

DATED

2023

Intercreditor Deed

- (1) The Noteholders listed in the Schedule
- (2) Stellar Asset Management Limited
- (3) Stellar Dundee Hotel LP
- (4) The Royal Bank of Scotland Plc

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This **Intercreditor Deed** is made on

2023

Between

- 1 **The Noteholders** whose details are set out in the Schedule to this Deed;
- 2 **Stellar Asset Management Limited** (a limited liability company with registered number 06381679) whose registered office is at C/O Stellar Asset Management, 20 Chapel Street, Liverpool, United Kingdom L3 9AG, in its capacity as security trustee for the Secured Parties (**Security Trustee**);
- 3 **Stellar Dundee Hotel General Partner Limited**, a company registered under the Companies Acts (Company Number 8237954) and having its registered office at 145-157 St John Street, London, England EC1V 4PW as General Partner of and as such Trustee for **Stellar Dundee Hotel LP** (Registered Number LP15229) a limited partnership registered under the Limited Partnerships Act 1907 and having its registered office at 33 St James's Square, London SW1Y 4JS (**Stellar**); and
- 4 **The Royal Bank of Scotland Plc** (the **Lender**).

It is agreed as follows:

1 Interpretation

1.1 Definitions

In this Deed:

2013 Loan Note Instrument: the instrument constituting the 2013 Loan Notes.

2013 Loan Notes: the £1,700,000 unsecured loan notes 2027 created by Stellar on the terms of the 2013 Loan Note Instrument on or around 26 March 2013.

2019 Loan Note Instrument: the instrument constituting the 2019 Loan Notes.

2019 Loan Notes: the £600,000 unsecured loan notes 2024 created by Stellar on the terms of the 2019 Loan Note Instrument in 2019.

Dundee Hotel: means Dundee Hotel Limited, company number 08251527.

Event of Default: has the meaning given to that term in the Facility Agreements.

Existing Intercreditor Deed: means the intercreditor deed dated 26 March 2013 and entered into between the Noteholders, Invicta Trust Services Limited as security trustee, Stellar and the Lender.

Facility Agreements: the Fixed Rate Facility Agreement and the Variable Rate Facility Agreement, and **Facility Agreement** shall mean each or either of them, as the context requires.

Fixed Rate Facility Agreement: the fixed and variable rate facility agreement dated on or about the date of this Deed between the Lender and Dundee Hotel (and such expression shall include the Fixed Rate Facility Agreement from time to time amended, varied, supplemented, extended or replaced).

Finance Documents: this Deed, the Facility Agreements, the Loan Note Documents, the Lender Security Documents, the Guarantee and the Ranking Agreement.

Guarantee: means the limited guarantee granted by Stellar in favour of the Lender on or around the date of this Deed.

Insolvency Representative: any liquidator, administrator, receiver, receiver and manager, administrative receiver, custodian, trustee or similar officer in any jurisdiction.

Loan Note Instrument: means either or both of the 2013 Loan Note Instrument and the 2019 Loan Note Instrument, as the context requires.

Loan Note Documents: the 2013 Loan Notes, the 2019 Loan Notes, the 2013 Loan Note Instrument, the 2019 Loan Note Instrument and the Noteholder Security Documents.

Loan Notes: the 2013 Loan Notes and / or the 2019 Loan Notes as the context requires.

Lender Debenture: the deed of debenture, and all security created thereunder, granted by Stellar in favour of the Lender dated 26 March 2013.

Lender Standard Security: the Standard Security for all sums due and to become due by Stellar to the Lender granted over the Property dated on 26 March 2013 and registered in the Land Register of Scotland under Title Number ANG44498.

Lender Liabilities: all Liabilities arising under or in connection with the Finance Documents to the Lender and all other liabilities now or hereafter due, owing or incurred to the Lender by Stellar or Dundee Hotel in any manner whatsoever.

Lender Security Documents: any document (including, for the avoidance of doubt, the Lender Debenture and the Lender Standard Security) entered into by Stellar creating or expressed to create any Security over all or any part of its assets in respect of any of the Lender Liabilities.

Liabilities: all present and future sums, liabilities and obligations payable or owing by Stellar (whether actual or contingent, jointly or severally or otherwise howsoever).

Noteholder Liabilities: all Liabilities arising under or in connection with the Loan Note Documents to the Noteholders.

Noteholder Security Documents: the second ranking fixed charge over the Property granted by Stellar in favour of the Security Trustee together with any other document entered into by Stellar creating or expressed to create any Security over all or any part of its assets in respect of any of the Noteholder Liabilities.

Noteholders: the individuals and / or entities set out in the Schedule to this Deed, together with any permitted transferees or assignees or any other holders of Loan Notes issued following the date of this Deed, in each case who have acceded to this Deed in accordance with the provisions of clause 16.

Permitted Payments: such monetary payments to the Noteholders on the Loan Notes as are permitted from time to time under the Facility Agreements.

Property: ALL and WHOLE the subjects known as Dundee Holiday Inn Express, Dock Street, Dundee being the subjects registered under the Land Register of Scotland under Title Number ANG44498 under exception of that part of the said subjects being the ground floor retail subjects known as Units 1 to 5, 42 to 46 Dock Street, Dundee.

Ranking Agreement: the agreement governed by Scots law relating to the ranking of the Transaction Security entered into between the Lender, Invicta and the Security Trustee on or around 26 March 2013.

Recovery: all amounts received or recovered by the Lender pursuant to the enforcement of the Transaction Security or otherwise in respect of the Lender Liabilities, but after deducting:

- (a) the reasonable costs and expenses incurred in effecting such receipt or recovery; and

- (b) any sums required by law or court order to be paid to third parties on account of claims preferred by law over the claims of the Lender.

Security: 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.

Stellar Release Date: the date on which the Lender is satisfied that all the Lender Liabilities have been fully and irrevocably paid and discharged (including, without limitation, any conditional or unmatured obligations).

Transaction Security: the Security created or expressed to be created in favour of the Lender, the Security Trustee or the Noteholders pursuant to the Lender Security Documents or, as the case may be, Noteholder Security Documents.

Variable Rate Facility Agreement: the variable rate facility agreement dated on or about the date of this Deed between the Lender and Dundee Hotel (and such expression shall include the Variable Rate Facility Agreement from time to time amended, varied, supplemented, extended or replaced).

1.2 Interpretation

In this Deed unless the context otherwise requires:

- 1.2.1 words importing the singular shall include the plural and vice versa, and reference to any gender includes the other genders;
- 1.2.2 a reference to this Deed, a Facility Agreement, the Lender Security Documents, the Finance Documents, a Loan Note Instrument, the Loan Notes, the Noteholder Security Documents or any other document is a reference to this Deed, that Facility Agreement, the Lender Security Documents, the Finance Documents, that Loan Note Instrument, the Loan Notes, the Noteholder Security Documents or that other document as in force for the time being and as amended in accordance with its terms, or, as the case may be, with the agreement of the relevant parties and, if so required in the relevant document, with the prior written consent of the Lender;
- 1.2.3 references to persons include bodies corporate, associations, partnerships, organisations, states, state agencies and any other entity, whether or not having separate legal personality;
- 1.2.4 references to Noteholders, Security Trustee, Stellar, Dundee Hotel and the Lender shall include their respective successors in title and permitted assigns from time to time; and
- 1.2.5 references to clauses are to clauses of this Deed, references to a Schedule are to a Schedule to this Deed and references within a Schedule to paragraphs are to paragraphs of that Schedule.

1.3 Further interpretation

In this Deed:

- 1.3.1 headings are for reference purposes only and shall not affect the construction of anything in this Deed; and
- 1.3.2 words and phrases defined in the Companies Act 2006 have the same meanings but the word **company** includes any body corporate.

1.4 **Incorporation of terms**

Unless otherwise defined herein, capitalised terms defined in the Facility Agreements shall have the same meaning when used in this Deed.

2 **Purpose of this Deed**

2.1 **Regulation of claims**

Each of the Lender, the Security Trustee, Stellar and the Noteholders agrees to regulate its claims in respect of the Liabilities as to subordination and priority in the manner set out in this Deed.

2.2 **Replacement of Existing Intercreditor Deed**

This Deed replaces the Existing Intercreditor Deed which shall from the date of this Deed cease to have any force or effect.

2.3 **Stellar's acknowledgment**

Stellar enters into this Deed for the purpose of acknowledging and agreeing the arrangements between the Lender, the Security Trustee and the Noteholders and none of the undertakings given in this Deed are given to Stellar nor shall be enforceable by it.

2.4 **Noteholder and Security Trustee acknowledgment**

For the purpose of the Loan Note Documents the Noteholders and the Security Trustee each consent to the entry into of the Facility Agreements.

3 **Ranking and priority**

3.1 **Ranking**

The Liabilities will rank for all purposes and at all times in the following order and are postponed and subordinated to any prior ranking Liabilities as follows:

- 3.1.1 first, the Lender Liabilities; and
- 3.1.2 second, the Noteholder Liabilities,

in accordance with the provisions of this Deed.

3.2 **Priorities in respect of the Transaction Security**

3.2.1 All existing and future Transaction Security will secure all the Lender Liabilities in priority to the Noteholder Liabilities regardless of:

- (a) the date upon which the Lender Liabilities or the Noteholder Liabilities arise;
- (b) the order of registration, recording, notice or execution of the Transaction Security;
- (c) whether the Lender is obliged to advance moneys included in the Lender Liabilities; and
- (d) any fluctuations in the amount of the Lender Liabilities outstanding or any intermediate discharge of the Lender Liabilities in whole or in part.

3.2.2 Stellar, the Security Trustee and the Noteholders will co-operate with a view to reflecting the priority of the Transaction Security in any register or with any filing or

registration authority and in giving notice to insurers and debtors liable for receivables covered by the Transaction Security and other persons.

4 Undertakings of Stellar

So long as the Lender Liabilities (or any of them) are outstanding Stellar will not, without the prior written consent of the Lender:

- 4.1 secure all or any part of the Noteholder Liabilities, except pursuant to the Noteholder Security;
- 4.2 redeem, purchase or otherwise acquire any of the Noteholder Liabilities;
- 4.3 repay or prepay any, or pay any interest, fees or commissions (but without prejudice to accrual thereof) on, or by reference to, any of the Noteholder Liabilities other than Permitted Payments;
- 4.4 take or omit to take any action whereby the subordination of the Noteholder Liabilities or any part thereof to the Lender Liabilities might be terminated, impaired or adversely affected;
- 4.5 discharge any of the Noteholder Liabilities by set-off or any right of combination of accounts or similar right; or
- 4.6 amend, vary, waive, release or supplement any term of any of a Loan Note Instrument, the Loan Notes or the Noteholder Security Documents.

5 Documentation

This Deed, the Facility Agreements, the Loan Note Instruments, the Loan Notes and the Noteholder Security Documents form the entire agreement as to the Noteholder Liabilities. If there is any inconsistency between the terms of this Deed and the terms on which the Noteholder Liabilities were incurred by Stellar, the terms of this Deed shall prevail. If there are any other terms relating to the Noteholder Liabilities existing at the date hereof and not comprised in this Deed, the Loan Note Instruments, the Loan Notes, the Facility Agreements or the Noteholder Security Documents such terms shall be of no further force and effect. Any amendment to this Deed made or purported to be made without the consent of the Lender shall be void.

6 Undertakings of the Noteholders and the Security Trustee

6.1 Negative undertakings

So long as the Lender Liabilities (or any of them) are outstanding, neither the Security Trustee or the Noteholders will, without the prior written consent of the Lender:

- 6.1.1 assign or purport to assign to any person the whole or any part of the Noteholder Liabilities;
- 6.1.2 purport to set off at any time any amount of the Noteholder Liabilities against any amount payable by it to Stellar;
- 6.1.3 attempt to obtain repayment or prepayment of principal or payment of any interest, fees or commissions (but without prejudice to accrual thereof) on, or by reference to, any of the Noteholder Liabilities other than Permitted Payments;
- 6.1.4 ask, demand, accelerate, sue, claim or prove for, take or receive from Stellar in any manner whatsoever (including, without limitation, by way of cash receipt or set-off) the whole or any part of the Noteholder Liabilities or any S ecurity therefor;

- 6.1.5 make an application for, petition for, or vote in favour of, any resolution or take any other action whatsoever for, or which may lead to, the administration, winding-up or dissolution of Invicta;
- 6.1.6 take or omit to take any action whereby the subordination of the Noteholder Liabilities or any part thereof to the Lender Liabilities might be terminated, impaired or adversely affected; or
- 6.1.7 amend, vary, waive, release or supplement any term of any of the Loan Note Instruments, the Loan Notes or the Noteholder Security Documents.

6.2 **Positive undertaking**

So long as the Lender Liabilities (or any of them) are outstanding, the Noteholders and the Security Trustee shall if any payment, distribution or security or the benefit or proceeds thereof is received by it or any agent or trustee on its behalf upon or with respect to the Noteholder Liabilities (or any of them) other than is permitted pursuant to this Deed or the Facility Agreements, hold such amount in trust for the Lender and forthwith pay an amount equal to the amount received to the Lender for application against or retention on account of the Lender Liabilities.

7 **Enforcement**

The Lender shall enforce the Transaction Security in such manner as the Lender sees fit. Each of the Security Trustee, the Noteholders and Stellar waives, to the extent permitted under law, all rights it may have to require the Transaction Security to be enforced in any particular order or manner or at any particular time or, except as provided in clause 7.3, require that any sum received or recovered by enforcement of any of the Transaction Security is applied in or towards discharge of any of the Liabilities. Prior to the Stellar Release Date, the duties of the Lender and any Insolvency Representative owed to the Security Trustee in respect of the method, type or timing of enforcement or realisation of the Transaction Security shall be no different or greater than the duties they owe to the Security Trustee under general law.

7.1 **No responsibility**

The Lender shall not be responsible to Stellar, the Security Trustee or the Noteholders for any failure to enforce or to maximise the proceeds of any enforcement of the Lender Security Documents.

7.2 **Sales by the Lender**

If:

- 7.2.1 on an enforcement of any of the Lender Security Documents, the Lender (or any Insolvency Representative) sells or otherwise disposes of any asset; or
- 7.2.2 Stellar sells or otherwise disposes of an asset at the request of the Lender after any Event of Default,

the Security Trustee shall upon the request of the Lender promptly execute in such form as the Lender may require any release of the Security created by any Noteholder Security Document over that asset together with such other releases and other documents as the Lender may require to give effect to this clause 7.2.

7.3 **Proceeds of enforcement of Transaction Security**

All proceeds of any enforcement of the Transaction Security shall be paid to the Lender and those proceeds shall be applied in the following order:

- 7.3.1 first, in payment of all costs, charges, expenses and liabilities incurred by or on behalf of the Lender and any Insolvency Representative in connection with such enforcement and exercising their respective powers and discretions under the Lender Security Documents and the remuneration of any such Insolvency Representative;
- 7.3.2 second, in payment to the Lender for application towards the Lender Liabilities in such order as it may determine;
- 7.3.3 third, in payment to the Security Trustee for application towards the Noteholder Liabilities; and
- 7.3.4 fourth, the payment of the surplus (if any) to Invicta or other person entitled to such payment.

7.4 Good discharge

An acknowledgment of receipt signed by the relevant person to whom payments are to be made under clause 7.3 shall be a good discharge of the Lender.

8 Insolvency

8.1 Insolvency proceedings

The provisions of clauses 8.2, 8.3, 8.4 and 8.5 apply if any resolution is passed or order made for the winding-up, liquidation, dissolution, administration, reorganisation or division of assets (whether or not involving insolvency) of Stellar, or if Stellar has appointed to it any Insolvency Representative or assigns its assets or any of them to, or enters into any arrangement with, its creditors (or any of them) generally, or any event analogous to any of the above occurs, in any jurisdiction.

8.2 Subordination

If any of the circumstances mentioned in clause 8.1 occurs in relation to Stellar, the claims against Stellar in respect of the Noteholder Liabilities shall be subordinate in right of payment to claims against the Security Trustee and the Noteholders in respect of the Lender Liabilities.

8.3 Authorisations

In any of the circumstances mentioned in clause 8.1 in relation to Stellar the provisions of clause 6.1 shall continue to apply but, in addition, the Lender is irrevocably authorised by the Security Trustee and the Noteholders to:

- 8.3.1 demand, claim, enforce and prove for;
- 8.3.2 receive any payment or distribution made by the liquidator of the Security Trustee or any other person making the payment or distribution in respect of;
- 8.3.3 submit any proof and/or to instruct the relevant liquidator or other person to make payments or distributions in accordance with the above provisions and do all such things as the Lender considers necessary to recover; and
- 8.3.4 exercise all powers of convening meetings, voting and representation in respect of, the Noteholder Liabilities due from Stellar.

8.4 Further assurance

In any of the circumstances mentioned in clause 8.1, if and to the extent that the Lender is not entitled to exercise any of the authorities given to it under clause 8.3, the Security Trustee and

the Noteholders shall give notices, issue directions and take such other action as may from time to time be requested by the Lender to give effect to such provisions.

8.5 Application by Insolvency Representative

Any Insolvency Representative of Stellar is authorised by the Security Trustee and the Noteholders to apply any assets or moneys received by him in accordance with the terms of this Deed.

9 Turnover of distributions and non-permitted recoveries

9.1 Turnover by Stellar

If at any time prior to the Stellar Release Date, the Security Trustee or the Noteholders receives or receives the benefit of:

- 9.1.1 any payment or distribution in respect of or on account of the Noteholder Liabilities from Stellar or any other source unless otherwise permitted by the terms of this Deed or by the Lender;
- 9.1.2 any payment under any guarantee in respect of the Noteholder Liabilities; or
- 9.1.3 any payment made, or directly or indirectly assisted, by Stellar on account of the purchase or other acquisition of any Noteholder Liabilities, or any other payment made by Stellar in breach of this Deed,

the Security Trustee or the Noteholder (as applicable) will hold on trust and immediately pay and distribute to the Lender for application in accordance with the priorities set out in this Deed an amount determined by the Lender to be the lesser of:

- (a) the outstanding aggregate unrecovered balance of the Lender Liabilities; and
- (b) the amount of such payment or distribution.

9.2 Set-off

If any of the Noteholder Liabilities is discharged by set-off (otherwise than as permitted by this Deed), the party receiving the benefit of that set-off will immediately pay an amount equal to the amount discharged to the Lender for application in accordance with the priorities set out in this Deed.

9.3 Further assurance

The Security Trustee will at its own expense execute all documents and do all such things as the Lender may reasonably require as being necessary to transfer to the Lender all property which must be turned over or held in trust for the Lender under this clause, and Stellar will pay all costs and stamp duties in connection with such a transfer.

10 Treatment of Recoveries

10.1 Realisation of Recoveries

If any Recovery is not in money, the Lender may realise it in such manner and at such time as it thinks fit and pay out of it any costs involved, and shall not be responsible to any other person for any loss incurred in, or caused by, doing so.

10.2 Currency conversion

If any Recovery is not in the currency of the Lender Liabilities (or such part of the Lender Liabilities as the Lender may select), the Lender may convert all or any of it into such currency

at any time, and pay out of it any costs involved, including, without limitation, normal fees or commissions charged by the Lender or any of its associated companies.

10.3 Suspense accounts

The Lender may hold any Recovery on a separate or suspense interest bearing account without applying it against the Lender Liabilities on such terms and for so long as it shall think fit, and the Lender Liabilities shall not be deemed reduced by any Recovery until the Lender does so apply it, which it may do at any time.

11 Waivers and consents

11.1 Security Trustee and Noteholders

Any waiver or consent granted by the Lender under the Finance Documents will be deemed also to have been given by the Security Trustee and the Noteholders (as applicable) in relation to the Loan Note Instruments, the Loan Notes and/or the Noteholder Security Documents, and will be confirmed in writing by the Security Trustee and/or the Noteholders on request by the Lender.

11.2 No liability

The Lender shall not be liable to the Security Trustee, the Noteholders nor Stellar in respect of any waiver or consent to which this clause 11 applies. The Security Trustee and the Noteholders will not be permitted to object to any waiver or consent for which such party's consent has been deemed given under this clause 11 or object to any action, inaction, document or transaction sanctioned by the waiver or consent.

11.3 Override

This Deed overrides anything to the contrary in any of the Loan Note Instruments, the Loan Notes or the Noteholder Security Documents.

12 Co-operation

12.1 Ranking overseas

Each party to this Deed undertakes to use all reasonable endeavours to ensure that the provisions of this Deed as to the relative ranking of priorities and subordination as between the Liabilities shall be given effect to in all relevant jurisdictions.

12.2 Notification of breach

The Security Trustee, the Noteholders and Stellar will notify the Lender of any breach of the provisions of this Deed promptly upon such party becoming aware of such breach.

13 Preservation of Liabilities

The Noteholder Liabilities shall remain owing or due and payable in accordance with their terms and interest, default interest and indemnity payments will accrue on missed payments accordingly. No delay in exercising any rights and remedies under the Loan Note Instruments, the Loan Notes or the Noteholder Security Documents by reason of any term of this Deed postponing, restricting or preventing such exercise shall operate as a permanent waiver of any of those rights and remedies as between the Security Trustee, the Noteholders and Stellar.

14 Responsibility of Lender

The Lender will not (in the absence of gross negligence or wilful default on its part) be liable to the Security Trustee or the Noteholders for:

- 14.1.1 the manner of exercise, or any non-exercise, of its powers under this Deed or other Finance Documents; or
- 14.1.2 any failure to collect or preserve the Noteholder Liabilities, any Security or guarantees for the Noteholder Liabilities, or any assets the subject of any Security for the Noteholder Liabilities.

15 Protection of subordination

15.1 Continuing subordination

The subordination and ranking provisions in this Deed constitute a continuing subordination and ranking regardless of any intermediate payment or discharge of any prior ranking Liabilities in whole or in part.

15.2 Protection of subordination

The provisions of this Deed shall have effect notwithstanding:

- 15.2.1 the date upon which any Lender Liabilities or the Noteholder Liabilities are or have been incurred or become payable;
- 15.2.2 the nature of the Lender Security Documents and the dates or times of their execution and registration;
- 15.2.3 the date or time at which the Security Trustee and/or the Noteholders received notice of any Lender Security Document;
- 15.2.4 any fluctuation from time to time in the amount of the moneys secured by the Lender Security Documents or the existence at any time of a credit balance on any current or other account, and the Lender Security Documents shall rank as continuing security for the repayment of the Lender Liabilities;
- 15.2.5 the appointment of any Insolvency Representative in relation to Invicta;
- 15.2.6 any time, indulgence or waiver granted to, or composition with, Stellar or any other person;
- 15.2.7 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 assets of, Stellar or any other person in respect of the Lender Liabilities or the Noteholder Liabilities, or by any non-presentment or non-observance of any formality or other requirement in respect of any Lender Security Documents, or any failure to realise the full value of any Lender Security Documents;
- 15.2.8 any unenforceability, illegality or invalidity of any Lender Security Document, or of any obligation of Stellar or any other person; or
- 15.2.9 any other provision contained in the Lender Security Documents and any other fact or matter which might otherwise affect the validity of the Lender Security Documents or the respective priorities of the Lender Liabilities and the Noteholder Liabilities, except only an express agreement in writing to the contrary made by the Lender after the date of this Deed.

15.3 Waiver of rights

The Security Trustee and the Noteholders waive any right they may have of first requiring the Lender to proceed against or enforce any other right or security or claim payment from any person before enforcing any provision of this Deed.

15.4 Subrogation of Invicta

Until the Stellar Release Date, the Security Trustee and the Noteholders will not by virtue of any payment or performance by it under this Deed be subrogated to any rights, security or money held, received or receivable by the Lender (or any trustee or agent on its behalf) or be entitled to any right of contribution or indemnity from Stellar.

16 Changes to the parties

16.1 Binding on successors

This Deed is binding on the successors and assigns of the parties to this Deed.

16.2 Assignment by the Security Trustee, the Noteholders or Stellar

The Noteholders and the Security Trustee may assign or transfer to any person the whole or any part of their rights and obligations in respect of the Noteholder Liabilities or any interest in the Noteholder Liabilities if such assignment or transfer complies with the requirements of the Loan Note Documents and the assignee or transferee agrees to be bound by the provisions of this Deed as a Noteholder and/or a Security Trustee (as appropriate) by entering into a deed of accession in a form required by the Lender.

Stellar may not assign or transfer all or any of its rights or obligations under this Deed without the prior written consent of the Lender.

16.3 Assignment and transfer of Lender Liabilities

The Lender may assign or transfer to any person the whole or any part of their rights and obligations in respect of the Lender Liabilities or any interest in the Lender Liabilities if such assignment or transfer complies with the requirements of the Finance Documents and the assignee or transferee agrees to be bound by the provisions of this Deed as a Lender by entering into a deed of accession.

17 Warranties from Stellar

Stellar warrants on the date of this Deed and on each date that this Deed is outstanding that:

- 17.1.1 it is duly incorporated and validly existing under the laws of the place of its incorporation;
- 17.1.2 this Deed and other the Finance Documents constitute its legal, valid and binding obligations, is within its powers and has been duly authorised by it;
- 17.1.3 this Deed and the other Finance Documents do not and will not breach any instrument, agreement or undertaking or violate any applicable law, rule or regulation; and
- 17.1.4 all consents and authorisations necessary in relation to this Deed and the other Finance Documents have been obtained and are in force.

18 General

18.1 No rights

Stellar does not have any rights under or by virtue of this Deed.

18.2 Trusts

The perpetuity period for the trusts declared in this Deed is 125 years.

18.3 **Invalidity of trusts**

If, for any reason, a trust in favour of, or a holding of property for, the Lender under this Deed is invalid or unenforceable, each party subject to such trust or holding of property will pay and deliver to the Lender an amount equal to the payment, receipt or recovery (or its value, if in kind) which such party would otherwise have been bound to hold on trust for, or as property of, the Lender.

18.4 **No waiver**

The rights of the Lender under this Deed:

18.4.1 are cumulative and not exclusive of their rights under the general law; and

18.4.2 may be waived only in writing and specifically.

Any delay in the exercise or non-exercise of any such right is not a waiver of that right.

18.5 **Severability**

If a provision of this Deed is or becomes illegal, invalid or unenforceable in any jurisdiction, that shall not affect:

18.5.1 the validity or enforceability in that jurisdiction of any other provision of this Deed; or

18.5.2 the validity or enforceability in other jurisdiction of that or any other provision of this Deed.

18.6 **Lender's power of attorney**

The Security Trustee, the Noteholders and Stellar irrevocably appoint the Lender as its attorney to do anything that such party has authorised the Lender to do under this Deed, or which such party is required to do by this Deed but has failed to do for a period of five Business Days after receiving notice from the Lender requiring it to do so.

19 **Notices**

19.1 **Notices**

Every notice, request, demand or other communication under this Deed shall be in writing or by fax. Any notice or demand shall be deemed given and received as follows:

19.1.1 if in writing, when delivered; and

19.1.2 if by fax, at the time of sending, provided that the sender receives a transmission report indicating successful transmission of the recipient's fax number at the recipient's address referred to below,

to the address of the relevant party stated at the beginning of this Deed or, in the case of the Lender, in the Facility Agreement (or such other address notified by the relevant party to the other parties to this Deed, the relevant party having given not less than seven days' written notice of such other address), unless that time would fall outside normal office hours at the place of receipt, or on a day which is not a Business Day, in which case it shall be deemed given and received at 9.00am on the next Business Day at the place of receipt.

20 **Third party rights**

None of the terms of this Deed is enforceable by any person other than the Lender, Stellar, the Security Trustee, the Noteholders or any person to whom the Lender has assigned or transferred its rights or any part of its rights in accordance with the terms of the Finance Documents.

21 Prevailing terms

In the event of any inconsistency between the terms of this Deed and the terms of the Ranking Agreement, the terms of this Deed shall prevail.

22 Counterparts

This Deed may be executed in any number of counterparts and all such counterparts taken together shall be deemed to constitute one and the same instrument.

23 Governing law and enforcement

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

In witness whereof this Deed has been duly executed by the parties hereto the day and year first above written.

**The Schedule
The Noteholders**

Name	Registered Number (if any)	Address
Colin Hearn	N/A	c/o Stellar Dundee Hotel General Partner Limited 145-157 St John Street, London, England EC1V 4PW
James Browning	N/A	c/o Stellar Dundee Hotel General Partner Limited 145-157 St John Street, London, England EC1V 4PW
The Gillespie Pension Scheme	N/A	c/o Stellar Dundee Hotel General Partner Limited 145-157 St John Street, London, England EC1V 4PW
Susan Sheehan	N/A	c/o Stellar Dundee Hotel General Partner Limited 145-157 St John Street, London, England EC1V 4PW
Michael Mayer	N/A	c/o Stellar Dundee Hotel General Partner Limited 145-157 St John Street, London, England EC1V 4PW
Penelope Sedler	N/A	c/o Stellar Dundee Hotel General Partner Limited 145-157 St John Street, London, England EC1V 4PW

Security Trustee

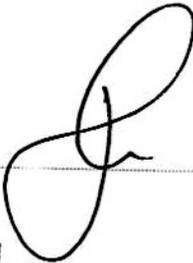
Executed (but not delivered until the date hereof) as a deed by **Stellar Asset Management Limited** acting by one director in the presence of a witness

Signature of witness:

Name (in BLOCK CAPITALS):

Address:

Occupation:


Director

DANIEL EDWARDS
PLUMMERS BARN, BENENDEN,
KENT, TN17 4BJ

INVESTMENT ASSISTANT

Stellar Dundee Hotel LP

Executed (but not delivered until the date hereof) as a deed by **Stellar Dundee Hotel Limited Partnership** acting by its general partner **Stellar Dundee Hotel General Partner Limited** acting by one director in the presence of a witness

Signature of witness:

Name (in BLOCK CAPITALS):

Address:

Occupation:


Director

DANIEL EDWARDS
PLUMMERS BARN, BENENDEN,
KENT, TN17 4BJ

INVESTMENT ASSISTANT

The Lender

Signed and delivered as a deed for and on behalf of **The Royal Bank of Scotland Plc** by a duly authorised Attorney in the presence of:

Attorney

Signature of witness:

Name (in BLOCK CAPITALS):

Address:

Occupation:

The Noteholders

Signed and delivered as a deed by **Stellar Dundee Hotel General Partner Limited** as duly authorised attorney for **Colin Hearn** in the presence of:



Director

Signature of witness:

DEdwards

Name (in BLOCK CAPITALS):

DANIEL EDWARDS

Address:

PLUMMERS BARN, HALDEN LANE,
BENEDEN, KENT, TN17 4BS

Occupation:

INVESTMENT ASSISTANT

Signed and delivered as a deed by **Stellar Dundee Hotel General Partner Limited** as duly authorised attorney for **Susan Sheehan** in the presence of:



Director

Signature of witness:

D Edwards

Name (in BLOCK CAPITALS):

DANIEL EDWARDS

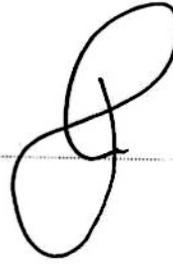
Address:

PLUMMERS BARN, BENEDEN,
KENT, TN174BS

Occupation:

INVESTMENT ASSISTANT

Signed and delivered as a deed by **Stellar Dundee Hotel General Partner Limited** as duly authorised attorney for **Michael Mayer** in the presence of:



Director

Signature of witness:

D Edwards

Name (in BLOCK CAPITALS):

~~DANIEL~~ DANIEL EDWARDS

Address:

PLUMMERS BARN, BENEDEN,
KENT, TN174BS

Occupation:

INVESTMENT ASSISTANT

Signed and delivered as a deed by **Stellar Dundee Hotel General Partner Limited** as duly authorised attorney for **The Gillespie Pension Scheme** in the presence of:



Director

Signature of witness:

DEdwards

Name (in BLOCK CAPITALS):

DANIEL EDWARDS

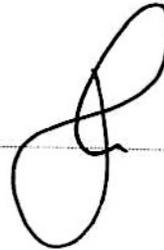
Address:

PLUMMERS BARN, BENEDEN,
KENT, TN174BJ

Occupation:

INVESTMENT ASSISTANT

Signed and delivered as a deed by **Stellar Dundee Hotel General Partner Limited** as duly authorised attorney for **James Browning** in the presence of:



Director

Signature of witness:

DEdwards

Name (in BLOCK CAPITALS):

DANIEL EDWARDS

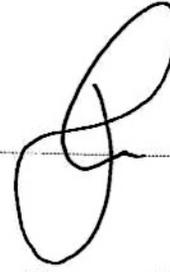
Address:

PLUMMERS BARN, BENEDEN,
KENT, TN174BJ

Occupation:

INVESTMENT ASSISTANT

Signed and delivered as a deed by **Stellar Dundee Hotel General Partner Limited** as duly authorised attorney for **Penelope Sedler** in the presence of:



Director

Signature of witness:

DEdwards

Name (in BLOCK CAPITALS):

DANIEL EDWARDS

Address:

PLUMMERS BARN, BENEWDEW,
KENT, TN114BS.

Occupation:

INVESTMENT ASSISTANT