ii) the **"Charged Assets"** and any other assets or asset or the **"Secured Obligations"** includes a reference to any part of them or it;
 - (iii) this **"Deed"** or any other agreement or document is a reference to the same as it may have been, or may from time to time be, amended, varied, supplemented or novated;
 - (iv) a party to this Deed shall be construed so as to include its successors in title, permitted assigns and permitted transferees;

- (v) 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);
 - (vi) a "**regulation**" includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;
 - (vii) "**this Security**" means any Security created or constituted by this Deed;
 - (viii) any provision of law includes that provision as amended, re-enacted or replaced from time to time and includes any subordinate legislation; and
 - (ix) words in the singular include the plural and vice versa and words in one gender include any other gender.
- (b) Headings in this Deed are for ease of reference only.
 - (c) Any covenant or undertaking by the Chargor under this Deed is given to or made in favour of the Lender and remains in force during the Security Period.
 - (d) It is intended that this document take effect as a deed notwithstanding the fact that (if executed by the Lender) the Lender may only execute this document under hand.
 - (e) The terms of the other Finance Documents and of any side letter between the parties to this Deed are incorporated in this Deed to the extent required for any contract for the purported disposition of any Real Property contained in this Deed to be a valid disposition in accordance with section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.
 - (f) This Deed is a Finance Document.

1.3 Third party rights

A person who is not a party to this Deed has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Deed.

1.4 Intercreditor Agreement

The rights of the Lender and the obligations of the Chargor in respect of the Secured Obligations and the provisions of this Deed shall be subject in all respects to the provisions of the Intercreditor Agreement.

2. Undertaking to pay

2.1 Undertaking to pay

The Chargor undertakes with the Lender to pay the Secured Obligations to the Lender when due.

2.2 Interest

If the Chargor fails to pay any of the Secured Obligations on the due date for payment of that sum, the Chargor shall on demand pay to the Lender interest on all such sums from the due date

until the date of payment (both before and after judgment) calculated and payable in accordance with the rate and in the manner specified in the Loan Agreement.

3. Creation of Security

3.1 Floating charge

The Chargor with full title guarantee charges by way of floating charge in favour of the Lender as a continuing security to secure the payment and discharge of the Secured Obligations the whole of its present and future business, undertaking and assets of whatever type and wherever located.

3.2 Conversion by notice

Subject to the terms of the Intercreditor Agreement and to Clause 3.3 (*Moratorium under Insolvency Act*), the Lender may at any time by written notice to the Chargor convert the floating charge created by Clause 3.1 (*Floating charge*) into a fixed charge as regards any assets specified in the notice if:

- (a) an Event of Default has occurred; or
- (b) in the opinion of the Lender such assets are at risk of becoming subject to any Security (other than this Security) or are otherwise at risk of ceasing to be within the ownership or control of the Chargor.

3.3 Moratorium under Insolvency Act

The Lender shall not be entitled to convert the floating charge created by Clause 3.1 (*Floating charge*) into a fixed charge as a result only of the Chargor obtaining a moratorium or anything done with a view to obtaining a moratorium under section 1A of and Schedule A1 to the Insolvency Act 1986.

3.4 Qualifying floating charge

Paragraph 14 of Schedule B1 to the Insolvency Act 1986 applies to the floating charge created by Clause 3.1 (*Floating charge*), which is a "qualifying floating charge" for the purpose of paragraph 14(1) of Schedule B1 to the Insolvency Act 1986.

3.5 Automatic conversion

The floating charge created by Clause 3.1 (*Floating charge*) will convert automatically into a fixed charge:

- (a) if the Lender receives notice of an intention to appoint an administrator of the Chargor;
- (b) if any steps are taken, (including the presentation of a petition, the passing of a resolution or the making of an application) to appoint a liquidator, provisional liquidator, administrator or Receiver in respect of the Chargor or over all or any part of its assets, or if such person is appointed;
- (c) if the Chargor creates or attempts to create Security over the Charged Assets, other than Permitted Security;
- (d) on the crystallisation of any other floating charge over the Charged Assets;

- (e) if any person seizes, attaches, charges, takes possession of or sells any Charged Asset under any form of distress, sequestration, execution or other process, or attempts to do so; and
- (f) in any other circumstances prescribed by law.

3.6 Reconversion to floating charge

Subject to the terms of the Intercreditor Agreement, any floating charge which has crystallised under Clause 3.2 (*Conversion by notice*) or Clause 3.5 (*Automatic conversion*) may by notice in writing given at any time by the Lender to the Chargor be reconverted into a floating charge under Clause 3.1 (*Floating charge*) in relation to the assets specified in such notice.

4. Negative undertakings

4.1 Negative pledge

- (a) The Chargor shall not create or permit to subsist any Security over the Charged Assets which would rank in priority to or pari passu with other than this Security and a Permitted Security.
- (b) The Chargor shall not allow any lien to arise on or affect any part of the Charged Assets except in the case of a lien arising by operation of law in the ordinary course of business.
- (c) The Chargor shall not:
 - (i) sell, transfer or otherwise dispose of any of the Charged Assets on terms under which it is or may be leased to or re-acquired by the Chargor;
 - (ii) sell, transfer or otherwise dispose of any of its book debts or other receivables on recourse terms; or
 - (iii) enter into any arrangement under which money or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts,

in each case, in circumstances where the arrangement or transaction is entered into primarily as a method of raising debt or of financing the acquisition of an asset.

4.2 Disposals

- (a) The Chargor shall not sell, give or share possession of, grant or agree to grant any tenancy of, or accept or agree to accept a surrender or any variation or addition to the terms of any lease or tenancy of, or otherwise dispose of any Real Property or any part thereof, save in respect of any lease or tenancy the rental income of which does not exceed £5,000 per annum.
- (b) The Chargor shall not sell, assign or otherwise dispose of the whole or any substantial part of the Charged Assets except in the ordinary course of business.

5. General undertakings

The Chargor shall:

- (a) keep all buildings forming part of any Real Property in good and substantial repair and condition and keep all plant, machinery, fixtures, implements and other effect thereon or elsewhere in a good state of repair and in good working order and permit the Lender or any other person nominated by it at all reasonable times and on prior appointment to enter any Real Property and view its state and condition;
- (b) observe and perform all covenants and stipulations from time to time affecting any Real Property and punctually to pay all licence fees, duties, registration charges and all other outgoings payable in respect of the Charged Assets;
- (c) not pull down or remove any building or erection forming all or part of any Real Property or the fixed plant and machinery and other fixtures or fittings upon it except in the ordinary course of repair and maintenance or improvement or otherwise in the course of, and for the bona fide purposes of carrying on the business of the Chargor;
- (d) insure and keep insured all of its undertaking and assets with reputable and responsible insurers in such manner and to such extent as is reasonable and customary for an enterprise engaged in the same or similar business and in the same or similar localities against such risks and contingencies as the Lender shall from time to time approve with the Lender's interest noted thereon and duly and punctually pay all premiums and any other monies necessary for maintaining each insurance policy in full force and effect and if requested by the lender to produce receipts for such payment;
- (e) notify the Lender in writing of the acquisition by it of any Real Property; and
- (f) notify the Lender in writing forthwith upon the Chargor becoming aware that any Real Property or part of it is by reason of substances in, on or under it, in such a condition that significant harm is being caused or there is a significant possibility of such harm being caused to living organisms or to property or that pollution of controlled waters is being or is likely to be caused.

6. When Security becomes enforceable

6.1 Timing

This Security shall become immediately enforceable if:

- (a) an Event of Default is continuing; or
- (b) the Chargor requests the Lender to exercise any of its powers under this Deed.

6.2 Enforcement

Subject to the terms of the Intercreditor Agreement, after this Security has become enforceable, the Lender may in its absolute discretion enforce all or any part of this Security in any manner it sees fit.

7. Enforcement of Security

7.1 Lender's powers

Subject to the terms of the Intercreditor Agreement, immediately upon this Security becoming enforceable or at any time thereafter the Lender may:

- (a) exercise the power of sale and all other rights, powers and discretions conferred on mortgagees by section 101 of the Act as varied or extended by this Deed;
- (b) appoint one or more persons as an Administrator of the Chargor in accordance with schedule B1 to the Insolvency Act 1986;
- (c) subject to section 72A of and paragraph 43 of schedule A1 to the Insolvency Act 1986, appoint one or more persons as a Receiver of all or any part of the Charged Assets;
- (d) exercise all the rights, powers and discretions conferred on a Receiver by this Deed, the Act, the Insolvency Act 1986 or otherwise by law, without first appointing a Receiver or notwithstanding the appointment of a Receiver;
- (e) by notice to the Chargor end the Chargor's right to possession of all or any Real Property forming part of the Charged Assets and enter into possession of all or such part of such Real Property;
- (f) exercise all other powers conferred on mortgagees or receivers by law;
- (g) to the extent that this Deed constitutes a "security financial collateral arrangement" as defined in the Regulations, appropriate any Charged Asset which constitutes "financial collateral" as defined in those Regulations in or towards satisfaction of the Secured Obligations and the value of such Charged Assets shall be (i) in the case of cash, the amount standing to the credit of each relevant account together with any accrued but unposted interest at the time the right of appropriation is exercised and (ii) in the case of other financial collateral, such value as is determined by the Lender by reference to the price of the relevant Charged Assets at the time the right of appropriation is exercised as listed on any recognised market index or to an independent valuation or other procedure selected by the Lender acting reasonably. The Chargor agrees that the methods of valuation provided for in this clause are commercially reasonable for the purposes of those Regulations.

7.2 Consideration on a disposal

The consideration for any sale or other disposal of the Charged Assets by the Lender or any Receiver in the exercise of their respective powers may (in addition to that permitted under the Act on a sale by a mortgagee) consist of cash, shares, securities, debentures or other valuable consideration, may fluctuate according to or dependent upon profit or turnover or be determined by a third party, and may be payable in a lump sum or in instalments (with or without security).

7.3 Leasing

The statutory powers of leasing conferred on the Lender are extended so as to authorise the Lender to lease, make agreements for leases, accept surrenders of leases and grant options as the Lender may think fit and without the need to comply with any provision of sections 99 or 100 of the Act, and may, subject to the terms of the Intercreditor Agreement, be exercised by the Lender at any time after this Security has become enforceable. Any lease granted will bind any holder of a subsequent Security deriving title under the Lender.

7.4 Protection of third parties

No person (including a purchaser) dealing with the Lender or a Receiver will be concerned to enquire:

- (a) whether the Secured Obligations have become payable;
- (b) whether any right or power which the Lender or a Receiver is purporting to exercise has arisen or become exercisable;
- (c) whether any money remains due under this Deed or the other Finance Documents;
- (d) how any money paid to the Lender or to a Receiver is to be applied; or
- (e) as to the propriety or regularity of such dealings.

7.5 Redemption of prior mortgages

Subject to the terms of the Intercreditor Agreement, at any time after this Security has become enforceable, the Lender may redeem any prior Security against any Charged Asset, and/or procure the transfer of that Security to itself, and/or settle and pass the accounts of the prior mortgagee, chargee or encumbrancer. Any accounts so settled and passed shall be conclusive and binding on the Chargor. All principal moneys, interest, costs, charges and expenses of and incidental to any such redemption and/or transfer shall be paid by the Chargor to the Lender on demand and form part of the Secured Obligations.

7.6 Receipts

The receipt of the Lender or the Receiver shall be an absolute and a conclusive discharge to a purchaser and shall relieve it of any obligation to see to the application of any moneys paid to or by the direction of the Lender or the Receiver.

7.7 General

- (a) For the purposes of all rights, powers and discretions implied by statute or arising by law, the Secured Obligations are deemed to have become due and payable on the date of this Deed.
- (b) The power of sale and all other powers conferred on mortgagees by section 101 of the Act as varied or extended by this Deed shall arise on the execution of this Deed by the Chargor.
- (c) Section 103 of the Act (restricting the power of sale) and section 93 of the Act (restricting the right of consolidation) do not apply to this Security.
- (d) The power to appoint a Receiver pursuant to Clause 7 (*Lender's powers*) is in addition to the power to appoint a Receiver under section 101 of the Act. Section 109(1) of the Act does not apply to this Deed.

8. Receiver

8.1 Appointment

Any appointment of a Receiver by the Lender shall be by deed or in writing under its hand.

8.2 Extension of appointment

If a Receiver is appointed of part of the Charged Assets, the Lender may subsequently extend the appointment to all or any other part of the Charged Assets or appoint another Receiver of any other part of the Charged Assets.

8.3 Removal

The Lender may by writing under its hand or by deed (subject to any requirement for an order of the court in the case of an administrative receiver):

- (a) remove any Receiver appointed by it; and
- (b) whenever it deems it expedient, appoint a new Receiver to be an additional Receiver or in the place of any Receiver whose appointment may for any reason have terminated.

8.4 Remuneration

The Lender may appoint any Receiver upon such terms as to remuneration and otherwise as the Lender thinks fit, and the maximum rate specified in section 109(6) of the Act will not apply.

8.5 Payments to the Lender

Only monies actually paid by a Receiver to the Lender in satisfaction or discharge of the Secured Obligations shall be capable of being applied by the Lender for that purpose.

8.6 Agent of the Chargor

Each Receiver shall be the agent of the Chargor for all purposes and accordingly is deemed to be in the same position as a Receiver duly appointed by a mortgagee under the Act. The Chargor alone shall be responsible for his remuneration and for his contracts, engagements, acts, omissions, defaults and losses and for liabilities incurred by him and the Lender shall not incur any liability (either to the Chargor or to any other person) by reason of the Lender making his appointment as a Receiver or for any other reason. If a liquidator is appointed in respect of the Chargor, the Receiver shall act as principal and not as agent of the Lender.

8.7 Receivers of the same assets

If at any time any two or more persons appointed by the Lender hold office as Receivers of the same assets or income, each of them may (unless otherwise stated in the instrument(s) appointing them) exercise all rights, powers and discretions conferred on Receivers by this Deed individually and to the exclusion of the other or others of them.

9. Powers of Receiver

9.1 General powers

A Receiver has (subject to any limitation or restriction expressed in the instrument appointing him) all the rights, powers and discretions set out below in this Clause 9 in addition to those conferred on the Receiver by any law or otherwise conferred by this Deed. Such rights, powers and discretions include (without limitation):

- (a) in the case of an administrative receiver all the rights, powers and discretions conferred on an administrative receiver under the Insolvency Act 1986; or
- (b) otherwise, all the rights, powers and discretions conferred on a receiver (or receiver or manager) under the Act or the Insolvency Act 1986.

9.2 Possession

A Receiver may take immediate possession of, collect and get in any Charged Asset.

9.3 Comply with undertakings

A Receiver may comply with and perform all of the undertakings and covenants of the Chargor contained in this Deed.

9.4 Carry on business

A Receiver may carry on, manage, develop, amalgamate, reconstruct or diversify the whole or any part of the Chargor's business and, where the Chargor has one or more subsidiaries, may supervise, control and finance any such subsidiary or business.

9.5 Building operations

A Receiver may commence and/or complete any building operations or development on any Real Property subject to any of this Security and apply for and obtain any planning permissions, building regulation approvals and any other permissions, consents or licences, and may appoint and enter into contracts with building and engineering contractors or other contractors or professional advisors, in each such case as he may think fit.

9.6 Repairs

A Receiver may repair, decorate, maintain, furnish, alter or improve the Charged Assets.

9.7 Borrow money

A Receiver may raise or borrow money either unsecured or on the security of any Charged Asset either in priority to this Security or otherwise and generally on such terms as he may think fit.

9.8 Subsidiaries

A Receiver may form a subsidiary of the Chargor and transfer any Charged Asset to that subsidiary on such terms and conditions as he thinks fit.

9.9 Leasehold property

If the Real Property subject to any of this Security is leasehold a Receiver may vary the terms of or surrender the lease and/or take a new lease of such Real Property on such terms as he may think fit. Any such new lease shall automatically be charged to the Lender on the terms of this Deed so far as applicable, but a Receiver shall if requested by the Lender execute a formal legal charge over such new lease in favour of the Lender in such form as the Lender may require.

9.10 Power of sale

A Receiver may sell, transfer, assign, exchange, hire out, lend or otherwise convert into money or realise or dispose of the Charged Assets or concur in any of the same, either by public auction or private contract or in any other manner, and generally in such manner and on such terms and conditions and for such consideration as he may think fit. Personal chattels and fixtures and fittings, other than landlord's fixtures (where the Real Property subject to this Security is leasehold), may be severed and sold separately from such Real Property.

9.11 Leases

A Receiver may grant leases or agreements for lease of Real Property subject to this Security for any term and at any rent, with or without a premium, and otherwise on such terms and

conditions as he may think fit and may accept surrenders of such leases on such terms as he may think fit, with or without a premium to or by any tenant or other person.

9.12 Transfers and other disposals

A Receiver may carry any sale, letting or other disposal into effect by transferring, letting or otherwise making such disposal in the name of the Chargor and for that purpose may give valid receipts for all moneys and enter into covenants and contractual obligations in the name of and so as to bind the Chargor.

9.13 Legal actions

A Receiver may bring, prosecute, enforce, defend and abandon all actions, suits and proceedings in relation to the Charged Assets or the business of the Chargor as he may think fit.

9.14 Obligations in relation to the Charged Assets

A Receiver may enter into, perform, repudiate, rescind, rectify or vary contracts, bonds, covenants, commitments, guarantees, indemnities and similar matters in relation to the Charged Assets and may make all payments needed to effect, maintain, perform or satisfy any of the same.

9.15 Settle disputes

A Receiver may settle, adjust, refer to arbitration, compromise and arrange any claims, accounts, disputes, questions and demands with or by any person who is or claims to be a creditor of the Chargor or relating in any way to the Charged Assets.

9.16 Insurance

A Receiver may effect such insurances of or in connection with the Charged Assets as he may think fit.

9.17 Employees

A Receiver may engage or employ or dismiss managers, officers, contractors, agents, servants, workmen and others for any of the purposes referred to in this Clause 9 upon such terms as to remuneration or otherwise as he may think fit.

9.18 Prior Security

A Receiver may redeem, discharge or compromise any prior Security and settle the account of encumbrances on such terms as he may think fit.

9.19 Act in the Chargor's name

A Receiver may do all acts and execute in the name and on behalf of the Chargor, any deed, receipt or other document.

9.20 Credit and guarantees

A Receiver may lend money or advance credit to any customer of the Chargor, enter into bonds, covenants, commitments, guarantees, indemnities or like matters and make all requisite payments to effect, maintain or satisfy the same.

9.21 Other acts

A Receiver may do all other acts and things which he may consider to be necessary, expedient or desirable for preserving, improving or realising any Charged Asset or the getting in and collection of the Charged Assets (or any assets which when got in would constitute Charged Assets) or which are incidental or conducive to any of the rights, powers and discretions conferred on a Receiver by or pursuant to this Deed or by law.

9.22 Other powers

A Receiver may exercise in relation to the Charged Assets all powers, authorities and things which he could exercise if he were the absolute beneficial owner of the Charged Assets.

10. Exclusion of liability

10.1 No obligation to recover

Neither the Lender nor any Receiver is under any obligation to take action to collect any money or enforce any rights comprised in the Charged Assets whether or not it is in possession of the relevant Charged Assets.

10.2 No liability as mortgagee in possession

Neither the Lender nor any Receiver shall be liable, by reason of entering into possession of the Charged Assets to account as mortgagee or be liable for any loss on realisation or for any default or omission for which a mortgagee might be liable.

10.3 Possession

If the Lender or any Receiver shall take possession of the Charged Assets it or he may at any time go out of possession. The Chargor will remain liable to observe and perform all conditions and obligations relating to the Charged Assets.

10.4 Losses on enforcement

The Lender or any Receiver will not be liable to the Chargor for any loss or damage arising from:

- (a) any sale of any Charged Asset;
- (b) any act, default or omission of the Lender or any Receiver in relation to any Charged Asset; or
- (c) any exercise or non-exercise by the Lender or any Receiver of any power conferred upon it in relation to any Charged Asset by or pursuant to this Deed or by the Act,

unless such loss or damage is caused by the fraud, gross negligence or wilful misconduct of the Lender or any Receiver.

11. Application of proceeds

11.1 Order of application

Subject to clause 6 (*Turnover of Receipts*) of the Intercreditor Agreement and to any claims having priority to this Security all money recovered by the Lender or any Receiver as a result of

the enforcement of this Deed or otherwise by reason of this Security will be applied in the following order:

- (a) in payment of all costs, fees, taxes and expenses incurred by the Lender or any Receiver in or pursuant to the exercise of the powers set out in this Deed and all other outgoings properly payable by any Receiver;
- (b) in payment of remuneration to any Receiver;
- (c) in or towards payment of the Secured Obligations; and
- (d) the balance (if any) will be applied as required by law.

The Lender may at any time vary such order in its absolute discretion.

11.2 Contingent or future liabilities

If any money is received by the Lender or a Receiver as a result of the enforcement of or otherwise by reason of this Security at a time when the Secured Obligations include contingent or future liabilities the Lender or any Receiver may hold some or all of such money in an interest bearing suspense account.

12. Expenses and payments

12.1 Enforcement and preservation costs

All costs and expenses (including legal fees), charges and liabilities incurred in connection with the negotiation, preparation, printing, execution, registration and perfection, enforcement of, or the preservation of any rights under, this Deed by the Lender or any Receiver shall be paid by the Chargor to the Lender within five Business Days of demand and until so reimbursed shall carry interest as provided for in the Finance Documents from the date of payment to the date of reimbursement and be secured on the Charged Assets.

12.2 Indemnity

The Chargor shall indemnify the Lender and any Receiver upon demand against all liabilities, claims and expenses whether arising out of contract or in tort or in any other way which may at any time be incurred by any of them in connection with this Deed or for anything done or omitted to be done in the exercise or purported exercise of their powers pursuant to this Deed unless such liabilities, claims and expenses are caused by the fraud, gross negligence or wilful default of the Lender or such Receiver.

13. Delegation of powers by Lender or Receiver

13.1 Delegation

The Lender and (to the fullest extent permitted by law) any Receiver may delegate by power of attorney or in any other manner to any person any right, power or discretion exercisable by the Lender or any Receiver under this Deed. Any such delegation may be made upon the terms (including power to sub-delegate) and subject to any regulations which the Lender or Receiver (as the case may be) may think fit.

13.2 No liability for delegates

Neither the Lender nor any Receiver will be in any way liable or responsible to the Chargor for any loss or liability arising from any act, default, omission or misconduct on the part of any such delegate or sub-delegate.

14. Further assurance

When required by the Lender or any Receiver the Chargor shall, at its own cost:

- (a) execute any documents or do any other thing which the Lender or any Receiver may require for perfecting or protecting any Security created or intended to be created by this Deed or in connection with the exercise of any rights, powers or discretions given to the Lender or any Receiver under this Deed; and
- (b) convey, transfer, assign or otherwise deal with any Charged Assets in such manner as the Lender or any Receiver may require in connection with any enforcement of any of this Security.

15. Power of attorney

15.1 Grant of power of attorney

The Chargor, by way of security, irrevocably and severally appoints the Lender and each Receiver to be its attorney in its name and on its behalf to take any action which the Chargor is or may be obliged to take under or pursuant to this Deed or which the Lender or any Receiver in its or his sole and absolute discretion considers to be requisite, expedient or appropriate in order to carry any sale, lease or other disposal into effect, or to execute any deed, document or instrument, or to convey or transfer any legal estate or other interest in any asset, or to get in the Charged Assets, or generally to enable the Lender or a Receiver to exercise the respective rights, powers and discretions conferred on them by or pursuant to this Deed or by law.

15.2 Ratification

The Chargor agrees to ratify and confirm whatever any such attorney shall do, or attempt to do, in the exercise or purported exercise of the power of attorney granted under this Clause 15.

16. Non-release provisions

16.1 Waiver of defences

The obligations and liabilities of the Chargor under this Deed and this Security will not be affected by an act, omission, matter or thing which, but for this Clause 16, would reduce, release or prejudice any of such obligations and liabilities or security including (whether or not known to it or the Lender):

- (a) any time, waiver or consent granted to, or composition with, the Chargor or any other person;
- (b) the release of the Chargor or any other person under the terms of any composition or arrangement with any creditor of the Chargor or any other person;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or Security over property of, the Chargor or any other person or any non-presentation or non-observance of any

formality or other requirement in respect of any instrument or any failure to realise the full value of any Security;

- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of the Chargor or any other person;
- (e) any amalgamation, merger or reconstruction of the Lender with any other person or any sale or transfer of the whole or any part of the assets of the Lender to any other person;
- (f) the existence of any claim, set-off or other rights which the Chargor or any other person may have at any time against the Lender, whether in connection with the Finance Documents or otherwise;
- (g) any novation, amendment (however fundamental) or replacement of a Finance Document or any other document or Security;
- (h) any obligation of any person under any Finance Document or any other document or Security being void, voidable, invalid, unenforceable or otherwise irrecoverable; or
- (i) any insolvency or similar proceedings.

16.2 Immediate recourse

The Chargor waives any right it may have of first requiring the Lender to proceed against or enforce any other rights or security or claim payment from any person before enforcing this Security. This waiver applies irrespective of any law or any provision of a Finance Document to the contrary.

16.3 Appropriations

Subject to the terms of the Intercreditor Agreement, during the Security Period the Lender may:

- (a) refrain from applying or enforcing any moneys, Security or rights held or received by it (or any trustee or agent on its behalf) in respect of the Secured Obligations, or, subject to Clause 11 (*Application of proceeds*), apply and enforce the same in such manner and order as it sees fit (whether against the Secured Obligations or otherwise) and the Chargor shall not be entitled to the benefit of the same; and
- (b) hold in an interest bearing suspense account any moneys received from the Chargor for on account of the Secured Obligations.

16.4 Deferral of Chargor's rights

Until the expiry of the Security Period and unless the Lender otherwise directs, the Chargor will not exercise any rights which it may have by reason of the enforcement of this Deed:

- (a) to be indemnified by the Borrower;
- (b) to claim any contribution from the Borrower or any other person in respect of any obligations and liabilities of that person under the Finance Documents;
- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Lender under the Finance Documents or of any other guarantee or security taken pursuant to, or in connection with, the Finance Documents by the Lender;

- (d) to bring legal or other proceedings for an order requiring the Borrower to make any payment, or perform any obligation, in respect of which the Chargor has given Security under this Deed;
- (e) to exercise any right of set-off against the Borrower; and/or
- (f) to claim or prove as a creditor of the Borrower in competition with the Lender.

16.5 Turnover

Subject to the terms of the Intercreditor Agreement, if the Chargor receives any benefit, payment or distribution in relation to the rights referred to in Clause 16.4 (*Deferral of Chargor's rights*) it shall hold that benefit, payment or distribution to the extent necessary to enable the Secured Obligations to be repaid in full on trust for the Lender and shall promptly pay or transfer the same to the Lender or as the Lender may direct for application in or towards discharge of the Secured Obligations.

17. Release and recourse

17.1 Release of Charged Assets

Upon the expiry of the Security Period (but not otherwise), the Lender shall, at the request and cost of the Chargor:

- (a) take whatever action is necessary to release the Charged Assets from, and/or to cancel, this Security; and
- (b) reassign or procure the reassignment to the Chargor of the assets assigned by it to the Lender pursuant to this Deed,
- (c) in each case subject to Clause 17.2 (*Releases conditional*) and without recourse to, or any representation or warranty by, the Lender or any of its nominees.

17.2 Releases conditional

Any settlement, release or discharge under this Deed between the Lender and the Chargor will be conditional upon no security or payment to the Lender by the Chargor or any other person being avoided or set aside or ordered to be refunded or reduced by virtue of any provision or enactment relating to bankruptcy, winding-up, administration or insolvency for the time being in force, and if such condition is not satisfied, the Lender will be entitled to recover from the Chargor on demand the value of such security or the amount of any such payment as if such settlement, release or discharge had not occurred and/or to enforce this Security to the full extent of the Secured Obligations. The Lender may concede or compromise any claim that any payment, security or disposition is liable to avoidance, refund or reduction.

18. Benefit of this Deed

18.1 Assignment by the Lender

The Lender may assign or transfer all or any part of its rights, and/or obligations under this Deed without the consent of the Chargor to any person to whom the Loan Agreement is assigned or transferred in accordance with the terms of the Loan Agreement. The Chargor shall enter into any documents specified by the Lender to be necessary to give effect to such assignment or transfer.

18.2 No assignment by the Chargor

The Chargor may not assign or transfer all or any part of its rights and/or obligations under this Deed.

18.3 Disclosure of Information

The Lender may disclose:

- (a) to any person to (or through) whom it assigns or transfers (or may potentially assign or transfer) this Security or all or any of its rights and obligations under this Deed;
- (b) any Receiver or proposed replacement or additional Receiver;
- (c) any person with (or through) whom it enters into (or may potentially enter into) any arrangement in relation to, or any other transaction under which payments are to be made by reference to, the Secured Obligations; or
- (d) any person to whom, and to the extent that, information is required to be disclosed by any applicable law or regulation,
- (e) any information about the Chargor and this Deed as the Lender shall consider appropriate.

18.4 Change in name or constitution

This Deed shall remain valid and enforceable notwithstanding any change in the name, composition or constitution of any party or any merger, amalgamation or consolidation of such party with any other corporation or any reconstruction or reorganisation of any kind.

19. Notices

19.1 Service

Any notice or other communication given under this Deed shall be in writing and shall be served by delivering it personally or by sending it by pre-paid first-class post to the address set out at the beginning of this Deed or any substitute address or email address as may be notified by 15 days' notice in writing from time to time by the relevant party to the other party.

19.2 Receipt

Receipt of any notice given under Clause 19.1 (*Service*), shall be deemed to be:

- (a) if delivered personally, at the time of delivery, or
- (b) in the case of pre-paid first-class letter, 48 hours from the date of posting, or
- (c) in the case of email, when transmitted,

provided that if any notice, demand or communication would become effective under these provisions on a day which is not a Business Day, or outside normal working hours on a Business Day, at the place of receipt, it shall become effective at the next Business Day in such place.

19.3 Proof of service

In proving service of a notice, it shall be sufficient to prove that the envelope containing such notice was addressed to the address of the relevant party as set out in Clause 19.1 (*Service*) above and delivered either:

- (a) to that address, or
- (b) into the custody of the postal authorities as a pre-paid recorded delivery first-class letter.

20. Miscellaneous

20.1 Continuing security

This Security is continuing and will extend to the ultimate balance of all the Secured Obligations, regardless of any intermediate payment or discharge in whole or in part.

20.2 Additional Security

This Security is in addition to and is not in any way prejudiced by any bill, note, guarantee, indemnity or other Security now or subsequently held by the Lender for any of the Secured Obligations.

20.3 New accounts

If the Lender receives, or is deemed to be affected by, notice, whether actual or constructive, of any subsequent Security or other interest affecting any Charged Asset and/or the proceeds of sale of any Charged Asset, or this Security for any reason ceases to be a continuing security in respect of the Chargor, the Lender may open a new account for the Chargor. If the Lender 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 notice. As from that time all payments made to the Lender will be credited or be treated as having been credited to the new account and will not operate to reduce any amount for which this Deed is security.

20.4 No deduction or withholding

All payments made by the Chargor to the Lender under this Deed shall (save insofar as required by law to the contrary) be paid in full without set-off or counterclaim and free and clear of and without any deduction or withholding or payment for or on account of any present or future tax, levy, duty, impost or other charge or withholding of a similar nature. If the Chargor shall be required by law to effect any such deduction or withholding or payment the Chargor shall immediately pay to the Lender such additional amount as will result in the immediate receipt by the Lender of the full amount which would otherwise have been received had no such deduction or withholding or payment been made.

20.5 Set-off

The Lender may set off any matured obligation owed by the Chargor to the Lender against any obligation (whether or not matured) owed by the Lender to the Chargor regardless of the place of payment, or currency of either obligation. If the obligations are in different currencies, the Lender may convert either obligation at a market rate of exchange for the purpose of the set-off in an amount estimated by it in good faith to be the amount of that obligation.

20.6 Remedies

No failure to exercise, nor any delay in exercising, on the part of the Lender, any right or remedy under this Deed, shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Deed are cumulative and not exclusive of any rights or remedies provided by law.

20.7 Waivers

A waiver given or consent granted by the Lender under this Deed will be effective only if given in writing and then only in the instance and for the purpose for which it is given.

20.8 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.

20.9 Amendments

Any term of this Deed may be amended, varied or supplemented with the consent of the Lender and the Chargor and by an instrument in writing signed by the parties to this Deed and any such amendment, variation or supplement will be binding on the Lender and the Chargor.

20.10 Certificates and determinations

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

20.11 Counterparts

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

21. Governing law

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

EXECUTED as a deed and delivered by the Chargor and signed on behalf of the Lender on the date stated at the beginning of this document.

The Chargor

EXECUTED as a DEED by **WIGRAMS TURN MARINA LIMITED** acting by a director in the presence of:

Signature of witness

Print name *NW RANAGE*

Address *29 BREITHEIM RD*

..... *BOS 9TY*

Occupation *Accountant*

.....
Signature of director

The Lender

SIGNED as a DEED by **JOHN GRAHAME WHATELEY** as trustee of **THE CASTLEMORE SECURITIES FURBS SCHEME** in the presence of:

Signature of witness

Print name *NW RANAGE*

Address *29 BREITHEIM RD*

..... *BOS 9TY*

Occupation *Accountant*

.....
John Grahame Whateley

SIGNED as a DEED by DIANA LESLIE
WHATELEY as trustee of THE CASTLEMORE
SECURITIES FURBS SCHEME in the presence
of:



Diana Leslie Whateley

Signature of witness ...



Print name N.W. Lamaze

Address 29 Brentford Rd

..... B73 9TY

Occupation Accountant

