



Registration of a Charge

Company name: **AIRWAIR PROPERTY LIMITED**

Company number: **02303538**



X96ARCKR

Received for Electronic Filing: **01/06/2020**

Details of Charge

Date of creation: **29/05/2020**

Charge code: **0230 3538 0009**

Persons entitled: **BARCLAYS BANK PLC (AND ITS SUCCESSORS IN TITLE AND PERMITTED TRANSFEREES)**

Brief description: **THE REAL PROPERTY SPECIFIED IN THE INSTRUMENT INCLUDING LINDALE, 5 COBBS LANE, WOLLASTON, WELLINGBOROUGH (TITLE NUMBER NN158666). FOR MORE DETAILS PLEASE REFER TO THE INSTRUMENT.**

Contains fixed charge(s).

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

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

**FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL
INSTRUMENT.**

Certified by:

LINKLATERS LLP



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 2303538

Charge code: 0230 3538 0009

The Registrar of Companies for England and Wales hereby certifies that a charge dated 29th May 2020 and created by AIRWAIR PROPERTY LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 1st June 2020 .

Given at Companies House, Cardiff on 2nd June 2020

The above information was communicated by electronic means and authenticated by the Registrar of Companies under section 1115 of the Companies Act 2006



Companies House



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES

LEGAL CHARGE

dated 29 May 2020

for

AIRWAIR PROPERTY LIMITED
as Charging Company

and

BARCLAYS BANK PLC
as Security Trustee

**THIS DEED IS SUBJECT TO THE TERMS OF AN INTERCREDITOR AGREEMENT DATED 23
OCTOBER 2013 (AS AMENDED AND/OR AMENDED AND RESTATED FROM TIME TO TIME)
BETWEEN, AMONGST OTHERS, THE PARENT AND THE SECURITY TRUSTEE**

Linklaters LLP

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THIS DEED is made on 29 May 2020 between:

- (1) AIRWAIR PROPERTY LIMITED (a company incorporated in England and Wales with registered number 02303538) (the "**Charging Company**"); and
- (2) BARCLAYS BANK PLC as security trustee for itself and the other Secured Parties (the "**Security Trustee**"), which expression shall include any person from time to time appointed as a successor, replacement or additional trustee in relation to the interests created by the deed).

RECITALS

- (A) The Charging Company has agreed to enter into a legal mortgage over the Properties to secure all amounts owing under the Finance Documents; and
- (B) The terms of this deed are subject to the terms of the Intercreditor Agreement (as defined herein).

THE PARTIES AGREE as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this deed:

"**Charged Property**" means the assets mortgaged, charged or assigned to the Security Trustee by this deed.

"**Declared Default**" has the meaning given to that term in the Senior Facilities Agreement.

"**Default Basis**" means the rate at which interest is payable and the basis for determining payments due, as provided for in clause 14.3 (*Default Interest*) of the Senior Facilities Agreement.

"**Delegate**" means any delegate, agent, attorney or co-trustee appointed by the Security Trustee.

"**Event of Default**" means an Event of Default under the Senior Facilities Agreement.

"**Finance Documents**" means the Finance Documents as defined in the Senior Facilities Agreement (including any Hedging Agreements).

"**Intercreditor Agreement**" has the meaning given to that term in the Senior Facilities Agreement.

"**Lenders**" means the Lenders as defined in the Senior Facilities Agreement.

"**Material Real Property**" means any Real Property which has a market value of £500,000 or more or could reasonably be expected to yield annual rental payments exceeding £50,000 or which is of strategic or operational significance to the Group and including the Properties.

"**Obligors**" means the Obligors as defined in the Senior Facilities Agreement.

"**Obligors' Agent**" means the Obligors' Agent as defined in the Senior Facilities Agreement.

"**Properties**" means:

- (a) Linsdale, 5 Cobbs Lane, Wollaston, Wellingborough (title number NN158666);
- (b) land and buildings lying to the south of Cobbs Lane, Wollaston, Wellingborough (title number NN141758);

- (c) land and buildings on the west side of High Street, Wollaston, Wellingborough (title number NN192348);
- (d) land and buildings on the west side of High Street, Wollaston, Wellingborough (title number NN156247);
- (e) land and buildings on the west side of High Street, Wollaston, Wellingborough (title number NN171936);
- (f) land lying to the west of High Street, Wollaston, Wellingborough (title number NN167292); and
- (g) 97-99 High Street, Wollaston, Wellingborough (title number NN232518),

together with all buildings and fixtures (including trade fixtures and any plant or machinery ancillary to such properties listed in (a) to (g) above or the use thereof) at any time thereon (other than stock in trade or work in progress).

"Real Property" means all freehold and leasehold property and the buildings and fixtures (including trade fixtures) on that property from time to time.

"Receiver" means a receiver or receiver and manager in each case appointed under this deed and shall, if allowed by law, include an administrative receiver.

"Related Rights" means, in relation to any asset:

- (a) the proceeds of sale of that asset or any part of that asset;
- (b) any moneys and proceeds paid or payable in relation to that asset;
- (c) all rights under any licence, agreement for sale or agreement for lease in respect of that asset; and
- (d) the benefit of all other rights, powers, claims, consents, contracts, warranties, security, guarantees, indemnities or covenants for title in respect of that asset.

"Secured Obligations" means all present and future liabilities and obligations at any time due, owing or incurred by any Obligor to any Secured Party under any Finance Document, both actual and contingent and whether incurred solely or jointly and as principal or surety or in any other capacity except for any money or liability which, if it were so included, would cause the infringement of section 678 or 679 of the Companies Act 2006, provided that the Secured Obligations shall not include any liability or sum which, were it to be included, would cause all or part of the security expressed to be created by this deed, or the grant thereof by the relevant Obligor, to be illegal or contravene any applicable law or regulation and shall not include any Excluded Swap Obligation.

"Secured Parties" means the Finance Parties (including any Hedge Counterparty and any person who accedes to the Senior Facilities Agreement as a Finance Party) and any Receiver or Delegate, but, in the case of each Finance Party, only if it is a party to the Intercreditor Agreement or has acceded to the Intercreditor Agreement in the appropriate capacity, pursuant to clause 19.9 (*Creditor Accession Undertaking*) of the Intercreditor Agreement.

"Senior Facilities Agreement" means the facilities agreement made between the Parent, the Company, Barclays Bank PLC as facility agent and others dated 23 October 2013 as amended and restated from time to time and most recently on 20 August 2019.

1.2 Construction

- (a) In this deed, unless a contrary intention appears, a reference to
- (i) words and expressions defined in the Senior Facilities Agreement have the same meanings when used in this deed unless otherwise defined in this deed;
 - (ii) the principles of construction contained in clause 1.2 (*Construction*) of the Senior Facilities Agreement apply equally to the construction of this deed, except that references to the Senior Facilities Agreement will be construed as references to this deed;
 - (iii) **"assets"** includes present and future properties, revenues and rights of every description;
 - (iv) the **"Charging Company"**, any **"Secured Party"** or any other person shall be construed so as to include its successors in title, permitted assignees and transferees and, in the case of the Security Trustee, any person for the time being appointed as Security Trustee or Security Trustees in accordance with the Finance Documents;
 - (v) **"including"** means including without limitation and **"includes"** and **"included"** shall be construed accordingly;
 - (vi) **"losses"** includes losses, actions, damages, claims, proceedings, costs, demands, expenses (including fees) and liabilities and **"loss"** shall be construed accordingly;
 - (vii) a **"person"** includes any person, firm, company, corporation, government, state or agency of a state or any association, trust or partnership (whether or not having separate legal personality) or any two or more of the foregoing;
 - (viii) a **"regulation"** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;
 - (ix) a **"Finance Document"** or any other agreement or instrument is a reference to that or other agreement or instrument as amended, novated, supplemented, extended or restated (however fundamentally);
 - (x) a provision of law is a reference to that provision as amended or re-enacted; and
 - (xi) any clause or schedule is a reference to, respectively, a clause of and schedule to this deed and any reference to this deed includes its schedules.
- (b) Section, clause and schedule heading are for ease of reference only.
- (c) The terms of the documents under which the Secured Obligations arise and of any side letters between the Charging Company and any Secured Party relating to the Secured Obligations are incorporated in this deed to the extent required for any purported disposition of the Charged Property contained in this deed to be a valid disposition in accordance with section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989;

- (d) The parties intend that this document shall take effect as a deed, notwithstanding the fact that a party may only execute it under hand; and
- (e) This deed is supplemental to the legal charge dated 14 January 2014 between Airwair Property Limited (previously known as Ferrersmere Estates Limited) and the Security Trustee (the **"Existing Legal Charge"**).

1.3 **Third Party Rights**

- (a) A Delegate will have the right to enforce the provisions of this deed which are given in its favour however the consent of a Delegate is not required for the rescission or variation of this deed.
- (b) Subject to paragraph (a) above, a person who is not a party to this deed has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any term of this deed.

1.4 **Implied covenants for title**

- (a) The covenants set out in sections 3(1), 3(2) and 6(2) of the Law of Property (Miscellaneous Provisions) Act 1994 will not extend to Clause 4 (*Charging Clause*).
- (b) It shall be implied in respect of Clause 4 (*Charging Clause*) that the Charging Company is disposing of the Charged Property free from all charges and encumbrances (whether monetary or not) and from all other rights exercisable by third parties (including liabilities imposed and rights conferred by or under any enactment).

2. **THE EXISTING LEGAL CHARGE**

- (a) The Existing Legal Charge shall remain in full force and effect as supplemented by this deed.
- (b) The Security created by or pursuant to this deed is created in addition to and without prejudice but subject only to the Security created by or pursuant to the Existing Legal Charge.
- (c) Any Security created by or pursuant to the Existing Legal Charge shall not merge with any Security constituted by this deed or be released, extinguished or affected in any way by the Security constituted by this deed.
- (d) The performance of, and compliance with, any undertaking, requirement or obligation by the Charging Company under the Existing Legal Charge will be deemed to constitute the performance of, and compliance with, the corresponding undertaking, requirement or obligation by the Charging Company under this deed.

3. **COVENANT TO PAY**

Subject to any limits on its liability specifically recorded in the Finance Documents, the Charging Company as primary obligor covenants with the Security Trustee (for the benefit of itself and the other Secured Parties) that it will on demand pay the Secured Obligations when they fall due for payment

4. **CHARGING CLAUSE**

Subject to the terms of the Existing Legal Charge, the Charging Company, as security for the payment and discharge of the Secured Obligations, charges in favour of the Security Trustee with full title guarantee:

- (a) by way of first legal mortgage the Properties, and
- (b) by way of first fixed charge the benefit of all Related Rights in connection with the Properties or their use and the right to recover and receive any compensation in relation thereto.

5. **FURTHER ASSURANCE**

The Charging Company shall promptly do all such acts or execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Security Trustee may reasonably specify (and in such form as the Security Trustee may reasonably require in favour of the Security Trustee or its nominee(s)):

- (a) subject to the Security Principles, to perfect within the time frames set out therein or as otherwise set out in this deed, the Security created or intended to be created in respect of the Charged Property (which may include the execution of a mortgage, charge, assignment or other Security over all or any of the assets which constitute or are intended to constitute the Charged Property);
- (b) for the exercise of any rights, powers and remedies of the Security Trustee or the Secured Parties provided by or pursuant to this deed or by law at the times provided, and/or
- (c) following the occurrence of a Declared Default to facilitate the realisation of the Charged Property which is, or is intended to be, the subject of Security under the Transaction Security Documents.

6. **REPRESENTATIONS AND WARRANTIES**

6.1 **Matters Represented**

The Charging Company represents and warrants to the Security Trustee as set out in Clause 6.2 (*Property Title*) and Clause 6.3 (*Properties*) on the date of this deed.

6.2 **Property Title**

The Charging Company is the sole legal and beneficial owner of the Properties which is free from any Security other than pursuant to this deed, the Existing Legal Charge or as permitted pursuant to the Senior Facilities Agreement, and has good and marketable title to the Properties.

6.3 **Properties**

The Properties are all the Material Real Property situated in England and Wales which is beneficially owned by it as at the date of this deed.

7. **UNDERTAKINGS - GENERAL**

7.1 **Duration of Undertakings**

All of the undertakings given in this deed are given from the date of this deed and for so long as any security constituted by this deed remains in force.

7.2 **Negative Pledge**

The Charging Company may not, for so long as any security constituted by this deed remains in force, create or agree to create or permit to subsist any Security or Quasi-Security over all or any

part of the Charged Property except as permitted by and in accordance with the Senior Facilities Agreement or with the prior consent of the Security Trustee.

7.3 Disposal Restrictions

The Charging Company may not, for so long as any security constituted by this deed remains in force, enter into a single transaction or a series of transactions (whether related or not) and whether voluntary or involuntary to sell, lease, transfer or otherwise dispose of all or any part of the Charged Property except as permitted by and in accordance with the Senior Facilities Agreement or with the prior consent of the Security Trustee.

7.4 Preservation of Charged Property

The Charging Company will maintain in good working order and condition (ordinary wear and tear excepted) all of the Charged Property, where failure to do so has, or is reasonably likely to have, a Material Adverse Effect.

7.5 Real Property Acquisitions

The Charging Company will promptly notify the Security Trustee if it acquires any interest in Material Real Property which is not any leasehold property held by the Charging Company under a lease which either precludes absolutely or conditionally (including requiring the consent of any third party) the Charging Company from creating any charge over its leasehold interest in that property (each an "**Excluded Property**").

7.6 Documents relating to Charged Property

- (a) Without prejudice to any specific requirements in this deed for the delivery of documents, while an Event of Default is continuing, the Charging Company will promptly deliver to the Security Trustee all documents relating to the Charged Property which the Security Trustee reasonably requires.
- (b) The Security Trustee may retain any document delivered to it under this deed for so long as any security constituted by this deed remains in force and, if for any reason it returns any document to the Charging Company (or its nominee) before that time, it may by notice to the Charging Company require that the relevant document be redelivered to it and the Charging Company shall promptly comply (or procure compliance) with that notice.
- (c) The Charging Company shall be deemed to be in compliance with this Clause 7.5 if it has complied with its obligations under clause 6.5 of the Existing Legal Charge.

7.7 Power to Remedy

If the Charging Company fails to comply with any undertaking given in this deed and that failure is not remedied to the satisfaction of the Security Trustee within 10 Business Days of the Security Trustee notifying the Obligors' Agent that remedy is required, it will allow (and irrevocably authorises) the Security Trustee, or any Delegate, to take any action on behalf of the Charging Company which is necessary to ensure that those covenants are complied with.

8. REAL PROPERTY

8.1 Maintenance

The Charging Company will keep in good working order and condition (ordinary wear and tear excepted) all of the Material Real Property in which it has an interest where failure to do so has, or is reasonably likely to have, a Material Adverse Effect.

8.2 **Perfection of Real Property Security**

- (a) Upon request of the Security Trustee, the Charging Company will use commercially reasonable endeavours following (i) execution of this deed or (ii) (if later) acquisition of Material Real Property (which is not Excluded Property), to as soon as reasonably practicable deposit with the Security Trustee (or procure the deposit of) certified copies of all available deeds and documents of title relating to all Material Real Property (which is not Excluded Property) in which it has or may in the future have an interest and, if those deeds and documents are with the Land Registry, will as soon as reasonably practicable deposit them with the Security Trustee (or as it shall direct) following their release.
- (b) The Charging Company shall be deemed to be in compliance with paragraph (a) above if it has complied with its obligations under paragraph (a) of clause 7.2 of the Existing Legal Charge.
- (c) In relation to Material Real Property situated in England and Wales and charged by way of legal mortgage under this deed, the Charging Company hereby irrevocably consents to the Security Trustee applying to the Chief Land Registrar for a restriction to be entered on the Register of Title of all that Material Real Property in which it has an interest (including any unregistered properties subject to compulsory first registration at the date of this deed) on the prescribed Land Registry form and in the following or substantially similar terms.

"No disposition of the registered estate by the proprietor of the registered estate is to be registered without a written consent signed by the proprietor for the time being of the charge dated [_____] in favour of Barclays Bank PLC referred to in the charges register or their conveyancer."

- (d) Subject to the terms of the Senior Facilities Agreement, the Lenders are under an obligation to make further advances (which obligation is deemed to be incorporated into this deed) and this security has been made for securing those further advances. In relation to Material Real Property which is situated in England and Wales and charged by way of legal mortgage under this deed, the Security Trustee may apply to the Chief Land Registrar for a notice to be entered onto the Register of Title of all that Material Real Property (including any unregistered Material Real Property subject to compulsory first registration at the date of this deed) that there is an obligation to make further advances on the security of the registered charge.
- (e) The Charging Company certifies that the security created by this deed does not contravene any of the provisions of its articles of association.

9. **ATTORNEY**

- (a) The Charging Company, by way of security, irrevocably and severally appoints the Security Trustee, each Receiver and any person nominated for the purpose by the Security Trustee or any Receiver (in writing and signed by an officer of the Security Trustee or 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, deliver and perfect any deed, agreement or other instrument and to do any act or thing:
 - (i) which the Charging Company is required to do by the terms of this deed, and/or

- (ii) which is for the purpose of enabling the exercise of any rights or powers conferred on the Security Trustee or any Receiver by this deed or by law,

and the Charging Company covenants with the Security Trustee and each Receiver to ratify and confirm all such acts or things made, done or executed by that attorney.

- (b) The power given under paragraph (a) above may be exercised at any time after the occurrence of a Declared Default or after the expiry of 10 Business Days following the failure by the Charging Company to do that which it is required to do by the terms of this deed.

10. ENFORCEMENT

10.1 Exercise of Enforcement Powers

At any time after a Declared Default has occurred:

- (a) the security created by or pursuant to this deed is immediately enforceable;
- (b) the Security Trustee may enforce all or any part of the security and take possession of and hold, sell or otherwise dispose and/or deal with all or any part of the Charged Property; and
- (c) the Security Trustee may exercise the power of sale and all other rights and powers conferred by this deed or by statute (as varied or extended by this deed) on the Security Trustee or on a Receiver, irrespective of whether the Security Trustee has taken possession or appointed a Receiver of the Charged Property.

10.2 Appointment of Receiver or Administrator

- (a) Subject to paragraph (c) below, at any time after a Declared Default has occurred, or if so requested by the Charging Company, the Security Trustee may by writing under hand signed by any officer or manager of the Security Trustee, appoint any person (or persons) to be a Receiver of all or any part of the Charged Property.
- (b) Section 109(1) of the Law of Property Act 1925 shall not apply to this deed.
- (c) The Security Trustee shall be entitled to appoint a Receiver save to the extent prohibited by section 72A of the Insolvency Act 1986.
- (d) A Receiver may not be appointed solely by reason of the obtaining of a moratorium under section 1A of the Insolvency Act 1986 in relation to the Charging Company, or anything done with a view to obtaining such a moratorium.

11. EXTENSION AND VARIATION OF STATUTORY POWERS

11.1 Statutory Powers

The powers conferred on mortgagees, receivers or administrative receivers by statute shall apply to the security created by this deed, unless they are expressly or impliedly excluded. If there is ambiguity or conflict between the powers conferred by statute and those contained in this deed, those contained in this deed shall prevail.

11.2 **Section 101 LPA Powers**

The power of sale and other powers conferred by section 101 of the Law of Property Act 1925 shall arise on the date of this deed and for that purpose the Secured Obligations are deemed to have fallen due on the date of this deed.

11.3 **Powers of Leasing**

- (a) The Security Trustee may lease, make agreements for leases at a premium or otherwise, accept surrenders of leases and grant options or vary or reduce any sum payable under any leases or tenancy agreements as it thinks fit, without the need to comply with any of the provisions of sections 99 and 100 of the Law of Property Act 1925.
- (b) For the purposes of Sections 99 and 100 of the Law of Property Act 1925, the expression "Mortgagor" will include any encumbrancer deriving title under the Charging Company and neither Sub-section (18) of Section 99 nor Sub-section (12) of Section 100 of the Law of Property Act 1925 will apply.

11.4 **Restrictions Disapplied**

The restrictions on the consolidation of mortgages and on exercise of the power of sale imposed by sections 93 and 103 respectively of the Law of Property Act 1925 shall not apply to the security constituted by this deed.

11.5 **Fixtures**

The Security Trustee may following the exercise of its enforcement powers under this deed sever any of the Charging Company's fixtures from the property to which they are attached and sell them separately from that property.

12. **STATUS, POWERS, REMOVAL AND REMUNERATION OF RECEIVER**

12.1 **Receiver as Agent**

Each Receiver shall be the agent of the Charging Company which shall be solely responsible for his or her acts or defaults, and for his or her remuneration and expenses, and be liable on any agreements or engagements made or entered into by him. The Security Trustee will not be responsible for any misconduct, negligence or default of a Receiver.

12.2 **Powers of Receiver**

Each Receiver appointed under this deed shall have all the powers conferred from time to time on receivers by the Law of Property Act 1925 and the Insolvency Act 1986 (each of which is deemed incorporated in this deed), so that the powers set out in schedule 1 to the Insolvency Act 1986 shall extend to every Receiver, whether or not an administrative receiver. In addition, notwithstanding any liquidation of the Charging Company, each Receiver shall have power to:

- (a) develop, reconstruct, amalgamate or diversify any part of the business of the Charging Company;
- (b) enter into or cancel any contracts on any terms or conditions;
- (c) incur any liability on any terms, whether secured or unsecured, and whether to rank for payment in priority to this security or not;

- (d) let or lease or concur in letting or leasing, and vary the terms of, determine, surrender leases or tenancies of, or grant options and licences over, or otherwise deal with, all or any of the Charged Property, without being responsible for loss or damage;
- (e) establish subsidiaries to acquire interests in any of the Charged Property and/or arrange for those subsidiaries to trade or cease to trade and acquire any of the Charged Property on any terms and conditions;
- (f) make and effect all repairs, renewals and improvements to any of the Charged Property and maintain, renew, take out or increase insurances;
- (g) redeem any prior Security on or relating to the Charged Property and settle and pass the accounts of the person entitled to that prior Security, so that any accounts so settled and passed shall (subject to any manifest error) be conclusive and binding on the Charging Company and the money so paid shall be deemed to be an expense properly incurred by the Receiver;
- (h) appoint and discharge officers and others for any of the purposes of this deed and/or to guard or protect the Charged Property upon terms as to remuneration or otherwise as he may think fit;
- (i) settle any claims, accounts, disputes, questions and demands with or by any person who is or claims to be a creditor of the Charging Company or relating to any of the Charged Property;
- (j) implement or continue the development of (and obtain all consents required in connection therewith) and/or complete any buildings or structures on any real property comprised in the Charged Property;
- (k) purchase or acquire any land or any interest in or right over land;
- (l) exercise on behalf of the Charging Company all the powers conferred on a landlord or a tenant by any legislation from time to time in force in any relevant jurisdiction relating to rents or agriculture in respect of any part of the Properties; and
- (m) do all other acts and things (including signing and executing all documents and deeds) as the Receiver considers to be incidental or conducive to any of the matters or powers in this Clause 12.2, or otherwise incidental or conducive to the preservation, improvement or realisation of the Charged Property, and use the name of the Charging Company for all such purposes,

and in each case may use the name of the Charging Company and exercise the relevant power in any manner which he may think fit

12.3 **Removal of Receiver**

The Security Trustee may by notice remove from time to time any Receiver appointed by it (subject to the provisions of section 45 of the Insolvency Act 1986 in the case of an administrative receivership) and, whenever it may deem appropriate, appoint a new Receiver in the place of any Receiver whose appointment has terminated, for whatever reason.

12.4 **Remuneration of Receiver**

The Security Trustee may from time to time fix the remuneration of any Receiver appointed by it. Sections 109(6) and (8) of the Law of Property Act 1925 shall not apply to a Receiver appointed under this deed.

12.5 **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).

13. **PROTECTION OF THIRD PARTIES**

13.1 **No Obligation to Enquire**

No purchaser from, or other person dealing with, the Security Trustee, any Receiver or Delegate shall be obliged or concerned to enquire whether:

- (a) the right of the Security Trustee or any Receiver 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 Obligations remain 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.

13.2 **Receipt Conclusive**

The receipt of the Security Trustee or any Receiver shall be an absolute and a conclusive discharge to a purchaser, and shall relieve him of any obligation to see to the application of any moneys or other consideration paid to or by the direction of the Security Trustee or any Receiver.

14. **PROTECTION OF SECURITY TRUSTEE AND RECEIVER**

14.1 **Role of Security Trustee**

The provisions set out in clause 32 (*Role of the Facility Agent, the Arrangers, the Issuing Bank and Others*) of the Senior Facilities Agreement and clause 18 (*The Security Trustee*) of the Intercreditor Agreement shall govern the rights, duties and obligations of the Security Trustee under this deed.

14.2 **Delegation**

The Security Trustee may delegate by power of attorney or in any other manner all or any of the powers, authorities and discretions which are for the time being exercisable by it under this deed to any person or persons upon such terms and conditions (including the power to sub-delegate) as it may think fit. The Security Trustee will not be liable or responsible to the Charging Company or any other person for any losses arising from any act, default, omission or misconduct on the part of any Delegate.

14.3 **No Liability**

Neither the Security Trustee nor any Receiver or Delegate shall be liable in respect of any of the Charged Property 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, unless caused by its or his or her gross negligence, wilful default or breach of any obligations under the Finance Documents.

14.4 **Possession of Charged Property**

Without prejudice to Clause 14.3 (*No Liability*), if the Security Trustee or any Delegate enters into possession of the Charged Property, it will not be liable to account as mortgagee in possession and may at any time at its discretion go out of such possession.

14.5 **Indemnity**

- (a) The Charging Company shall promptly, following demand by the Security Trustee, indemnify the Security Trustee and every Receiver and Delegate against any cost, loss or liability incurred by any of them as a result of:
- (i) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised;
 - (ii) the taking, holding, protection or enforcement of the security constituted by this deed;
 - (iii) the exercise of any of the rights, powers, discretions, authorities and remedies vested in the Security Trustee and each Receiver and Delegate by this deed or by law;
 - (iv) any default by any Obligor in the performance of any of the obligations expressed to be assumed by it in this deed; or
 - (v) acting as Security Trustee, Receiver or Delegate (otherwise, in each case, than by reason of the relevant Security Trustee's, Receiver's or Delegate's gross negligence or wilful misconduct).
- (b) The Charging Company expressly acknowledges and agrees that the continuation of its indemnity obligations under this Clause 14.5 will not be prejudiced by any release of security or disposal of any Charged Property.
- (c) The Security Trustee and every Receiver and Delegate may, in priority to any payment to the other Secured Parties, indemnify itself out of the Charged Property in respect of, and pay and retain, all sums necessary to give effect to the indemnity in this Clause 14.5.

15. **APPLICATION OF ENFORCEMENT PROCEEDS**

15.1 **Order of Application**

All proceeds of enforcement (whether cash or non-cash) received or recovered by the Security Trustee or any Receiver pursuant to this deed shall (subject to the claims of any person having prior rights thereto) be applied in the order and manner specified by the Intercreditor Agreement notwithstanding any purported appropriation by any Charging Company.

15.2 **Suspense Account**

- (a) Until the Secured Obligations are paid in full, each Secured Party may place and keep (to the extent possible and for such time as it shall determine) any recoveries or other proceeds of enforcement (whether cash or non-cash) received pursuant to this deed or otherwise on account of the Charging Company's liability in respect of the Secured Obligations in an interest bearing separate suspense account, without having any obligation to apply all or any part of the same in or towards discharge of the Secured Obligations.

- (b) If the security created by this deed is enforced at a time when no amount is due under the Finance Documents but at the time when amounts may or will become due, a Secured Party may pay any recoveries or other proceeds of enforcement into a suspense account.

16. PROTECTION OF SECURITY

16.1 Continuing Security

The security created pursuant to this deed is to be a continuing security notwithstanding any intermediate payment or settlement of all or any part of the Secured Obligations or any other matter or thing.

16.2 Other Security

- (a) This security 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 Trustee or any other Secured Party may now or after the date of this deed hold for any of the Secured Obligations.
- (b) This security may be enforced against the Charging Company without first having recourse to any other rights of the Security Trustee or any other Secured Party.

16.3 Cumulative Powers

- (a) The powers which this deed confers on the Security Trustee, the other Secured Parties 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.
- (b) The Security Trustee, the other Secured Parties 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.
- (c) The respective powers of the Security Trustee, the other Secured Parties and the Receiver will in no circumstances be suspended, waived or otherwise prejudiced by anything other than an express consent or amendment.

16.4 Amounts Avoided

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

16.5 Discharge Conditional

If any discharge, release arrangement (whether in respect of the obligations of the Charging Company or other Obligor, or in respect of any security for those obligations or otherwise) is made by a Secured Party in whole or in part on the basis of any payment, security or other disposition which is avoided or must be restored in insolvency, liquidation, administration or otherwise, without limitation, then the liability of the Charging Company under this deed will continue or be reinstated as if the discharge, release or arrangement had not occurred.

16.6 Subsequent Security - Ruling-off Accounts

If the Security Trustee or any other Secured Party receives notice of any subsequent Security or other interest affecting any of the Charged Property (except as permitted by the Senior Facilities Agreement) it may open a new account for the relevant Charging Company in its books. If it does

not do so then (unless it gives express notice to the contrary to the Obligors' Agent), as from the time it receives that notice, all payments made by the relevant Charging Company to it shall (in the absence of any express appropriation to the contrary) be treated as having been credited to a new account of the relevant Charging Company and not as having been applied in reduction of the Secured Obligations.

16.7 Redemption of Prior Charges

The Security Trustee may, at any time after a Declared Default has occurred, redeem any prior Security on or relating to any of the Charged Property 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 each Charging Company. Each Charging Company will on demand pay to the Security Trustee all principal moneys and interest and all losses incidental to any such redemption or transfer.

17. COSTS AND EXPENSES

17.1 Stamp Duties, etc.

The Parent shall pay and, within three Business Days of demand, indemnify each Secured Party against any cost, loss or liability that Secured Party incurs in relation to all stamp duty, registration and other similar Taxes payable in respect of this deed.

17.2 Default Interest

Any amounts payable by the Charging Company under this deed will, if not paid when due, carry interest determined on the Default Basis.

18. SET-OFF

- (a) Following the occurrence of an Event of Default which is continuing, any Secured Party may set off any matured obligation due from the Charging 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 Charging Company, 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 in its usual course of business for the purpose of the set-off.
- (b) If the relevant obligation or liability of the Charging Company 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. CHANGES TO PARTIES

19.1 Assignment by the Security Trustee

The Security Trustee may at any time assign or otherwise transfer all or any part of its rights under this deed in accordance with the Finance Documents.

19.2 Changes to Parties

The Charging Company authorises and agrees to changes to parties under clause 29 (*Changes to the Lenders*) and clause 31 (*Changes to the Obligors*) of the Senior Facilities Agreement and clause 19 (*Changes to the Parties*) of the Intercreditor Agreement and authorises the Security

Trustee to execute on its behalf any document required to effect the necessary transfer of rights or obligations contemplated by those provisions.

20. **CURRENCY**

20.1 **Conversion**

All moneys received or held by the Security Trustee or any Receiver under this deed may be converted into any other currency which the Security Trustee acting reasonably considers necessary to discharge any obligations and liabilities comprised in the Secured Obligations in that other currency at the Security Trustee's spot rate of exchange then prevailing for purchasing that other currency with the existing currency.

20.2 **No Discharge**

No payment to the Security Trustee (whether under any judgment or court order or otherwise) shall discharge any obligation or liability in respect of which it was made unless and until the Security Trustee has received payment in full in the currency in which the obligation or liability is payable or, if the currency of payment is not specified, was incurred. To the extent that the amount of any such payment shall on actual conversion into that currency fall short of that obligation or liability expressed in that currency, the Security Trustee shall have a further separate cause of action in relation to the shortfall and shall be entitled to enforce the security constituted by this deed to recover that amount.

21. **MISCELLANEOUS**

21.1 **Certificates Conclusive**

A certificate or determination of the Security Trustee as to any amount or rate under this deed is, in the absence of manifest error, conclusive evidence of the matter to which it relates.

21.2 **Invalidity of any Provision**

If any provision of this deed is or becomes invalid, illegal or unenforceable in any respect under any law, the validity, legality and enforceability of the remaining provisions shall not be affected or impaired in any way.

21.3 **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. Each counterpart is an original, but all counterparts shall together constitute one and the same instrument. Delivery of a counterpart of this deed by e-mail attachment shall be an effective mode of delivery.

21.4 **Failure to Execute**

Failure by one or more parties ("**Non-Signatories**") to execute this deed on the date hereof will not invalidate the provisions of this deed as between the other parties who do execute this deed. Such Non-Signatories may execute this deed on a subsequent date and will thereupon become bound by its provisions.

21.5 **Covenant to Release**

Once all the Secured Obligations have been paid in full and none of the Security Trustee nor any Secured Party has any actual or contingent liability to advance further moneys to, or incur liability on behalf of, any member of the Group, the Security Trustee and each Secured Party shall, at the

request and cost of the Charging Company, take any action which may be necessary to release the Charged Property from the security constituted by this deed and procure the reassignment to the Charging Company of the property and assets assigned to the Security Trustee pursuant to this deed (in each case subject to Clause 16.4 (*Amounts Avoided*)).

22. **GOVERNING LAW AND JURISDICTION**

- (a) This deed and any dispute, controversy, proceedings or claims of whatever nature arising out of or in any way relating to this deed or its formation (including any non-contractual disputes or claims) shall be governed by and construed in accordance with English law.
- (b) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this deed (including a dispute regarding the existence, validity or termination of this deed or any non-contractual obligations arising out of or in connection with this deed) (a "**Dispute**").
- (c) The parties to this deed 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 and delivered on the above date first above written.

SIGNATORIES TO LEGAL CHARGE

Charging Company

Executed as a deed by)
AIRWAIR PROPERTY LIMITED acting by a)
director)

.....

Signature of director

Name of Director (IN BLOCK CAPITALS) JON MORTIMORE

In the presence of

.....

Signature of witness

SUSIE MORTIMORE

Name of witness (IN BLOCK CAPITALS)

Address of witness

Occupation of witness

Notice Details

Address Cobbs Lane
Wollaston
Northamptonshire
NN29 7SW

Facsimile 01933 667103

Attention Jon Mortimore

Security Trustee

Signed as a Deed for or and on behalf of
BARCLAYS BANK PLC acting by a director

Emma Sharma

Signature of director

Name of Director (IN BLOCK CAPITALS)

In the presence of

Signature of witness

Name of witness (IN BLOCK CAPITALS)

VINSON SHARMA

Address of witness

Occupation of witness

Notice Details

Address 1 Churchill Place
London
E14 5HP

Facsimile 020 7773 4893

Attention Head of European Loans Agency Team