

MR01

Particulars of a charge

445268/26

Oyez

A fee is payable with this form
Please see 'How to pay' on the
last page

You can use the WebFiling
Please go to www.companieshouse.gov.uk

☒ What this form is for
You may use this form to register
a charge created or evidenced by
an instrument

☒ What this form is NOT for
You may not use this form to
register a charge where the
instrument Use form MR08



A09

A2LN4DU0

21/11/2013

#362

This form must be delivered to the Registrar for registration within
21 days beginning with the day after the date of creation of the charge. If
delivered outside of the 21 days it will be rejected unless it is accompanied by a
court order extending the time for delivery

☒ You must enclose a certified copy of the instrument with this form. This will be
scanned and placed on the public record

1 Company details

Company number 06742515
Company name in full Mountcharm Group Limited (the "Chargor")

2 For official use
Filing in this form
Please complete in typescript or in
bold black capitals
All fields are mandatory unless
specified or indicated by *

2 Charge creation date

Charge creation date 01/01/2013

3 Names of persons, security agents or trustees entitled to the charge

Please show the names of each of the persons, security agents or trustees
entitled to the charge

Name Lloyds Bank plc

Name

Name

Name

If there are more than four names, please supply any four of these names then
tick the statement below

☐ I confirm that there are more than four persons, security agents or
trustees entitled to the charge

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4

Description

Please give a short description of any land (including buildings), ship, aircraft or intellectual property registered (or required to be registered) in the UK which is subject to this fixed charge or fixed security

Continuation page

Please use a continuation page if you need to enter more details

Description

None

5

Fixed charge or fixed security

Does the instrument include a fixed charge or fixed security over any tangible or intangible (or in Scotland) corporeal or incorporeal property not described above? Please tick the appropriate box

☒ Yes

☐ No

6

Floating charge

Is the instrument expressed to contain a floating charge? Please tick the appropriate box

☐ Yes Continue

☒ No Go to Section 7

Is the floating charge expressed to cover all the property and undertaking of the company?

☐ Yes

7

Negative Pledge

Do any of the terms of the charge prohibit or restrict the chargor from creating any further security that will rank equally with or ahead of the charge? Please tick the appropriate box

☐ Yes

☒ No

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8

Trustee statement ①

You may tick the box if the company named in Section 1 is acting as trustee of the property or undertaking which is the subject of the charge

☐

① This statement may be filed after the registration of the charge (use form MR06)

9

Signature

Please sign the form here

Signature

Signature

X Osborne Clarke X

This form must be signed by a person with an interest in the charge

MR01

Particulars of a charge

Presenter information

We will send the certificate to the address entered below. All details given here will be available on the public record. You do not have to show any details here but, if none are given, we will send the certificate to the company's Registered Office address.

Contact name
1003212/ELP

Company name
Osborne Clarke

Address
One London Wall

London

Post town

County/Region

Postcode
E C 2 Y 5 E B

Country

DX

Telephone
+44 20 7105 7200

Certificate

We will send your certificate to the presenter's address if given above or to the company's Registered Office if you have left the presenter's information blank.

Checklist

We may return forms completed incorrectly or with information missing

Please make sure you have remembered the following

- ☐ The company name and number match the information held on the public Register
- ☐ You have included a certified copy of the instrument with this form
- ☐ You have entered the date on which the charge was created
- ☐ You have shown the names of persons entitled to the charge
- ☐ You have ticked any appropriate boxes in Sections 3, 5, 6, 7 & 8
- ☐ You have given a description in Section 4, if appropriate
- ☐ You have signed the form
- ☐ You have enclosed the correct fee
- ☐ Please do not send the original instrument, it must be a certified copy

Important information

Please note that all information on this form will appear on the public record.

How to pay

A fee of £13 is payable to Companies House in respect of each mortgage or charge filed on paper.

Make cheques or postal orders payable to 'Companies House'.

Where to send

You may return this form to any Companies House address. However, for expediency, we advise you to return it to the appropriate address below:

For companies registered in England and Wales
The Registrar of Companies, Companies House,
Crown Way, Cardiff, Wales, CF14 3UZ.
DX 33050 Cardiff

For companies registered in Scotland:
The Registrar of Companies, Companies House,
Fourth floor, Edinburgh Quay 2,
139 Fountainbridge, Edinburgh, Scotland, EH3 9FF
DX ED235 Edinburgh 1
or LP - 4 Edinburgh 2 (Legal Post)

For companies registered in Northern Ireland
The Registrar of Companies, Companies House,
Second Floor, The Linenhall, 32-38 Linenhall Street,
Belfast, Northern Ireland, BT2 8BG
DX 481 NR Belfast 1

Further information

For further information, please see the guidance notes on the website at www.companieshouse.gov.uk or email enquiries@companieshouse.gov.uk

This form is available in an alternative format. Please visit the forms page on the website at www.companieshouse.gov.uk



FILE COPY

CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 6742515

Charge code: 0674 2515 0002

The Registrar of Companies for England and Wales hereby certifies that a charge dated 19th November 2013 and created by MOUNTCHARM GROUP LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 21st November 2013

Given at Companies House, Cardiff on 27th November 2013



Companies House



**THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES**

Charge over shares and assignment of Subordinated Debt

- (1) Mountcharm Group Limited
- (2) Lloyds Bank plc

Dated 19 November 2013

We hereby certify that this is a true
and accurate copy of the original document
dated 19 day of November
2013

Osborne Clarke

Osborne Clarke
Osborne Clarke
11 London Wall
London
EC2Y 5EB

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This Deed is made on

19 November 2013

Between

- (1) **Mountcharm Group Limited** (a company incorporated in England and Wales with registered number 06742515) (the "Company"), and
- (2) **Lloyds Bank plc** (the "Security Agent")

This Deed witnesses as follows:

1 Interpretation

1.1 Definitions

In this Deed

"Borrower" means Brighton Jubilee Limited (a company incorporated in England and Wales with registered number 04991186)

"Charged Investments" means

- (a) all Shares,
- (b) all Derivative Assets, and
- (c) all Related Rights in respect of paragraphs (a) and (b) (inclusive)

"Collateral Liabilities" in relation to any of the Subordinated Debt means

- (a) any claim for damages or restitution in the event of rescission of any such liabilities or otherwise in connection with the Subordinated Debt,
- (b) any claim against the Borrower flowing from any recovery by the Borrower of a payment or discharge in respect of the Subordinated Debt on the grounds of preference or otherwise, and
- (c) any amounts (including post-insolvency interest) which would be included in any of the above but for any discharge, non-provability, unenforceability or non-allowability of the same in any insolvency or other proceedings

"Credit Agreement" means the £11,000,000 credit agreement dated on or about the date of this Deed and made between, amongst others, the Borrower and the Security Agent

"Derivative Asset" means all allotments, rights, benefits and advantages (including all voting rights) at any time accruing, offered or arising in respect of or incidental to the Shares and all money or property accruing or offered at any time by way of conversion, redemption, bonus, preference, option, dividend, distribution, interest or otherwise in respect of the Shares

"LPA" means the Law of Property Act 1925

"Party" means a party to this Deed

"Related Rights" means, where used in relation to an asset, the following

- (a) the proceeds of sale and/or other realisation of that asset (or any part thereof or interest therein), and

- (b) all Security, Authorisations, options, agreements, rights, benefits, indemnities, guarantees, warranties or covenants for title in respect of such asset

"Secured Liabilities" means all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or in any other capacity whatsoever) of each Transaction Obligor to any Secured Party under a Finance Document

"Security Assets" means the Charged Investments and the Subordinated Debt

"Security Period" means the period from the date of this Deed until the date on which all of the Secured Liabilities have been irrevocably and unconditionally paid and discharged in full and that no commitment is outstanding

"Subordinated Debt" means all present and future sums, liabilities and obligations whatsoever (actual or contingent) payable, owing due or incurred by the Borrower to the Company together with any Collateral Liabilities relating thereto and any Related Rights in respect of any of the foregoing

"Shares" means

- (a) 100 ordinary shares of £1 00 each in the Borrower, and
- (b) all other stocks, shares, warrants or other equity securities issued by the Borrower now or in the future owned by the Company from time to time or any in which it has an interest

1 2 Construction

- (a) Unless a contrary intention appears, Clause 1 2 (*Construction*) of the Credit Agreement applies to this Deed, and shall be deemed to be incorporated into this Deed, mutatis mutandis, as though set out in full in this Deed, with any reference to **"this Agreement"** being deemed to be a reference to **"this Deed"**, subject to any necessary changes
- (b) Unless the context otherwise requires or as otherwise defined in this Deed, terms defined in the Credit Agreement mean the same in this Deed as they do in the Credit Agreement
- (c) Any references to the Security Agent or any Receiver shall include its Delegate

1 3 Implied Covenants for Title

The obligations of the Company under this Deed shall be in addition to the covenants for title deemed to be included in this Deed by virtue of Part I of the Law of Property (Miscellaneous Provisions) Act 1994

1 4 Effect as a Deed

This Deed is intended to take effect as a deed notwithstanding that the Security Agent may have executed it under hand only

1 5 Trusts

- (a) The Security Agent holds the benefit of this Deed on trust for the Secured Parties in accordance with the terms of clause 27 1 (*Trust*) of the Credit Agreement
- (b) The perpetuity period for any trusts created by this Deed is 125 years

1 6 **Third Party Rights**

Unless a contrary intention appears, Clause 1 4 (*Third Party Rights*) of the Credit Agreement applies to this Deed, and shall be deemed to be incorporated into this Deed, mutatis mutandis, as though set out in full in this Deed, with any references to "this Agreement" being deemed to be a reference to "this Deed", subject to any necessary changes

1 7 **Finance Documents**

This Deed is a Finance Document

2 **Security Assets**

Security

2 1 The Company, as security for the payment of the Secured Liabilities, charges, by way of mortgage, in favour of the Security Agent, with full title guarantee, the Charged Investments

2 2 As security for the payment of the Secured Liabilities, the Company assigns, by way of security, with full title guarantee to the Security Agent all its rights, title and interest in the Subordinated Debt

3 **Nature of Security**

3 1 **Continuing Security**

- (a) The Security created by this Deed is to be a continuing security notwithstanding any intermediate payment or settlement of all or any part of the Secured Liabilities or any other matter or thing
- (b) If any purported obligation or liability of any Transaction Obligor to the Secured Parties which if valid would have been the subject of any obligation or charge created by this Deed is or becomes unenforceable, invalid or illegal on any ground whatsoever whether or not known to any Secured Party, the Company shall nevertheless be liable in respect of that purported obligation or liability as if the same were fully valid and enforceable and the Company were the principal debtor in respect thereof. The Company hereby agrees to keep the Secured Parties fully indemnified against all damages, losses, costs and expenses arising from any failure of any Transaction Obligor to carry out any such purported obligation or liability
- (c) The obligations and liabilities of the Company under this Deed will not be affected by an act, omission, matter or thing which, but for this Clause 3 1(c), would reduce, release or prejudice any of its obligations or liabilities under this Deed (without limitation and whether or not known to any Secured Party) including
 - (i) any time, waiver or consent granted to, or composition with, any Transaction Obligor or other person,
 - (ii) the release of any Transaction Obligor or any other person under the terms of any composition or arrangement with any creditor of any person,
 - (iii) 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 any assets of any Transaction Obligor 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,

- (iv) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any Transaction Obligor or any other person,
 - (v) any amendment (however fundamental) or replacement of any Finance Document or any other document or Security,
 - (vi) any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document or any other document or Security, or
 - (vii) any insolvency or similar proceedings
- (d) Until the Security Period has ended and unless the Security Agent otherwise directs, the Company will not exercise any rights which it may have by reason of performance by it of its obligations under this Deed
- (i) to be indemnified by any other Transaction Obligor (including any rights it may have by way of subrogation),
 - (ii) to claim any contribution from any guarantor of any other Transaction Obligor of the obligations under the Finance Documents,
 - (iii) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any right of the Security Agent or any of the other Secured Parties under any Finance Document or of any other guarantee or Security taken pursuant to, or in connection with, the Finance Documents,
 - (iv) to claim, rank, prove or vote as a creditor of any other Transaction Obligor or its estate in competition with the Security Agent or any of the other Secured Parties, and/or
 - (v) receive, claim or have the benefit of any payment, distribution or security from or on account of any other Transaction Obligor, or exercise any right of set-off against any other Transaction Obligor
- (e) The Company shall hold on trust for and immediately pay or transfer to the Security Agent any payment or distribution or benefit of Security received by it contrary to this Clause 3 1
- (f) The Company waives any right it may have of first requiring the Security Agent to proceed against or enforce any other rights or Security or claim payment from any person before claiming from a Transaction Obligor under a Finance Document. This waiver applies irrespective of any law or any provision of the Finance Document to the contrary
- (g) Until the Security Period has ended, the Security Agent may refrain from applying or enforcing any other moneys, Security or rights held or received by the Security Agent in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and the Company shall not be entitled to the benefit of the same

3 2 ***Non-merger of Security***

The Security created by this Deed is to be in addition to and shall neither be merged in nor in any way exclude or prejudice or be affected by any other Security or other right which the Security Agent may now or after the date of this Deed hold for any of the Secured Liabilities, and this Deed may be enforced against the Company without first having recourse to any other rights of the Security Agent

4 Further Assurances and Protection of Priority

4 1 General

- (a) The Company shall, at its own expense, promptly do all such acts or execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Security Agent may reasonably specify (and in such form as the Security Agent may reasonably require in favour of the Security Agent or its nominee(s))
 - (i) to perfect or protect the Security created or intended to be created under, or evidenced by, this Deed (which may include the execution of a mortgage, charge, assignment or other Security over all or any of the assets which are, or are intended to be, the subject of this Deed) or for the exercise of any rights, powers and remedies of the Secured Parties provided by or pursuant to this Deed or by law, and/or
 - (ii) to facilitate the realisation or enforcement of the assets which are, or are intended to be, the subject of the Security created, or intended to be created, by this Deed
- (b) The Company shall take all such action (including making all filings and registrations) as may be necessary for the purpose of the creation, perfection, protection or maintenance of any Security conferred or intended to be conferred on the Secured Parties by or pursuant to this Deed

5 Representations and Warranties

The Company makes the representations and warranties listed below in favour of each of the Secured Parties

5 1 Status

It is a duly incorporated corporation and validly existing under the laws of its jurisdiction of formation

5 2 Binding obligations

Subject to the Legal Reservations, this Deed constitutes its legal, binding, valid and enforceable obligations

5 3 Non-conflict with other obligations

- (a) It has the power to enter into and perform, and has taken all necessary action to authorise the entry into, performance and delivery of, this Deed
- (b) The entry into and performance by it of, and the transactions contemplated by, this Deed do not and will not
 - (i) conflict with any law or regulation or judicial or official order applicable to it, or
 - (ii) conflict with its constitutional documents, or
 - (iii) conflict with any agreement or document which is binding upon it or any of its assets and it has obtained all necessary consents and authorisations for the performance by it of this Deed

5 4 *Security Assets*

- (a) It is the legal and beneficial owner of the Security Assets with the right to transfer with full title guarantee all or any part of the Security Assets and has good marketable title to the Security Assets
- (b) The Subordinated Debt is not subject to any set-off, counterclaim or other defence
- (c) The Shares are fully paid and none are subject to any option to purchase or similar rights
- (d) It has not appointed any nominee to exercise or enjoy all or any of its rights in relation to the Charged Investments
- (e) The constitutional documents of the Borrower do not and could not restrict or prohibit any transfer of the Shares on creation or on enforcement of that Security

5 5 *Pari passu ranking*

Its payment obligations under this Deed rank at least *pari passu* with all its other present and future unsecured payment obligations, except for obligations mandatorily preferred by law

5 6 *No filing or stamp taxes*

No stamp or registration duty or similar Tax or charge is payable in its jurisdiction of incorporation in respect of this Deed and it is not necessary that this Deed be filed, recorded or enrolled with any court or other authority in any jurisdiction

5 7 *Information*

All information provided by it or on its behalf in connection with or pursuant to this Deed or any other Transaction Document was true and accurate in all material respects as at the date it was provided or as at the date (if any) it was stated and nothing was omitted from such information that results in such information being untrue or misleading in any material respect

5 8 *No proceedings pending or threatened*

No litigation, arbitration or administrative proceedings of or before any court, arbitral body or agency which, if adversely determined, might reasonably be expected to have a materially adverse effect on its ability to comply with its obligations under this Deed have (to the best of its knowledge and belief) been started or threatened against it

5 9 *Insolvency*

- (a) It is not unable nor has admitted inability to pay its debts as they fall due, suspended making payments on any of its debts, or, by reason of actual or anticipated financial difficulties, commenced negotiations with one or more of its creditors with a view to rescheduling any of its indebtedness
- (b) The value of its assets is not less than its liabilities (taking into account contingent and prospective liabilities)
- (c) No moratorium has been declared in respect of any its indebtedness

5 10 *Ranking of Security*

The Security conferred by this Deed constitutes a first priority security interest of the type described in this Deed over the Security Assets and the Security Assets are not subject to any prior or *pari passu* Security

5 11 Repetition

The representations in this Clause 5 are deemed to be made by the Company by reference to the facts and circumstances then existing on the date of this Deed and each day of the Security Period

6 Undertakings

6 1 Duration of Undertakings

The Company undertakes to the Security Agent in the terms of this Clause 6 for the duration of the Security Period

6 2 General Undertakings

(a) Negative Pledge and Disposal Restrictions

It will not

- (i) create or agree to create or permit to subsist or arise any Security over all or any part of the Security Assets, or
- (ii) dispose of all or any part of the Security Assets or agree or attempt to do the same,

except with the prior written consent of the Security Agent

(b) Deposit of Documents or Title Deeds

It will deposit with the Security Agent

- (i) to the extent that the relevant documents have not been deposited with a clearance system, settlement system or custodian acceptable to the Security Agent, all deeds, documents of title (or documents evidencing title or the right to title) and agreements relating to a Security Asset,
- (ii) any stock transfer forms or other instruments of transfer duly completed to the Security Agent's satisfaction, and
- (iii) any other document which the Security Agent may reasonably require for the purpose of perfecting the Security created by this Deed

(c) Calls

It shall duly and promptly pay all calls, instalments or other payments which may be due and payable in respect of any Charged Investments and, for the avoidance of doubt, no Secured Party shall incur any liability in respect of any amounts due from the Company in respect of any Charged Investments

(d) Compliance with Laws

It shall at all times comply with all laws and regulations applicable to it and will obtain and maintain in full force and effect all Authorisations which may at any time be required with respect to any of the Security Assets

(e) Information

It shall supply promptly to the Security Agent

- (i) such information in relation to the Security Assets as the Security Agent may request, and
- (ii) all documents dispatched by the Company to it in connection with a Security Asset

6.3 ***Charged Investments***

(a) *Exercise of Rights*

- (i) Prior to an Event of Default which is continuing, it shall not, without the prior written consent of the Security Agent, exercise or refrain from exercising (or direct the same) any of the powers or rights conferred upon or exercisable by the legal or beneficial owner of the Charged Investments unless such exercise or refrain from exercising (or direction to do the same)
 - (A) is consistent with the terms of the Credit Agreement, and
 - (B) would not, or would not be reasonably likely to, effect any rights or powers of the Company arising from its legal and/or beneficial ownership of the Charged Investments
- (ii) Following an Event of Default which is continuing, it shall not, without the prior written consent of the Security Agent, exercise or refrain from exercising (or direct the same) any of the powers or rights conferred upon or exercisable by the legal or beneficial owner of the Charged Investments

(b) *Registration of Transfers*

Following an Event of Default which is continuing, if required by the Security Agent, it shall procure that the Charged Investments which are in registered form are duly registered in the name of the Security Agent or its nominee once a transfer relating to the Charged Investments is presented for that purpose

(c) *Dividends*

Following an Event of Default which is continuing, it shall immediately pay all dividends or other monies received by it in respect of the Charged Investments into such account as the Security Agent may specify

(d) *Nominees*

It shall not appoint any nominee to exercise or enjoy all or any of its rights in relation to the Charged Investments

6.4 ***Power to Remedy***

If the Company fails to comply with any covenant set out in Clause 6.2 (*General Undertakings*) or Clause 6.3 (*Charged Investments*) (inclusive), it will allow (and irrevocably authorises) the Security Agent or any Receiver to take any action on its behalf which the Security Agent or the Receiver deems necessary to ensure that those covenants are complied with. The Company shall reimburse to the Security Agent and/or any Receiver, on demand, all amounts expended by the Security Agent or any Receiver in remedying such failure together with interest in accordance with 13.6.13.6 (*Default Interest*) from the date of payment by the Security Agent or Receiver (as the case may be) until the date of reimbursement.

7 Enforcement and Powers of the Security Agent

7.1 Enforcement

At any time on or after the occurrence of an Event of Default which is continuing, the Security created pursuant to this Deed shall be immediately enforceable and the Security Agent may in its absolute discretion and without notice to the Company or the prior authorisation of any court

- (a) enforce all or any part of the Security created by this Deed and take possession of or dispose of all or any of the Security Assets in each case at such times and upon such terms as it sees fit, and
- (b) whether or not it has appointed a Receiver, exercise all of the powers, authorities and discretions
 - (i) conferred from time to time on mortgagees by the LPA (as varied or extended by this Deed) or by law, and
 - (ii) granted to a Receiver by this Deed or from time to time by law

7.2 Power of Sale

For the purpose of all rights and powers implied or granted by law, the Secured Liabilities are deemed to have fallen due on the date of this Deed. The power of sale and other powers conferred by section 101 of the LPA and all other enforcement powers conferred by this Deed shall be immediately exercisable at any time after an Event of Default which is continuing.

7.3 Statutory Restrictions

The restriction on the consolidation of mortgages and on power of sale imposed by sections 93 and 103 respectively of the LPA shall not apply to the Security constituted by this Deed.

7.4 Appropriation

- (a) In this deed, "**financial collateral**" has the meaning given to that term in the Financial Collateral Arrangements (No 2) Regulations 2003
- (b) At any time after an Event of Default which is continuing, the Security Agent may appropriate all or part of the financial collateral in or towards satisfaction of the Secured Liabilities
- (c) The Parties agree that the value of any such Security Assets appropriated in accordance with paragraph (b) above shall be the market price of such Security Assets at the time the right of appropriation is exercised as determined by the Security Agent by reference to such method or source of valuation as the Security Agent may reasonably select, including by independent valuation. The Parties agree that the methods or sources of valuation provided for in this paragraph (c) or selected by the Security Agent in accordance with this paragraph (c) shall constitute a commercially reasonable manner of valuation for the purposes of the Financial Collateral Arrangements (No 2) Regulations 2003
- (d) The Security Agent shall notify the Company, as soon as reasonably practicable, of the exercise of its right of appropriation as regards such of the Security Assets as are specified in such notice

8 Appointment of a Receiver

8.1 Appointment

- (a) At any time on or after the occurrence of an Event of Default which is continuing, or at the request of the Company or its directors, the Security Agent may, without prior notice to the Company, in writing (under seal, by deed or otherwise under hand) appoint a Receiver in respect of the Security Assets or any part thereof and may in like manner from time to time (and insofar as it is lawfully able to do) remove any Receiver and appoint another in his place
- (b) Nothing in paragraph (a) above shall restrict the exercise by the Security Agent of any one or more of the rights of the Security Agent under Schedule B1 to the Insolvency Act 1986 and the rules thereunder or at common law
- (c) Section 109(1) of the LPA shall not apply to this Deed

8.2 Several Receivers

If at any time there is more than one Receiver, each Receiver may separately exercise all of the powers conferred by this Deed (unless the document appointing such Receiver states otherwise)

8.3 Remuneration of Receiver

The Security Agent may from time to time fix the remuneration of any Receiver appointed by it from time to time. For the purpose of this Clause 8.3, the limitation set out in Section 109(6) LPA shall not apply

8.4 Liability of Security Agent for Actions of a Receiver

Each Receiver shall be the agent of the Company which shall be solely responsible for his acts or defaults, and for his remuneration and expenses, and be liable on any agreements or engagements made or entered into by him. No Secured Party shall be responsible for any misconduct, negligence or default of a Receiver

9 Powers of a Receiver

A Receiver shall have (and be entitled to exercise) in relation to the Security Assets over which he is appointed the following powers (as the same may be varied or extended by the provisions of this Deed)

- (a) all of the powers of an administrative receiver set out in Schedule 1 to the Insolvency Act 1986 (whether or not the Receiver is an administrative receiver),
- (b) all of the powers conferred from time to time on receivers, mortgagors and mortgagees in possession by the LPA,
- (c) all of the powers conferred on the Security Agent under this Deed,
- (d) all the powers and rights of a legal and beneficial owner and the power to do or omit to do anything which the Company itself could do or omit to do,
- (e) the power to do all things which, in the opinion of the Receiver, are incidental to any of the powers, functions, authorities or discretions conferred or vested in the Receiver pursuant to this Deed or upon receivers by statute or law generally (including the bringing or defending of proceedings in the name of, or on behalf of, the Company, the collection and/or realisation of Security Assets in such manner and on such terms as the Receiver sees fit, and the execution of documents in the name of the Company

(whether under hand, or by way of deed or by utilisation of the company seal of the Company)

10 Application of Moneys

10 1 Order of Application

All amounts from time to time received or recovered by the Security Agent pursuant to the terms of this Deed or in connection with the realisation or enforcement of all or any part of the Security created by this Deed (for the purposes of this Clause 10, the "Recoveries") shall be held by the Security Agent on trust to apply the same at any time as the Security Agent (in its discretion) sees fit, to the extent permitted by applicable law (and subject to the provisions of this Clause 30 1 (*Order of application*)) of the Credit Agreement

10 2 Prospective Liabilities

The Security Agent may, in its discretion, hold any amount of the Recoveries in an interest bearing suspense or impersonal account(s) in the name of the Security Agent with such financial institution (including itself) and for so long as the Security Agent shall think fit (the interest being credited to the relevant account) for later application under Clause 10 1 (*Order of Application*) in respect of

- (a) any sum to a Secured Party, and
- (b) any part of the Secured Liabilities,

that the Security Agent reasonably considers, in each case, might become due or owing at any time in the future

10 3 Investment of Proceeds

Prior to the application of the proceeds of the Recoveries in accordance with Clause 10 1 (*Order of Application*) the Security Agent may, in its discretion, hold all or part of those proceeds in an interest bearing suspense or impersonal account(s) in the name of the Security Agent with such financial institution (including itself) and for so long as the Security Agent shall think fit (the interest being credited to the relevant account) pending the application from time to time of those moneys in the Security Agent's discretion in accordance with the provisions of Clause 10 1 (*Order of Application*)

10 4 Currency Conversion

- (a) For the purpose of, or pending the discharge of, any of the Secured Liabilities the Security Agent may convert any moneys received or recovered by the Security Agent from one currency to Sterling, at a market rate of exchange
- (b) The obligations of the Company to pay in the due currency shall only be satisfied to the extent of the amount of the due currency purchased after deducting the costs of conversion

10 5 Permitted Deductions

The Security Agent shall be entitled, in its discretion

- (a) to set aside by way of reserve, amounts required to meet, and to make and pay, any deductions and withholdings (on account of taxes or otherwise) which it is or may be required by any applicable law to make from any distribution or payment made by it under this Deed, and
- (b) to pay all Taxes which may be assessed against it in respect of any of the Security Assets, or as a consequence of performing its duties, or by virtue of its capacity as

Security Agent under any of the Finance Documents or otherwise (other than in connection with its remuneration for performing its duties under this Deed)

10 6 *Good Discharge*

- (a) Any payment to be made in respect of the Secured Liabilities by the Security Agent may be made to the Agent on behalf of the Finance Parties and any payment made in that way shall be a good discharge, to the extent of that payment, by the Security Agent
- (b) The Security Agent is under no obligation to make the payments to the Agent under paragraph (a) above in the same currency as that in which the obligations and liabilities owing to the relevant Finance Party are denominated

11 *Protection of Third Parties*

11 1 *No Obligation to Enquire*

No purchaser from, or other person dealing with, a Secured Party shall be obliged or concerned to enquire whether

- (a) the right of the Secured Party to exercise any of the powers conferred by this Deed has arisen or become exercisable or as to the propriety or validity of the exercise or purported exercise of any such power, or
- (b) any of the Secured Liabilities remains outstanding or be concerned with notice to the contrary and the title and position of such a purchaser or other person shall not be impeachable by reference to any of those matters

11 2 *Receipt Conclusive*

The receipt of the Security Agent or any Receiver shall be an absolute and a conclusive discharge to a purchaser, and shall relieve such purchaser of any obligation to see to the application of any moneys paid to or by the direction of the Security Agent or any Receiver

12 *Protection of the Secured Parties*

12 1 *No Liability*

No Secured Party shall be liable in respect of any of the Security Assets or for any loss or damage which arises out of the exercise or the attempted or purported exercise of, or the failure to exercise any of, their respective powers other than in cases of its wilful misconduct or gross negligence

12 2 *Possession of Security Assets*

Without prejudice to Clause 12 1 (*No Liability*), if a Secured Party enters into possession of the Security Assets, it will not be liable to account as mortgagee in possession and may at any time at its discretion go out of such possession

12 3 *No proceedings*

No Party (other than the Security Agent, a Receiver or a Delegate in respect of its own officers, employees or agents) may take any proceedings against any officer, employee or agent of a Finance Party, a Receiver or a Delegate in respect of any claim it might have against a Finance Party, a Receiver or a Delegate or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Finance Document or any Security Asset and any officer, employee or agent of a Finance Party, a Receiver or a Delegate may rely on this Clause subject to Clause 1 5 (*Trusts*)

The Security Agent holds the benefit of this Deed on trust for the Secured Parties in accordance with the terms of clause 27.1 (Trust) of the Credit Agreement

- (a) The perpetuity period for any trusts created by this Deed is 125 years

Third Party Rights) and the provisions of the Third Parties Act

13 Costs and Expenses, Indemnities and Default Interest

13.1 Amendment Costs

If the Company requests an amendment, waiver or consent in connection with this Deed, the Company shall, within three Business Days of demand, reimburse each Secured Party for the amount of all costs and expenses (including legal fees) reasonably incurred by it in responding to, evaluating, negotiating or complying with that request

13.2 Enforcement Expenses

The Company shall, immediately on demand pay to each Secured Party the amount of all costs and expenses (including legal fees) incurred by it in connection with the enforcement of, or the preservation or review of any rights under, this Deed and any other documents referred to in this Deed

13.3 Stamp Duties, etc

The Company will within three Business Days of demand indemnify each Secured Party, from and against any liability for any stamp, documentary, filing and other duties and Taxes (if any) which are or may become payable in connection with this Deed

13.4 Currency Indemnity

- (a) If any sum due from the Company under this Deed (a "Sum"), or any order, judgment or award given or made in relation to a Sum, has to be converted from the currency (the "First Currency") in which that Sum is payable into another currency (the "Second Currency") for the purpose of

- (i) making or filing a claim or proof against the Company, or
- (ii) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings,

the Company shall as an independent obligation, within three Business Days of demand, indemnify each Secured Party to whom that Sum is due against any cost, loss or liability arising out of or as a result of the conversion including any discrepancy between (A) the rate of exchange used to convert that Sum from the First Currency into the Second Currency and (B) the rate or rates of exchange available to that person at the time of its receipt of that Sum

- (b) The Company waives any right it may have in any jurisdiction to pay any amount under this Deed in a currency or currency unit other than that in which it is expressed to be payable

13.5 Other indemnity

The Company shall promptly indemnify each Secured Party against any cost, loss or liability incurred by any of them

- (a) as a result of
- (i) any failure by the Company to comply with its obligations under this Deed,

- (ii) the taking, holding, protection or enforcement of the Security created by this Deed,
- (iii) the exercise of any of the rights, powers, discretions and remedies vested in it by this Deed or by law, or
- (b) which otherwise relates to any of the Security Assets or the performance of the terms of this Deed (otherwise than as a result of its gross negligence or wilful misconduct)

13 6 Default Interest

- (a) If the Company fails to pay any amount payable by it under this Deed on its due date, interest shall accrue on the overdue amount from the due date up to the date of actual payment (both before and after judgment) at the Default Rate
- (b) Any interest accruing under this Clause 13 6 shall be immediately payable by the Company on demand by the Security Agent
- (c) Default interest (if unpaid) arising on an overdue amount will be compounded with the overdue amount at the end of each month but will remain immediately due and payable
- (d) Any interest accruing under this Deed will accrue from day to day and is calculated on the basis of the actual number of days elapsed and a year of 365 days

14 Cumulative Powers and Avoidance of Payments

14 1 Cumulative Powers

The powers which this Deed confers on the Security Agent and any Receiver appointed under this Deed are cumulative, without prejudice to their respective powers under the general law, and may be exercised as often as the relevant person thinks appropriate. The Security Agent or the Receiver may, in connection with the exercise of their powers, join or concur with any person in any transaction, scheme or arrangement whatsoever. The respective powers of the Security Agent and the Receiver will in no circumstances be suspended, waived or otherwise prejudiced by anything other than an express consent or amendment.

14 2 Amounts Avoided

If any amount paid by the Company in respect of the Secured Liabilities is capable of being avoided or set aside on the liquidation or administration of the Company or otherwise, then for the purposes of this Deed that amount shall not be considered to have been paid.

14 3 Discharge Conditional

Any settlement or discharge between the Company and the Security Agent shall be conditional upon no security or payment to the Security Agent by the Company or any other person being avoided, set aside, ordered to be refunded or reduced by virtue of any provision or enactment relating to insolvency and accordingly (but without limiting the other rights of the Security Agent under this Deed) the Security Agent shall be entitled to recover from the Company the value which the Security Agent has placed on that security or the amount of any such payment as if that settlement or discharge had not occurred.

15 Ruling-off Accounts

If the Security Agent receives notice of any subsequent Security or other interest affecting any of the Security Assets it may open a new account for the Company in its books. If it does not do so then (unless it gives written notice to the contrary to the Company), as from the time it receives that notice, all payments made by the Company to it (in the absence of any express

appropriation to the contrary) shall be treated as having been credited to a new account of the Company and not as having been applied in reduction of the Secured Liabilities

16 Power of Attorney

The Company, by way of security, irrevocably and severally appoints each of the Security Agent and any Receiver as its attorney (with full power of substitution and delegation) in its name and on its behalf and as its act and deed to execute, seal and deliver (using the company seal where appropriate) and otherwise perfect and do any deed, assurance, agreement, instrument, act or thing which it has agreed to execute and do under the terms of this Deed and which it has failed to do following request, or which may be required or deemed proper in the exercise of any rights or powers conferred on the Security Agent or any Receiver under this Deed or otherwise for any of the purposes of this Deed, and the Company covenants with each of the Security Agent and any Receiver to ratify and confirm all such acts or things made, done or executed by that attorney

17 Delegation

17 1 A Secured Party may, at any time, delegate by power of attorney or otherwise to any person for any period, all or any of the rights, powers and discretions vested in it by or pursuant to this Deed

17 2 That delegation may be made upon any terms and conditions (including the power to sub delegate) and subject to any restrictions that that Secured Party may, in its discretion, think fit in the interests of the Secured Parties and it shall not be bound to supervise, or be in any way responsible for any loss incurred by reason of any misconduct or default on the part of any such delegate or sub delegate

18 Redemption of Prior Charges

The Security Agent may, redeem any prior Security on or relating to any of the Security Assets or procure the transfer of that Security to itself, and may settle and pass the accounts of any person entitled to that prior Security Any account so settled and passed shall (subject to any manifest error) be conclusive and binding on the Company The Company will on demand pay to the Security Agent all principal monies and interest and all losses incidental to any such redemption or transfer

19 Set-Off and Other Rights

19 1 *Set-Off Rights of the Secured Party*

A Secured Party may set off any matured obligation due from the Company under the Finance Documents (to the extent beneficially owned by that Secured Party) against any matured obligation owed by that Secured Party to the Borrower, regardless of the place of payment, booking branch or currency of either obligation If the obligations are in different currencies, the Secured Party may convert either obligation at a market rate of exchange for the purpose of the set-off

19 2 *Unliquidated Claims*

If the relevant obligation or liability is unliquidated or unascertained, the Secured Party may set-off the amount which it estimates (in good faith) will be the final amount of that obligation or liability once it becomes liquidated or ascertained

19 3 *No Deductions*

All payments under this Deed by the Company shall be made without any set-off, counterclaim or equity and (subject to the following sentence) free from, clear of and without deduction for any taxes, duties, levies, imposts or charges whatsoever, present or future If the Company is compelled by the law of any applicable jurisdiction (or by an order of any regulatory authority

in such jurisdiction) to withhold or deduct any sums in respect of taxes, duties, levies, imposts or charges from any amount payable to a Secured Party under this Deed or, if any such withholding or deduction is made in respect of any recovery under this Deed, the Company shall pay such additional amount so as to ensure that the net amount received by that Secured Party shall equal the full amount due to it under the provisions of this Deed (had no such withholding or deduction been made)

20 Miscellaneous

20 1 Assignment

The Company may not assign any of its rights or transfer any of its rights or obligations under this Deed. The Security Agent may assign and transfer all or any part of its rights and obligations under this Deed.

20 2 Certificates Conclusive

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

20 3 Invalidity of any Provision

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 4 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.

20 5 Covenant to Release

At the end of the Security Period, the Security Agent shall, at the request and cost of the Company, release the Security Assets from the security constituted by this Deed.

20 6 Disclosure

A Secured Party may disclose to any person to whom it discloses Confidential Information in accordance with Clause 40 (*Confidentiality*) of the Credit Agreement any information about the Company, the Credit Agreement or this Deed as that Secured Party shall consider appropriate.

21 Governing Law

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

22 Jurisdiction

22 1 The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute 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").

22 2 The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.

In witness whereof this Deed has been duly executed on the above date first above written.

Signatories to this Deed

Executed as a deed by)
Mountcharm Group Limited)
acting by)
in the presence of

Signature of director

Signature of witness ✓

Name of witness

Address of witness

Occupation of witness

Notice Details

Address Northside House, Mount Pleasant, Barnet, Hertfordshire EN4 9EE
Facsimile 020 8559 2002
Attention Mel Cooper

Security Agent

Signed by)
authorised signatory)
for and on behalf of)
Lloyds Bank plc)

Notice Details

Address 3rd Floor, 25 Gresham Street, London EC2V 7HN
Facsimile 020 7356 1573
Attention Stuart Reid