

THURNHAM OWNERS CLUB

DEED OF VARIATION

THIS DEED OF TRUST is made this 22nd day of October 2006 BETWEEN SUNTERRA TITLE LIMITED a Company incorporated in England and Wales (hereinafter called "the Company") whose Registered Office is at Citrus House, Caton Road, Lancaster, Lancashire, England, LA1 3UA and SUNTERRA EUROPE LIMITED a Company incorporated in England and Wales (hereinafter together called "the Founder Members") of the first part and FIRST NATIONAL TRUSTEE COMPANY LIMITED whose Registered office is situated at International House, Castle Hill, Victoria Road, Douglas Isle of Man, British Isles (hereinafter called "the Trustee") of the second part.

WHEREAS:

- A. This Deed of Trust is supplemental to the Deed of Trust dated 21st November 1988 and incorporates all subsequent Deeds of Variation and revisions. The Trust is deemed to have continued without interruption. This revised version was adopted by the Members of the Club at the Annual General meeting of the Club dated 22nd October 2006.

- B. The Founder Members have together formed a Club known as THURNHAM OWNERS CLUB whose object is to secure for its Members the ownership of exclusive rights of occupation of the Units (as hereinafter defined) detailed in Appendix One ("the Appendix") to the Constitution of the Club ("the Constitution") for specific periods in each year during the period mentioned in the Constitution (a copy of which is annexed hereto).

- C. It is provided in the Constitution that the title to the leases and any other property of the Club shall be vested in an independent Trustee upon trust for the Members of the Club from time to time.

- D. Leases of further Units may from time to time be transferred to the Trustee by the Company or otherwise to be held for the benefit of the Club upon the Trusts of this Deed and shall be hereinafter called "the Property" and the Trustee has agreed to hold the same upon the Trusts and terms hereinafter mentioned.

NOW THEREFORE THIS DEED WITNESSETH AND IT IS HEREBY AGREED as follows:

1. In this Deed except where the context otherwise requires:

"Club"	means the Club currently known as THURNHAM OWNERS CLUB referred to in Recital A.
"Constitution"	means the Constitution of the Club from time to time.
"Units"	means the Units referred to in the Appendix at THURNHAM OWNERS CLUB and any other residential property which may be vested in an Owning Company and "Unit" shall be construed accordingly.
"the Property"	means the Lease or Leases of the Unit or Units granted or to be granted to the Trustee subject to and in accordance with the provisions hereof and all other property (real or personal) which may from time to time be

transferred to or otherwise vested in the Trustee to be held for the benefit of the Members of the Club from time to time upon the trusts of this Deed.

"Members" means the Members, whether ordinary members, or A members or B members from time to time of the Club including the Founder Members.

"the Committee" means the body of persons appointed under the provisions of the Constitution to manage the business and affairs of the Club in accordance with the Constitution.

"the Owning Company" means FNTC First Nominee Limited, a company limited by shares and incorporated in the Isle of Man being the Company which holds the legal title to the lease of the Units as detailed in appendix one to the Constitution.

1.2 Covenants or warranties given and obligations or liabilities otherwise assumed under the provisions of this Deed by two or more persons shall be deemed to be so given and assumed by such persons jointly and severally.

1.3. (a) Where reference is made herein to directions of the Committee of the Club the Trustee shall be entitled to rely on and accept decisions of the Committee which shall be stated by the Chairman of the Committee Meeting at which the relevant decision was reached to have been so reached in accordance with the relevant rules of the Constitution and without prejudice to the generality of the foregoing the Trustee shall not be concerned to enquire or satisfy itself in any way as to the election of Committee Members or of the Chairman of the Committee Meeting or calling of Committee Meetings or the procedure adopted or the reaching of decisions there at; and

(b) where reference is made to the decision of the Club the Trustee shall be entitled to accept and rely on resolutions in writing in respect of which it shall have been certified by the Founder Members that the provisions of Clause 17.8 of the Constitution have been fully observed.

2 The Founder Members hereby appoint the Trustee and the Trustee hereby agrees to act as Trustee on behalf of the Club and the Members thereof from time to time on the terms set out in this Deed and the general terms and conditions upon which the Trustee acts as a Trustee last published before the date hereof which are more particularly set out in Schedule I hereto. The said general terms and conditions shall apply and be incorporated herein and if there shall be any conflict between the same and the other provisions of this Deed then such terms and conditions set out in Schedule I shall pro tanto prevail. The Founder Members will procure that the title deeds evidencing the leasehold ownership in each of the Units and documents relating to any other Property are delivered to the Trustee as soon as reasonably possible and will remain throughout the period of this Deed in the custody of the Trustee.

3 The Trustee shall hold the Property upon trust to secure the rights of occupation in respect of the Units under and in accordance with and subject to the Constitution and subject thereto upon Trust for the Company and all Members from time to time of the Club as provided in the Constitution

PROVIDED ALWAYS;

- (i) that the Trustee shall not be bound to concur in or perform any act or acts which in the opinion of the Trustee shall be illegal or shall be inconsistent with the Trusts hereby declared or shall constitute a breach of Trust or be prejudicial to the interest of the Members and/or the Company (without the consent of the Members and the Company) or shall involve the Trustee in any personal liability or in any action which may be improper or disreputable or which may in the opinion of the Trustee constitute a breach of the conditions or covenants affecting the Property or the Units and
 - (ii) that notwithstanding any direction of the Committee or the Founder Members the Trustee shall not be obliged to charge or otherwise further encumber the Property or any part thereof .
- 4.0 The Trustee shall have no responsibility for the rebuilding, repair, maintenance, renewal, upkeep, decoration, administration or management of the Units or the contents thereof and shall not be liable for any damage or loss or depreciation which may result in any way therein and the Trustee gives no guarantee or warranty with regard to the validity or otherwise of the title to the Units.
- 4.1 The Trustee shall not be bound to concern itself in any way with the management of the Club or its assets or finances nor with the rights duties or obligations of Members or any other matter to which Members may be subject nor with the replacement or retrieval or renewal of any of the contents, furniture, fittings or fixtures of the Units whether the said contents, furniture, fittings or fixtures be broken, lost or stolen or damaged or otherwise mislaid or misplaced and the Trustee shall bear no liability to the Members in respect of such matters.
- 5 The Trustee shall not be required to take any legal or other action whatever in relation to any matter whatsoever relating to the Property unless fully indemnified by the Club or the Founder Members to the reasonable satisfaction of the Trustee for all costs and liabilities likely to be incurred or suffered by the Trustee.
- 6 The Trustee shall be entitled at the expense of the Club or the Founder Members to obtain legal advice from its Solicitors for the time being and/or the Opinion of Counsel and/or other legal advisors on any matter relating to the Property or in relation to the Trust hereby constituted or the exercise of the Trustee's powers or rights or the observance or performance of the Trustee's liabilities or duties hereunder.
- 7 The Company shall initially be entitled to occupy the Units pursuant to Clause 9 of the Constitution and shall be entitled to grant the rights of occupation of parts thereof in accordance therewith.
- 8 The Company and the Founder Members on behalf of the Club and as a separate covenant for themselves hereby jointly and severally warrant that, save as otherwise ordered by a Court of competent jurisdiction or as provided herein, the Trustee shall not, by entering into or acting in pursuance of the terms and conditions of this Deed, owe any duty or obligation or incur any liability to any person or persons (whether corporate or individual) other than the Company and the Members of the Club and that no such person or persons are entitled to require or oblige the Trustee to transfer or deal with the Property or the Units.
- 9 The Company and the Founder Members on behalf of the Club and as separate covenant for themselves hereby jointly and severally warrant that the Trustee's name shall not appear on any literature or document or on any advertisement issued by or on behalf of the Company the Founder Members or the Club without the prior approval in writing of the Trustee having first been obtained.
- 10 (a) The Trustee shall not be responsible for any loss suffered by the Company or the Club or any Member thereof arising out of or in respect of any act or omission on the part of the Trustee its Officers Employees or Agents in respect of the Property unless the same shall have been caused by or arisen from fraud or negligence on behalf of the Trustee or its said Officers, Employees or Agents.

- (b) The Trustee shall not be under any liability on account of anything done or suffered by the Trustee in good faith in accordance with or in pursuance of any request or advice of the Founder Members (or either of them) the Club or the Committee of the Club.
- 11 The Founder Members shall pay to the Trustee as remuneration for the performance of its duties hereunder such fees as may from time to time be separately agreed upon between the Founder Members and the Trustee (or failing which between the Committee and the Trustee) and all out-of-pocket expenses incurred by the Trustee in the performance of its duties under this Deed and in default of such payments the Founder Members hereby jointly and severally undertake that the Club will pay to the Trustee all such sums PROVIDED THAT as between the Company and the Founder Members on behalf of the Club the Club shall be primarily liable to pay all such sums.
- 12 In connection with the Property and/or the Units, the Founder Members on behalf of the Club and (as a separate covenant) for themselves covenant with the Trustee:
- (A) on demand to pay as the Trustee may direct all outgoings whatsoever (including rates, service charge, interest, costs, expenses and damages) covenanted or agreed to be paid (whether contingently or otherwise) in respect of the Property and/or the Units.
- (B) at all times to observe and perform (and cause the Owing Company so to observe and perform) all the covenant's terms and conditions to which the Units may from time to time be subject.
- (C) to indemnify and keep fully and effectually indemnified the Trustee from and against all actions, claims, demands, losses, damages, costs and expenses made against or suffered or incurred by the Trustee arising from any breach non-observance or non-performance of any of the agreements and/or covenants contained in this Trust Deed and/or the Constitution and/or the Management Agreement.
- 13 The Founder Members on behalf of the Club and as a separate covenant for themselves hereby agree jointly and severally to indemnify and hold harmless the Trustee against all claims, actions, proceedings, charges (including without prejudice to the generality of the foregoing charges to tax and breaches of UK and/or Manx legislation or regulations) fees costs liabilities and expenses to which it may be entitled or which may result from or be incurred in connection with the performance by the Trustee of its duties hereunder and the Trustee shall be kept fully indemnified jointly and severally by the Founder Members and the Club against all losses, claims, demands, taxes, actions, damages, costs and expenses made or incurred in connection with the Property or the Owing Company in connection with the sale of Membership Certificates by the Company or by any Member and/or the Units or in any other way in connection with the holding by the Trustee of the Office of Trustee hereunder (including without prejudice to the generality of the foregoing any taxes assessed on or which are or might ultimately become the liability of the Trustee or the Owing Company in connection with the sale of Membership Certificates by the Company or any Member). The Trustee shall have the right if at any time it considers it desirable so to do to require that the Founder Members or the Club shall deposit with the Trustee such sum as the Trustee shall reasonably consider to be necessary in support of the indemnities contained in this Deed and in connection with the fees and expenses payable to the Trustee under the provisions of Clauses 15.2 hereof.
- 14.0 The Trustee shall be entitled to have recourse to and be indemnified out of the Property and/or the Units for all sums expended by the Trustee in or about or in any way in connection with the Trusts of this Deed and for all sums (including remuneration) payable to the Trustee hereunder and to meet and discharge the cost of any indemnity to which it is entitled hereunder and for such purposes shall have all the powers of an absolute owner to let, or otherwise dispose of the Property or any part thereof unrestricted by Clause 3 hereof or the Constitution.

- 14.1 If the employment of the Management Company (as defined in the Constitution) or any substitute thereof shall be terminated for any reason then the Trustee shall then have the power on each such occasion to appoint another person to administer the sub-letting in accordance with sub-clause 15.11 of the Constitution, with the cost and expense of such appointment being borne by the Club.
- 15.0 This Deed shall continue until (a) 28th September 2068 or (b) until terminated by both the Club and the Company giving not less than six months notice in writing to the Trustee or (c) by the Trustee giving the Company and the Club not less than six months notice in writing; any notice given under this Clause shall expire on the last day of any calendar month and such notice shall not be given in any event before the expiry of one year from the date hereof. Upon termination of this Deed the Founder Members (or failing which the Club) shall pay to the Trustee all remuneration then owing to the Trustee together with any outstanding out-of-pocket expenses and all expenses incurred by the Trustee in conveying or assigning or otherwise disposing of the title to the Property in the manner hereinafter provided. The Trustee shall in the event of this Deed being terminated convey or assign the Property or procure the same to be conveyed or transferred (at the expense of the Club or failing which, at the expense of the Founder Members) to any succeeding Trustee or otherwise as the Committee of the Club in writing may direct.
- 15.1 The Club may by a resolution passed by not less than a majority of all votes cast by or on behalf of Members in accordance with Clause 17.4 of the Constitution at a General meeting of the Club to be held in year 2068 resolve to continue the Club for a further period of forty-five years on the terms and conditions as herein provided but not beyond 1 January 2113.
- 15.2 Upon the termination or expiration of this Deed pursuant to the foregoing provisions or as soon thereafter as is reasonably practicable the Trustee shall as directed by the Committee either:-
- a) transfer the Property to the alternative Trustee of this or any new Trust constituted in accordance with the Constitution or
 - b) retain the Property upon the terms of any new Trust constituted in accordance with the Constitution or
 - c) sell the Units in such manner as it may choose but so that the Trustee shall not be liable to the Founder Members or either of them or to the former Members, or to any other person or persons:
 - (i) in the event that the Trustee is unable to find a Purchaser for some or all of the Units on acceptable terms; or
 - (ii) in respect of the consideration received for any such sale or sales for any loss or damage suffered in respect thereof; and the Trustee shall be entitled to deduct from the consideration received:-
 - (a) all payments due to the Trustee under this Deed
 - (b) all expenses incurred in connection with any sale or sales; and
 - (c) the Trustee's fees for acting on the termination of the Club and the subsequent distribution of the net proceeds of sale. Such fees to be in addition to any remuneration payable to the Trustee under Clause 11 hereof (but to be determined as therein provided); and
 - (d) all taxes or fiscal impositions whatsoever relating to the Units, the Owing Company relating thereto and the holding or disposal thereof by the Trustee for which the Trustee and (in the case of the Trustee procuring the sale of a Unit by the Owing Company) the Owing Company may be liable.

- 15.3 After deduction of all sums referred to in paragraph 15.2 of this Clause, the Trustee shall distribute the net proceeds of sale to such persons as would be entitled under the Constitution to such proceeds upon dissolution of the Club and pending distribution to invest the net proceeds of sale in any investment authorised by law PROVIDED that the Trustee will have fully discharged its obligations under this sub-clause 15.3 if it distributes the net proceeds of sale to those persons and in such shares as shall be notified to the Trustee by the Management Company as being in accordance with the Constitution (which information the Management Company hereby agrees to supply) and upon distribution in accordance with this information the former Members of the Club shall if so required by the Trustee acknowledge in writing that the Trustee has fully discharged its obligations under this Trust Deed.
- 15.4 The net assets available for distribution after the foregoing provisions of this Clause have been complied with (hereinafter called the "the net assets") shall be notionally apportioned to each of the Units comprising the Property of the Club at the time of the resolution to wind up the Club.
- 15.5 The amount of the net assets apportioned to each Unit as aforesaid shall be for the purpose of ascertaining the amount thereof to be distributed to each Member, divided into fifty-one equal units of value (each such unit being referred to in this Clause as a "Unit of Value") and then there shall be distributed to each Member or Founder Member (as the case may be) one Unit of Value each (or in the case of an A Member or a B Member a 50% share of a Unit of Value each) of the said fifty-one weekly membership periods relating to the relevant Unit to which the Member or as the case may be the Founder Member shall be entitled pursuant to the provisions of the Constitution
- 16.1 The Company and the Founder Members on behalf of the Club and as a separate covenant for themselves jointly and severally undertake:-
- 16.1 to give to the Trustee the names and addresses of all Officers of the Club.
- 16.1.2 to inform the Trustee within 21 days of any change in the holders of any Office with the full name and address of each new Officer.
- 16.1.3 to give to the Trustee within 21 days of admission of each Member to Membership the name and address of each such Member and details of any change of address of such Member within 21 days of such change occurring.
- 16.1.4 that within seven days of the relevant meeting there shall be delivered to the Trustee duly certified by the Chairman or Secretary of the Committee of the Club an excerpt from the Minutes of any meeting of the Committee or of the Members of the Club minuting the resignation of any Officer or other Member of the Committee, the election or appointment of a new Officer, or any Committee Member, and any change in the Constitution of the Club approved by the Members thereof.
- 16.1.5 That there shall be delivered to the Trustee:-
- (i) a copy of each set of annual audited accounts of the Club as soon as the same is available and
 - (ii) notice of any General Meetings of the Club and a copy of the Agenda and of any resolution to be proposed at the Meeting at least 14 days prior to such Meeting and
 - (iii) minutes of any such meeting as soon as the same are available
 - (iv) a copy of any Contract relating to the management of the Club

- 16.2 The Trustee shall have the right to attend and receive notice of all General Meetings of the Members of the Club but shall have no right to vote at any such meetings.
- 17 Notwithstanding the provisions of this Deed neither the Trustee nor any holding subsidiary or associated company of the Trustee shall be precluded from acting as Insurer, Insurance Agent or Broker or Banker, Investment Manager or Advisor to either or both of the Founder Members or the Club nor shall the Trustee nor any holding subsidiary or associated company thereof be precluded from making any advances to either or both of the Founder Members or the Club on such terms as may be agreed or making any contract or entering into any financial or other transaction in the ordinary course of business with either or both of the Founder Members or the Club and shall be entitled to charge interest on overdrawn accounts and make the usual banker's charges and shall not be liable to account either to the Founder Members or either of them or the Club for any profit made in connection herewith.
18. Any notice which is required to be given in pursuance to any provision of this Deed shall be given or served by pre-paid first class post, telegram, cable, telex addressed to the Company to the Founder Members or to the Trustee as the case may be at their respective Registered Offices or (in the case of notice to be served on the Club to the Committee) to the Committee of the Club, care of Thurnham Owners' Club, Thurnham Hall, Thurnham, near Lancaster, Lancashire, England and any notice sent by post shall be deemed to have been given or served at the time of despatch.
- 19 The Trustee and the Founder Members shall be entitled by deed supplemental hereto to modify alter or add to the provisions of these presents in such manner and to such extent as they may consider expedient for any purpose; PROVIDED THAT unless the Trustee shall certify in writing that in its opinion such modification, alteration or addition does not prejudice the interest of the Members and does not operate to release the Trustee or the Founder Members from any responsibility to the Members no such modification, alteration or addition shall be made without the sanction of a resolution of an Extraordinary General Meeting of Members duly convened and held in accordance with the Constitution of the Club; PROVIDED ALSO THAT no such modification, alteration or addition shall impose upon any Member any obligation to make any further payments in respect of his membership of the Club or to accept any liability in respect thereof.
20. This Deed shall be governed and construed in accordance with the present Laws of England and Wales and the Founder Members irrevocably:-
- (i) submit to the exclusive jurisdiction of the Courts of England and
 - (ii) consent to service of process by mail or in any other manner permitted by the laws of England and Wales.
- 21.1 If a Trustee retires from the Trusts hereof or becomes by reason of residence or place of incorporation incapable of acting as a Trustee hereof such Trustee shall be released from all claims, demands, actions, proceedings and accounts of any kind on the part of any beneficiary (whether in existence or not) actually or prospectively interested under this Deed or in respect of the Property or in the income thereof or the Trusts of this Deed or any act or thing done or omitted in execution or purported execution of such Trusts other than and except only actions:-
- a) arising from any fraud or fraudulent breach of trust to which such Trustee or (in the case of a corporate Trustee) any of its Officers was a party or privy;
 - b) to recover from such Trustee trust property or the proceeds of trust property in the possession of such Trustee or previously received by such Trustee (or in the case of a corporate Trustee) any of its Officers and converted to his use.
- 21.2 The Perpetuity Period applicable to this Deed shall be until whichever of the following dates shall first occur, namely:-

- (i) the day on which shall expire the period of eighty (80) years from the date hereof
- (ii) such day (if any) as the Trustee may at its discretion appoint by deed prior to the date specified in paragraph (i) of this sub-clause.

22 The Trustee declares and it is hereby agreed that it shall have all the additional powers, discretions and rights set out in Schedule I hereof.

IN WITNESS whereof the parties hereto have hereunto caused their Common Seals to be affixed the day and year first above written.

SCHEDULE 1

General terms and conditions upon which the Trustee accepts appointment.

1. The Trustee may act by a proper officer or officers and may appoint as its proper officer any officers of the Trustee or any holding or associated or subsidiary company or any lawyers for the time being retained by the Trustee.
2. The Trustee's remuneration for its services shall be free of all taxes or fiscal impositions whatsoever and the Trustee shall have a first charge upon the estate or Trust Fund in respect of such remuneration and all legal costs and disbursements, agents charges, staff travel costs, postages, telephone calls and other expenses properly incurred and paid.
3. Subject to any express provision to the contrary hereinbefore set out, the Trustee may in its absolute discretion determine how remuneration due to the Trustee shall be borne as between different parts of an estate or Trust or as between the beneficiaries and every such determination shall be binding upon all persons concerned.
4. The Trustee may without being liable to account for any profit thereby made:
 - (a) act as Insurer or Banker and transact any banking or insurance or allied business on normal terms;
 - (b) retain the customary share of brokerage and other commissions;
 - (c) perform any service on behalf of the estate or Trust and make charges commensurate with the services rendered;
 - (d) employ at the expense and on behalf of the estate or Trust any parent or associated or subsidiary company as Banker or to transact any allied business or for any purpose for which a Trust is entitled to employ any agents;
 - (e) retain any remuneration received as a result of any appointment of a nominee as a Director or officer of any other company whose shares or expenses shall from time to time be held in the Trust.
5. The Trustee shall not be required by reason only of the general rule preventing a Trustee from deriving a profit from his Trusteeship to account to the estate or trust for any profit made in the ordinary course of business by the Trustee or any holding or associated or subsidiary company arising from the exercise of any power or discretion conferred by this Trust instrument as hereafter amended or by Law.
6. The Trustee may at its discretion vest any Property of the nominees.

7. All monies, securities, title deeds and documents belonging to or relating to the Property or this Trust shall be under the exclusive custody and control of the Trustee, any other person having all reasonable facilities for verification or inspection and the name of the Trustee or the name of its nominees shall be placed first in the Register of all stock, shares, securities or property.
8. Unless otherwise provided in the Trust instrument, every appointment whether under the statutory power or under any special power of a new Trustee during the period of Trusteeship of the Trustee shall be subject to the consent in writing of the Trustee.

THE COMMON SEAL of
SUNTERRA TITLE LIMITED
was hereunto affixed
in the presence of:

Director

Secretary

THE COMMON SEAL of
SUNTERRA EUROPE LIMITED
was hereunto affixed
in the presence of:

Director

Secretary

THE COMMON SEAL of
FIRST NATIONAL TRUSTEE COMPANY LIMITED
was hereunto affixed
in the presence of:

Director

Secretary