



Registration of a Charge

Company Name: **GLOUCESTERSHIRE AIRPORT LIMITED**

Company Number: **02774189**



Received for filing in Electronic Format on the: **26/05/2023**

XC4CX0QH

Details of Charge

Date of creation: **22/05/2023**

Charge code: **0277 4189 0010**

Persons entitled: **THE COUNCIL OF THE CITY OF GLOUCESTER**

Brief description: **LAND KNOWN AS SOUTH EAST CAMP, GLOUCESTERSHIRE AIRPORT, STAVERTON, CHELTENHAM, GL51 6SR REGISTERED AT HMLR WITH TITLE NUMBER GR212462. FOR MORE INFORMATION PLEASE REFER TO THE INSTRUMENT.**

Contains fixed charge(s).

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

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

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

Certified by:

PINSENT MASONS LLP



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 2774189

Charge code: 0277 4189 0010

The Registrar of Companies for England and Wales hereby certifies that a charge dated 22nd May 2023 and created by GLOUCESTERSHIRE AIRPORT LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 26th May 2023 .

Given at Companies House, Cardiff on 2nd June 2023

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**

DATED 22 MAY 2023 AM

(1) GLOUCESTERSHIRE AIRPORT LIMITED
(AS CHARGOR)

(2) THE COUNCIL OF THE CITY OF GLOUCESTER
(AS LENDER)

DEBENTURE



Pinsent Masons

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THIS DEBENTURE is made on

22 MAY 2023 PM

BETWEEN:-

- (1) **GLOUCESTERSHIRE AIRPORT LIMITED** (No. 02774189) whose registered office is at Terminal Building, Gloucestershire Airport, Staverton Cheltenham, Gloucestershire, GL51 6SR (the "**Chargor**"); and
- (2) **THE COUNCIL OF THE CITY OF GLOUCESTER** of 92 Westgate Street, Gloucester, GL1 2PE (the "**Lender**").

THIS DEED WITNESSES as follows:-

1. **INTERPRETATION**

1.1 **Definitions**

In this Debenture:-

| | |
|--------------------------|--|
| "Account" | means any account opened or maintained by the Chargor at any bank or financial institution |
| "Authorisations" | means all licences, consents, permissions and agreements held by or used in connection with the business of the Chargor, the use of any of its assets, the Land or the Development |
| "Building Contract" | means the building contract dated 13 December 2021 between the Chargor and the Contractor relating to the Development in a form approved by the Lender and shall include any other building contract entered into by the Chargor and a Contractor in relation to the Development from time to time |
| "Charged Property" | means all the assets and undertaking of the Chargor which from time to time are, or purport to be, the subject of the security created in favour of the Lender by or pursuant to this Debenture |
| "Collateral Warranties" | means any collateral warranty given by any trade or building sub-contractor, any consultant, or any other adviser in favour of the Chargor, or of which the Chargor has the benefit, in relation to the Development |
| "Consultant" | has the meaning given to that term in the Facility Agreement |
| "Consultant Appointment" | means an agreement for the appointment of a Consultant by the Chargor or the Contractor |
| "Contractor" | has the meaning given to that term in the Facility Agreement |
| "Development" | has the meaning given to that term in the Facility Agreement |
| "Development Document" | means:- |

- (a) the Building Contract;
- (b) the Consultant Appointments;
- (c) the Collateral Warranties;
- (d) all other building contracts, sub-contracts, appointments, collateral warranties, guarantees, indemnities and other contracts entered into or to be entered into by the Chargor in respect of the Land and/or the Development from time to time; and
- (e) any other document designated as such by the Lender and the Borrower from time to time.

"Enforcement Action"

means:-

- (a) the acceleration of any Secured Liabilities or any declaration that any Secured Liabilities are prematurely due and payable or payable on demand
- (b) the taking of any steps to enforce or require the enforcement of this Debenture (including the crystallisation of any floating charge)
- (c) the making of any demand against the Chargor in relation to any guarantee, indemnity or other assurance against loss in respect of any Secured Liabilities
- (d) the exercise of any right of set-off against the Chargor in respect of any Secured Liabilities excluding any right of set off under a netting arrangement with the Chargor's clearing bank
- (e) the suing for, commencing or joining of any legal or arbitration proceedings against the Chargor to recover any Secured Liabilities or
- (f) the petitioning, applying or voting for, or the taking of any steps which may lead to any administration, winding-up, insolvency or dissolution of or in relation to the Chargor

"Enforcement Date"

means the date on which the Lender first takes Enforcement Action

"Event of Default"

has the meaning given to that term in the Facility Agreement

"Facility Agreement"

means the £7,750,000 facility agreement between the Chargor and the Lender dated on or about the date of this Debenture

"Finance Documents"

has the meaning given to it in the Facility Agreement

"Fixed Plant and Equipment"

means all plant, machinery or equipment of the Chargor of any kind which does not for any reason constitute a Fixture, but is now or at any time directly or indirectly attached by any means and for any purpose to any land

| | |
|------------------------------------|---|
| | or building, whether or not it is removable or intended to form part of the land or building |
| "Fixtures" | means all things of any kind now or at any time affixed to the Land for any purpose, including, without limitation, trade and tenants fixtures |
| "Insurances" | means any policy of insurance or assurance in which the Chargor has an interest and all claims and rebates of premium under any such policy |
| "Intellectual Property" | means any of the following in which the Chargor has an interest:- <ul style="list-style-type: none"> (a) any registered intellectual property right in any territory or jurisdiction, including, without limitation, patents, trade marks, service marks, registered designs, and any similar right in any territory or jurisdiction and any applications or right to apply for any of the above (b) any invention, copyright, design right or performance right (c) any trade secrets, know-how and confidential information and (d) the benefit of any agreement or licence for the use of any such right |
| "Land" | means any estate, right or interest in or over land, whether legal or equitable, and wherever the land is situated including, without limitation, any buildings and Fixtures on the Land, and the benefit of any covenants or rights owed to any person or enforceable by him by virtue of the ownership possession or occupation of land but for these purposes "Land" excludes heritable property situated in Scotland |
| "Loose Plant and Equipment" | means, in relation to the Chargor, all plant, machinery, equipment and motor vehicles now or at any time owned by the Chargor as a capital asset which is not Fixed Plant and Equipment |
| "LPA" | means the Law of Property Act 1925 |
| "Monetary Claims" | means all book and other debts and monetary claims now or in the future owing to the Chargor (whether alone or jointly with any other person), whenever payable and whether liquidated or unliquidated, certain or contingent including, without limitation, credit balances on any Account, and together with all cheques, bills of exchange, negotiable instruments, credits and securities at any time given in relation to, or to secure payment of, any such debt |
| "Notice of Charge" | means a notice of charge in such form as may be specified by the Lender |

| | |
|--|--|
| "Receiver" | means any receiver, receiver and manager or administrative receiver of the whole or any part of the Charged Property |
| "Related Rights" | means in relation to any Charged Property <ul style="list-style-type: none"> (a) the proceeds of sale of any part of that Charged Property (b) all rights under any licence, agreement for sale or agreement for lease in respect of that Charged Property (c) all rights, benefits, claims, contracts, warranties, remedies, security, indemnities or covenants for title in respect of that Charged Property and (d) any moneys and proceeds paid or payable in respect of that Charged Property |
| "Secured Liabilities" | means all present and future obligations and liabilities expressed to be due, owing or payable by the Chargor to the Lender (whether present or future, actual or contingent and whether incurred solely or jointly (or jointly and severally) with any other person) including without limitation interest, commission, costs, charges and expenses charged by the Lender at rates agreed between it and the Chargor |
| "Securities" | means all the right, title and interest of the Chargor, now or in the future, in any:- <ul style="list-style-type: none"> (a) stocks, shares, bonds, debentures, loan stocks, or other securities issued by any person (b) warrants, options or other rights to subscribe, purchase or otherwise acquire any stocks, shares, bonds, debentures, loan stocks or other securities or investments issued by any person and (c) units or other interests in any unit trust or collective investment scheme |
| "Security" | means a mortgage, charge, pledge, lien or any other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect |
| "UK Financial Collateral Regulations" | means the Financial Collateral Arrangements (No. 2) Regulations 2003 (S.I.2003/3226) as amended by the Financial Collateral Arrangements (No. 2) Regulations 2003 (Amendment) Regulations 2009 (S.I.2009/2462), the Financial Markets and Insolvency (Settlement Finality and Financial Collateral Arrangements) (Amendment) Regulations 2010, the European Union (Withdrawal) Act 2018 (as amended) and the Financial Markets and Insolvency (Amendment and Transitional Provision) (EU Exit) Regulations 2019 |

(S.I.2019/341) and "UK Financial Collateral Regulation" means any of them

1.2 **Incorporation of terms**

Unless the context otherwise requires or unless defined in this Debenture, all words and expressions defined or whose interpretation is provided for in the Facility Agreement shall have the same meanings in this Debenture.

1.3 **Interpretation**

In this Debenture, unless the context otherwise requires:-

- 1.3.1 words importing the singular shall include the plural and vice versa and reference to any gender includes the other gender;
- 1.3.2 the term "**assets**" includes all property, rights and revenues whatsoever, and wheresoever, present and future;
- 1.3.3 references to a "**guarantee**" include an indemnity or any other form of surety;
- 1.3.4 a Default or an Event of Default is "**continuing**" if it has not been waived;
- 1.3.5 all references to documents include all variations and replacements of such documents and supplements to such documents;
- 1.3.6 all references to a party include references to its personal representatives, permitted assigns and transferees and its successors in title;
- 1.3.7 references to persons include bodies corporate, unincorporated associations and partnerships; and
- 1.3.8 words and phrases defined in the Companies Act 2006 have the same meanings in this Debenture but the word "**company**" includes any body corporate.

1.4 **Statutes and headings**

In this Debenture:-

- 1.4.1 any reference to any statute or statutory instrument includes any enactment replacing or amending it or any instrument, order or regulation made under it and also includes any past statutory provisions (as from time to time modified or re-enacted) which such provision has directly or indirectly replaced; and
- 1.4.2 headings are for reference purposes only and shall not affect the construction of anything in this Debenture.

1.5 **Clauses and Schedules**

In this Debenture references to "**Clauses**" are to the clauses or sub-clauses of this Debenture and references to the "**Schedule**" are to the schedule to this Debenture. The Schedule shall be treated as an integral part of this Debenture and references to this Debenture shall include the Schedule.

2. COVENANT TO PAY

2.1 Secured Liabilities

The Chargor covenants that it will on demand of the Lender pay and discharge any or all of the Secured Liabilities when due.

2.2 Interest

The Chargor covenants to pay interest to the Lender upon any sum demanded in accordance with Clause 2.1 (*Secured Liabilities*) until payment (both before and after any judgment) at the rate specified in clause 8.3 of the Facility Agreement.

3. CHARGES

3.1 Mortgages and Fixed Charges

As a continuing security for payment of the Secured Liabilities, the Chargor with full title guarantee charges to the Lender all its right, title and interest from time to time in each of the following assets:-

- 3.1.1 by way of first legal mortgage all Land which is described in Schedule 1 (if any) and all other Land now vested in the Chargor;
- 3.1.2 by way of first fixed charge all other Land now vested in the Chargor (to the extent not effectively charged by Clause 3.1.1) and all Land acquired by the Chargor after the date of this Debenture;
- 3.1.3 by way of first fixed charge:-
 - (a) the Securities;
 - (b) the Intellectual Property;
 - (c) the Monetary Claims;
 - (d) the Fixed Plant and Equipment;
 - (e) the Loose Plant and Equipment;
 - (f) the Accounts;
 - (g) to the extent not the subject of an effective assignment pursuant to Clause 3.2, the Insurances;
 - (h) the Authorisations;
 - (i) the Development Documents;
 - (j) the Related Rights under or in connection with the Securities, the Accounts, the Insurances, the Intellectual Property, the Monetary Claims, the Fixed Plant and Equipment, the Loose Plant and Equipment, the Authorisations and the Development Documents; and
 - (k) its present and future goodwill and uncalled capital.

3.2 Assignments

The Chargor assigns absolutely, subject to a proviso for reassignment on the irrevocable discharge in full of the Secured Liabilities, all its right, title and interest from time to time in:-

3.2.1 the Insurances;

3.2.2 the Development Documents; and

3.2.3 all Related Rights under or in connection with the Insurances and the Development Documents.

3.3 Floating Charge

As continuing security for payment of the Secured Liabilities, the Chargor with full title guarantee charges by way of first floating charge the whole of the Chargor's undertaking and assets, present and future and wherever situated, which are not for any reason effectively charged (whether in law or equity) by way of fixed security by this Debenture, including, without limitation, any heritable property of the Chargor situated in Scotland.

3.4 Trust

If or to the extent that for any reason the assignment or charging of any Charged Property is prohibited, the Chargor shall hold it on trust for the Lender.

3.5 Qualifying floating charge

Paragraph 14 of Schedule B1 to the Insolvency Act 1986 will apply to any floating charge created by this Debenture.

4. CRYSTALLISATION OF FLOATING CHARGE

4.1 Crystallisation: By Notice

The Lender may at any time by notice in writing to the Chargor convert the floating charge created by Clause 3.3 (*Floating Charge*) with immediate effect into a fixed charge as regards any property or assets specified in the notice if:-

4.1.1 the Enforcement Date has occurred;

4.1.2 the Lender considers that any of the Charged Property may be in jeopardy or in danger of being seized or sold pursuant to any form of legal process; or

4.1.3 the Lender considers that it is necessary in order to protect the priority of the Security created by or pursuant to this Debenture.

4.2 Crystallisation: Automatic

The floating charge created by Clause 3.3 (*Floating Charge*) will automatically be converted (without notice) with immediate effect into a fixed charge as regards all of the undertaking and assets subject to the floating charge if:-

4.2.1 the Chargor creates or attempts to create any Security (other than as permitted pursuant to the terms of the Finance Documents) over any of the Charged Property; or

4.2.2 any person levies or attempts to levy any distress, execution or other process against any of the Charged Property; or

4.2.3 any step is taken (including the presentation of a petition, the passing of a resolution or the making of an application) to appoint a liquidator, provisional liquidator, administrator or Receiver in respect of the Chargor, over all or any part of its assets, or if such person is appointed.

4.3 Crystallisation: Moratorium where directors propose voluntary arrangement

The floating charge created by Clause 3.3 (*Floating Charge*) may not be converted into a fixed charge solely by reason of:-

4.3.1 the obtaining of a moratorium; or

4.3.2 anything done with a view to obtaining a moratorium,

under Schedule A1 to the Insolvency Act 1986.

5. PERFECTION OF SECURITY

5.1 Notices of Charge

The Chargor shall deliver to the Lender (or procure delivery of) Notices of Charge duly executed by, or on behalf of, the Chargor in respect of any asset which is the subject of a charge pursuant to Clause 3.1.3, as soon as reasonably practicable upon the reasonable request of the Lender from time to time.

5.2 Delivery of Documents of Title

The Chargor shall upon the execution of this Debenture (or, if later, upon receipt or entitlement thereof), deposit with the Lender and the Lender during the continuance of this security shall be entitled to hold all deeds, certificates and other documents of title relating to Land, the Securities and the Insurances.

5.3 Application to the Land Registry

The Chargor and the Lender apply to the Land Registry for the following to be entered into on the register of the title to any Land now or in the future owned by the Chargor a restriction in the following terms:-

"No disposition of the registered estate by the proprietor of the registered estate or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction, is to be registered without a written consent signed by the proprietor for the time being of the charge dated _____ in favour of ~~Cheltenham Borough Council~~ referred to in the charges register (Form P)".

L THE COUNCIL OF THE
CITY OF GLOUCESTER

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6. FURTHER ASSURANCE

6.1 General

The Chargor shall, at its own expense, at any time when required by the Lender, execute and deliver to the Lender:-

6.1.1 a valid legal mortgage of any Land now or in the future owned by the Chargor;

6.1.2 a fixed charge over any interest, not capable of being charged by way of legal mortgage, in any Land now or in the future belonging to the Chargor;

6.1.3 a legal assignment or other fixed Security over all or any of the Charged Property;

6.1.4 where any of its assets are situated outside England and Wales, such fixed security (or such security in that jurisdiction most closely akin to fixed security) under the law of the place where the asset is situated as the Lender may require; and

6.1.5 a notice to any third party of any of the charges or assignments created by or pursuant to this Debenture,

in each case, in the Lender's standard form or such other form as the Lender may require.

6.2 Other acts

Without prejudice to Clause 6.1 (*General*), the Chargor shall, at its own expense, at any time when required by the Lender, do and concur in all acts or things as the Lender may deem necessary or desirable for the purpose of the creation, perfection, protection or maintenance of any of the Security intended to be created by this Debenture over all or any of the Charged Property or to facilitate the enforcement of that Security, or the exercise of any powers or discretions intended to be vested in the Lender or any Receiver by this Debenture.

7. RESTRICTIONS ON DEALING

7.1 Negative Pledge

The Chargor undertakes that it shall not, at any time during the subsistence of this Debenture, create or permit to subsist any Security over all or any part of the Charged Property.

7.2 Disposals

The Chargor undertakes that it shall not (and shall not agree to) at any time during the subsistence of this Debenture, except as expressly permitted under the terms of the Finance Documents, sell, transfer, assign, factor, discount, lend, part with its interest in or otherwise dispose of any of the Charged Property or permit the same to occur, or agree to do any of the foregoing, provided that, until:-

7.2.1 the floating charge created by Clause 3.3 (*Floating Charge*) is converted into a fixed charge; or

7.2.2 the occurrence of the Enforcement Date,

the Chargor may hold, enjoy and deal with, in accordance with the Finance Documents, the Charged Property which is not at the relevant time expressed to be subject to a fixed charge or mortgage.

8. SECURITIES

8.1 Securities: Before Enforcement Date

Prior to the occurrence of the Enforcement Date, the Chargor shall:-

8.1.1 pay all dividends, interest and other monies arising from the Securities into an Account; and

8.1.2 exercise all voting rights in relation to the Securities for any purpose not inconsistent with the terms of the Finance Documents.

8.2 **Securities: After Enforcement Date**

After the occurrence of the Enforcement Date, the Lender may at its discretion (in the name of the Chargor or otherwise and without any further consent or authority from the Chargor):-

- 8.2.1 exercise (or refrain from exercising) any voting rights in respect of the Securities;
- 8.2.2 apply all dividends, interest and other monies arising from the Securities in accordance with Clause 16 (*Application of Moneys*);
- 8.2.3 transfer the Securities into the name of such nominee(s) of the Lender as it shall require; and
- 8.2.4 exercise (or refrain from exercising) the powers and rights conferred on or exercisable by the legal or beneficial owner of the Securities,

in each case, in such manner and on such terms as the Lender may think fit and the proceeds of any such action shall form part of the Charged Property.

8.3 **Securities: Payment of Calls**

The Chargor shall pay when due all calls or other payments which may be or become due in respect of any of the Securities which are not fully paid (unless reasonably contested), and in any case of default by the Chargor in such payment, the Lender may, if it thinks fit, make such payment on behalf of the Chargor in which case any sums paid by the Lender shall be reimbursed by the Chargor to the Lender on demand and shall carry interest from the date of payment by the Lender until reimbursed at the rate notified to the Chargor by the Lender.

8.4 **Securities: Exercise of Rights**

The Chargor shall not exercise any of its respective rights and powers in relation to any of the Securities in any manner which, in the opinion of the Lender, would prejudice the effectiveness of, or the ability of the Lender to realise, the security created by or pursuant to this Debenture.

9. **ACCOUNTS**

9.1 **Accounts: Notification and Variation**

The Chargor, during the subsistence of this Debenture:-

- 9.1.1 shall promptly deliver to the Lender on the date of this Debenture (and, if any change occurs after the date of this Debenture, on that date), details of each Account maintained by it with any bank or financial institution; and
- 9.1.2 shall not, without the Lender's prior written consent, permit or agree to any variation of the rights attaching to any Account or close any Account unless such account closure is notified in advance to the Lender.

9.2 **Accounts: Operation Before Enforcement Date**

The Chargor shall, prior to the occurrence of the Enforcement Date, be entitled to receive, withdraw or otherwise transfer any credit balance from time to time on any Account.

9.3 **Accounts: Operation After Enforcement Date**

After the occurrence of the Enforcement Date, the Chargor shall not be entitled to receive, withdraw or otherwise transfer any credit balance from time to time on any Account except with the prior consent of the Lender.

9.4 **Accounts: Application of Moneys**

The Lender shall, upon the occurrence of the Enforcement Date, without notice to the Chargor give instructions to the bank and/or financial institution holding each of the Accounts to apply, transfer or set-off any or all of the credit balances from time to time on any Account in or towards the payment or other satisfaction of all or part of the Secured Liabilities in accordance with Clause 16 (*Application of Moneys*).

10. **MONETARY CLAIMS**

10.1 **No dealing with Monetary Claims**

The Chargor shall not at any time during the subsistence of this Debenture, without the prior written consent of the Lender sell, factor, discount, transfer, assign, lend or otherwise dispose of any of the Monetary Claims or enter into any agreement to do any of the foregoing.

10.2 **Proceeds of Monetary Claims**

The Chargor shall get in and realise the Monetary Claims in the ordinary course of business and pay the proceeds of those Monetary Claims into an Account.

11. **INSURANCES**

11.1 **Insurances: Undertakings**

The Chargor shall at all times during the subsistence of this Debenture:-

11.1.1 keep the Charged Property insured with those insurances normally maintained by prudent companies carrying on a similar business and with an insurance office or underwriters to be approved by the Lender in writing from time to time and otherwise in accordance with the terms of the Finance Documents;

11.1.2 if required by the Lender, cause each Insurance relating to the Charged Property to contain (in form and substance satisfactory to the Lender) an endorsement naming the Lender as sole loss payee in respect of all claims;

11.1.3 promptly pay all premiums and other moneys payable under all its Insurances or procure that such is done and, promptly upon request, produce to the Lender a copy of each policy and evidence (acceptable to the Lender) of the payment of such sums (or procure that such is done) and not do or omit to do or permit or suffer to be done or omitted to be done, anything which might render any Insurance required by this clause void, voidable or unenforceable; and

11.1.4 if required by the Lender, provide a copy of all Insurances relating to the Charged Property to the Lender.

11.2 **Insurance: Default**

If the Chargor defaults in complying with Clause 11.1 (*Insurance: Undertakings*), the Lender may effect or renew any such Insurance on such terms, in such name(s) and in such amount(s) as it considers appropriate, and all moneys expended by the Lender in

doing so shall be reimbursed by the Chargor to the Lender on demand and shall carry interest from the date of payment by the Lender until reimbursed at the rate specified in Clause 2 (*Covenant to Pay*).

11.3 **Application of Insurance Proceeds**

All moneys received under any Insurance relating to the Charged Property shall, prior to the occurrence of the Enforcement Date, be applied in accordance with the terms of the Finance Documents. After the occurrence of the Enforcement Date, the Chargor shall hold such moneys upon trust for the Lender pending payment to the Lender for application in accordance with Clause 16 (*Application of Moneys*) and the Chargor waives any right it may have to require that any such moneys are applied in reinstatement of any part of the Charged Property.

12. **LAND**

The Chargor shall (with the intent that this Clause 12 (*Land*) shall apply in relation to all Land now vested in the Chargor or acquired by the Chargor after the date of this Debenture):-

12.1 **Repair and Alterations**

- 12.1.1 keep or cause to be kept all buildings and Fixtures from time to time on or in any of its Land and all other plant, machinery and equipment belonging to it in good and substantial repair and good working order; and
- 12.1.2 permit any authorised representative of the Lender at any time to enter any of its Land for any purpose without becoming liable to account as a mortgagee in possession and to inspect and test any work being carried out and, where any breach of covenant, defect, disrepair or unauthorised alteration, improvement or addition shall be found, remedy all such breaches and execute all such repairs or removals as the Lender may require within 28 days after notice (or immediately, in case of emergency);

12.2 **Statutes**

- 12.2.1 comply with the provisions of all statutes and the requirement of any competent authority affecting any of its Land or the use of any of its Land or anything done on any Land; and
- 12.2.2 ensure that all consents and approvals under all statutes and the regulations and codes of practice of any competent authority affecting any of its Land have been obtained and are complied with, and produce on demand such evidence as the Lender may require to satisfy itself that such consents and approvals have been obtained and are complied with;

12.3 **Leases**

- 12.3.1 pay the rents and observe and perform all covenants, conditions, agreements or obligations on its part to be observed and performed contained in any lease under which any of its Land is held by the Chargor and any licence, consent or approval given under any lease, and use its best endeavours to enforce observance and performance of the lessor's covenants in any lease;
- 12.3.2 not accelerate or defer payment of any moneys payable under any such lease and where any lease contains a provision for the review of rent promptly notify the Lender of any attempt by the lessor to implement a review but not agree the reviewed rent or appoint or agree to the appointment of a third party to determine a rent review without the prior written consent of the Lender;

12.3.3 not to apply for any licence, consent or approval under any such lease or any superior lease without the prior written consent of the Lender; and

12.3.4 promptly give notice to the Lender if the Chargor receives notice under section 146 of the LPA or any proceedings are commenced for forfeiture of any such lease or any superior lease or the lessor or any superior lessor re-enters or attempts to re-enter thereunder and at the request of the Lender but at the cost of the Chargor take such steps as the Lender may require in relation thereto;

12.4 **Power of Leasing**

not, without the prior written consent of the Lender, exercise any of the powers of leasing or agreeing to lease vested in or conferred on mortgagors by common law or by statute or create or suffer to be created a tenancy of any description of any of its Land or confer or permit to be conferred upon any person any contractual licence, right or interest to occupy or use or grant any licence or permission to assign, underlet or part with possession of the whole or any part of its Land or agree to do any of the foregoing, and sections 99 and 100 of the LPA shall not apply to this Debenture;

12.5 **Compulsory Acquisition**

not without the prior written consent of the Lender enter into any negotiations with any competent authority with regard to the compulsory acquisition of any of its Land or consent to the compulsory acquisition of any of its Land, and, if so requested by the Lender, permit the Lender or its authorised representatives to conduct such negotiations or to give such consent on the Chargor's behalf;

12.6 **Outgoings**

pay as and when the same become due all rates, taxes, duties, charges, assessments and other outgoings payable in respect of its Land; and

12.7 **Encumbrances**

comply with:-

12.7.1 all obligations, covenants, exceptions, reservations, licences, approvals, consents, stipulations, restrictions and conditions to which it is subject including, but without limitation, those relating to any of its Land or the use or enjoyment of any of its Land or imposed upon the Chargor as owner, occupier or user, as the case may be, of any of its Land; and

12.7.2 its obligations under any Security having priority to the Security created by or pursuant to this Debenture.

13. **DEMAND AND ENFORCEMENT**

13.1 **Enforcement**

This Debenture shall become enforceable in respect of and against the Chargor:-

13.1.1 upon any demand being made by the Lender under any Finance Document for payment of any of the Secured Liabilities by the Chargor;

13.1.2 upon any event of default by the Chargor as set out in any Finance Document;

13.1.3 upon any request being made by the Chargor to the Lender for the appointment of a Receiver or for the Lender to exercise any other power or right available to it;

- 13.1.4 upon the occurrence of any event causing, or purporting to cause, the floating charge created by this Debenture to become fixed in relation to any Charged Property; or
- 13.1.5 upon the passing of any resolution, or the presentation of a petition, for winding up of the Chargor or the making of an application for an administration order in relation to the Chargor or the taking of any steps in relation to the appointment of an administrator of the Chargor.

13.2 Demand for payment

Any demand for payment, and any other notice to be given by the Lender under this Debenture, shall be in writing and may be signed by any authorised signatory on behalf of the Lender, and may be made or given to the Chargor at any place of business of the Chargor, or the registered office of the Chargor:-

- 13.2.1 by delivering it to any such place; or
- 13.2.2 by sending it by first class post to any such place (in which case it shall be deemed received at 10.00am on the next Business Day after posting, and proof of posting shall be proof of delivery); or
- 13.2.3 by sending it by fax to any fax number of the Chargor (in which case it shall be deemed received when sent, and proof of sending shall be proof of receipt).

13.3 Powers on enforcement

At any time after this Debenture has become enforceable, the Lender may (without prejudice to any other rights and remedies and without notice to the Chargor) do all or any of the following:-

- 13.3.1 exercise the power of sale under section 101 of the LPA together with all other powers and rights conferred on mortgagees by the LPA, as varied and extended by this Debenture, without the restrictions contained in sections 103 or 109(1) of the LPA;
- 13.3.2 exercise the power of leasing, letting, entering into agreements for leases or lettings or accepting or agreeing to accept surrenders of leases in relation to any Charged Property, without the restrictions imposed by sections 99 and 100 of the LPA; and
- 13.3.3 to the extent that any Secured Asset constitutes "Financial Collateral" and this Deed constitutes a "security financial collateral arrangement" each as defined in the UK Financial Collateral Regulations, appropriate all or any part of the Secured Assets in or towards satisfaction of the Secured Liability (including transferring the title in and to it to the Lender insofar as not already transferred, subject to paragraphs (1) and (2) of UK Financial Collateral Regulation 18), the value of the property so appropriated being the amount standing to the credit of the relevant Account (where the property is the benefit of an Account) or, in any other case, such amount as the Lender shall determine in a commercially reasonable manner;

14. RECEIVERS

14.1 Appointment

At any time after this Debenture has become enforceable in respect of and against the Chargor, the Lender may appoint any person or persons to be a Receiver or Receivers of all or any part of the Charged Property of the Chargor charged under this Debenture or an administrator of the Chargor. An appointment over part only of such Charged

Property shall not preclude the Lender from making any subsequent appointment over any other part of such Charged Property.

14.2 Appointment in writing

The appointment of a Receiver shall be in writing, and may be signed by any authorised signatory on behalf of the Lender. Where more than one person is acting at any time as Receiver, they shall have power to act severally as well as jointly.

14.3 Remuneration

The Lender may from time to time determine the remuneration of the Receiver (which shall not be subject to the limit in section 109(6) of the LPA) and may (subject to the application of section 45 of the Insolvency Act 1986) remove any person from office in relation to all or any part of the Charged Property of which he is the Receiver and at any time appoint a further or other Receiver or Receivers over all or any part of such Charged Property.

14.4 Powers

The Receiver shall be the agent of the Chargor (which shall be solely liable for his acts, defaults and remuneration) unless and until the Chargor goes into liquidation from which time he shall act as principal and shall not become the agent of the Lender, and the Receiver shall have and be entitled to exercise in relation to the Charged Property all the powers:-

14.4.1 conferred by the LPA on mortgagees in possession and on receivers appointed under the LPA;

14.4.2 of an administrative receiver set out in Schedule 1 to the Insolvency Act 1986, whether or not the Receiver is an administrative receiver;

14.4.3 and rights that an absolute owner would have in relation to any Charged Property; and

14.4.4 to do all things incidental or conducive to any functions, powers, authorities or discretions conferred or vested in the Receiver.

15. POWER OF ATTORNEY

15.1 Appointment

The Chargor hereby irrevocably and by way of security appoints:-

15.1.1 the Lender (whether or not a Receiver has been appointed); and also

15.1.2 (as a separate appointment) each Receiver,

severally as the attorney and attorneys of the Chargor with power to do any act, and execute and deliver any deed or other document, on behalf of and in the name of the Chargor, which the Chargor could be required to do or execute under any provision of this Debenture, or which the Lender in its sole opinion may consider necessary or desirable for perfecting the Lender's title to any of the Charged Property of the Chargor or enabling the Lender or the Receiver to exercise any of its or his rights or powers under this Debenture.

15.2 Ratification

The Chargor ratifies and confirms and agrees to ratify and confirm whatever any such attorney as is mentioned in Clause 15.1 (*Appointment*) shall do or purport to do in the

exercise or purported exercise of all or any of the powers, acts or other matters referred to in Clause 15.1 (*Appointment*).

16. APPLICATION OF MONEYS

16.1 Application of moneys

All sums received by virtue of this Debenture by the Lender or the Receiver shall, subject to the payment of any claim having priority to this Debenture, be paid or applied in the following order of priority:-

16.1.1 first, in or towards satisfaction of all costs, charges and expenses incurred and payments made by the Lender, or the Receiver (including, without limitation, legal expenses) and of the remuneration of the Receiver;

16.1.2 secondly, in or towards payment of the Secured Liabilities in such order as the Lender may at its discretion require; and

16.1.3 thirdly, as to the surplus (if any), to the person or persons entitled to such surplus,

and section 109(8) of the LPA shall not apply.

17. PROTECTION OF THIRD PARTIES

17.1 Statutory powers

In favour of any purchaser, the statutory powers of sale and of appointing a Receiver which are conferred upon the Lender, as varied and extended by this Debenture, and all other powers of the Lender, shall be deemed to arise (and the Secured Liabilities shall be deemed due and payable for that purpose) immediately after the execution of this Debenture.

17.2 Purchasers

No purchaser from or other person dealing with the Lender, any person to whom it has delegated any of its powers, or the Receiver shall be concerned to enquire whether any of the powers which they have exercised has arisen or become exercisable, or whether the Secured Liabilities remain outstanding or whether any event has happened to authorise the Receiver to act or as to the propriety or validity of the exercise of any such power, and the title and position of a purchaser or such person shall not be impeachable by reference to any of those matters.

17.3 Receipts

The receipt of the Lender or the Receiver shall be an absolute and conclusive discharge to a purchaser or any other person dealing with the Lender.

18. PROTECTION OF THE LENDER AND ANY RECEIVER

18.1 No liability

The Lender and any Receiver shall not be liable in respect of any loss or damage which arises out of the exercise, or attempted or purported exercise of, or the failure to exercise any of their respective powers under this Debenture.

18.2 Not mortgagee in possession

Without prejudice to any other provision of this Debenture, entry into possession of any Charged Property shall not render the Lender or the Receiver liable:-

- 18.2.1 to account as mortgagee in possession;
- 18.2.2 for any loss on realisation; or
- 18.2.3 for any default or omission for which a mortgagee in possession might be liable,

and if and whenever the Lender or the Receiver enters into possession of any Charged Property it shall be entitled at any time it or he thinks fit to go out of such possession.

18.3 Indemnity

The Chargor shall indemnify and keep indemnified the Lender, every Receiver, and any person who acts as the servant, agent, delegate or attorney of any of them, against all claims and liabilities and properly incurred costs and expenses which they may suffer or incur arising in any way out of the taking or holding of this Debenture, the exercise or purported exercise of any right, power, authority or discretion given by it, or any other act or omission in relation to this Debenture or the Charged Property.

18.4 Currency protection

If any amount due to be paid to the Lender is, for any reason, paid in a currency (the "currency of payment") other than the currency in which it was expressed to be payable (the "contractual currency"), the Lender may wherever it thinks fit apply the amount of the currency of payment received by it in the purchase, in accordance with its normal practice, of the contractual currency, and if this results in any shortfall below the amount due in the contractual currency, after deducting all taxes, costs and commissions payable in connection with that purchase, the Chargor shall indemnify the Lender against the amount of the shortfall.

18.5 Continuing protection

The provisions of this Clause 18 shall continue in full force and effect notwithstanding any release or discharge of this Debenture, or the discharge of any Receiver from office.

19. PROVISIONS RELATING TO THE LENDER

19.1 Powers and discretions

The rights, powers and discretions given to the Lender in this Debenture:-

- 19.1.1 may be exercised as often as, and in such manner as, the Lender thinks fit;
- 19.1.2 are cumulative, and are not exclusive of any of its rights under the general law; and
- 19.1.3 may only be waived in writing and specifically, and any delay in exercising, or non-exercise of, any right, is not a waiver of it.

19.2 Certificates

A certificate by an authorised officer of the Lender as to any sums payable to the Lender under this Debenture shall (save in the case of manifest error) be conclusive and binding upon the Chargor for all purposes.

19.3 Assignment

The Lender may assign this Debenture to any successor in title to any of the Secured Liabilities and the Lender may disclose any information in its possession relating to the Chargor, its affairs or the Secured Liabilities to any actual or prospective assignee.

19.4 **Delegation**

The Lender may at any time and from time to time delegate by power of attorney or in any other manner to any person or persons all or any of the rights, powers and discretions which are for the time being exercisable by it under this Debenture.

20. **PRESERVATION OF SECURITY**

20.1 **Continuing Security**

This Debenture shall be a continuing security to the Lender and shall remain in force until expressly discharged in writing by the Lender notwithstanding any intermediate settlement of account or other matter or thing whatsoever and shall be without prejudice and in addition to any other right, remedy or Security of any kind which the Lender may have now or at any time in the future for or in respect of any of the Secured Liabilities.

20.2 **No Merger**

This Debenture is in addition to, without prejudice to, and shall not merge with, any other right, remedy, guarantee or Security which the Lender may at any time hold for any other Secured Liabilities.

20.3 **Waiver of Defences**

Neither the Security created by this Debenture nor the obligations of the Chargor under this Debenture will be affected by an act, omission, matter or thing which, but for this Clause, would reduce, release or prejudice that Security or any of those obligations (whether or not known to it or the Lender) including:-

- 20.3.1 any time, waiver or consent granted to, or composition with, the Chargor or other person;
- 20.3.2 the release of the Chargor or any other person under the terms of any composition or arrangement with any person;
- 20.3.3 the taking, variation, compromise, exchange, renewal, enforcement or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or Security over, assets of the Chargor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any Security;
- 20.3.4 any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of the Chargor or any other person;
- 20.3.5 any amendment (however fundamental), replacement, variation, novation, assignment or the avoidance or termination of a Finance Document or any other document or Security;
- 20.3.6 any unenforceability, illegality or invalidity of any obligation of, or any Security created by, any person under any Finance Document or any other document; or
- 20.3.7 an insolvency, liquidation, administration or similar procedure.

20.4 **Order of Recourse**

This Debenture may be enforced against the Chargor without the Lender first having recourse to any other right, remedy, guarantee or Security held by or available to any of them.

20.5 **Suspense Accounts**

The Lender may, without prejudice to any other rights it may have, at any time and from time to time place (and keep for such time as it may think prudent) any moneys received, recovered or realised under or by virtue of this Debenture on a separate or suspense account to the credit either of the Chargor or, at the sole discretion of the Lender if an Event of Default has occurred and is continuing, of the Lender as the Lender shall think fit without any intermediate obligation on the Lender's part to apply the same or any part of it in or towards the discharge of the Secured Liabilities.

20.6 **New Accounts**

If the Lender receives notice of any subsequent charge or other security interest affecting any of the Charged Property, the Lender shall be entitled to close the Chargor's then current account or accounts and to open a new account or accounts for the Chargor. If the Lender does not open a new account or accounts immediately on receipt of such notice it shall nevertheless be treated as if it had done so at the time when it received such notice, and as from that time all payments made for the credit of the Chargor shall be credited or be treated as having been credited to such new account or accounts and shall not operate to reduce the amount due from the Chargor to the Lender at the time when it received such notice.

20.7 **Tacking**

For the purposes of section 94(1) of the LPA and section 49(3) of the Land Registration Act 2002 the Lender confirms that it shall make further advances to the Chargor on the terms and subject to the conditions of the Finance Documents.

20.8 **Reinstatement**

If any payment by the Chargor or discharge given by the Lender (whether in respect of the obligations of the Chargor or any Security for those obligations or otherwise) is avoided or reduced as a result of insolvency, liquidation, administration or any similar event:-

20.8.1 the liability of the Chargor and the Security created by this Debenture shall continue as if the payment, discharge, avoidance or reduction had not occurred; and

20.8.2 the Lender shall be entitled to recover the value or amount of that Security or payment from the Chargor, as if the payment, discharge, avoidance or reduction had not occurred.

21. **RELEASE**

21.1 Upon the irrevocable and unconditional payment and discharge in full of the Secured Liabilities, the Lender shall, or shall procure that its appointees will, at the request and cost of the Chargor:-

21.1.1 release the Charged Property from this Debenture; and

21.1.2 re-assign the Charged Property that has been assigned to the Lender under this Debenture.

21.2 Section 93 of the LPA dealing with the consolidation of mortgages shall not apply to this Debenture.

22. MISCELLANEOUS PROVISIONS

22.1 Severability

If any provision of this Debenture is illegal, invalid or unenforceable in any jurisdiction, that shall not affect:-

22.1.1 the validity or enforceability of any other provision, in any jurisdiction; or

22.1.2 the validity or enforceability of that particular provision, in any other jurisdiction.

22.2 Costs, charges and expenses

All costs, charges and expenses incurred or paid by the Lender or by the Receiver in the exercise of any power or right given by this Debenture or in relation to any consent requested by the Chargor, or in perfecting or otherwise in connection with this Debenture, the other Finance Documents or the Charged Property, all sums recoverable under Clause 18 (*Protection of the Lender and any Receiver*) and all costs of the Lender (on an indemnity basis) of all proceedings for the enforcement of this Debenture or for obtaining payment of moneys by this Debenture secured, shall be recoverable from the Chargor as debts.

22.3 Contracts (Rights of Third Parties) Act 1999

The Lender, any Receiver and their respective officers, employees and agents may enforce any term of this Debenture which purports to confer a benefit on that person, but no other person who is not a party to this Debenture has any right under the Contracts (Rights of Third Parties) Act 1999 (the "**Third Parties Act**") to enforce or to enjoy the benefit of any term of this Debenture.

22.4 Counterparts

This Debenture 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 Debenture.

22.5 Law of Property (Miscellaneous Provisions) Act 1989

The terms of the other Finance Documents and of any side letters between any parties in relation to any Finance Document are incorporated in this Debenture to the extent required to ensure that any purported disposition of an interest in Land contained in this Debenture is a valid disposition in accordance with Section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.

23. NOTICES

23.1 Communication

A communication given to a party under or in connection with this Debenture shall be in writing and sent to the party at the address given in this Debenture or as otherwise notified in writing to the other party by not less than five Business Days' notice.

23.2 English language

23.2.1 Any notice given under or in connection with this Debenture must be in English.

23.2.2 All other documents provided under or in connection with this Debenture must be:-

- (a) in English; or
- (b) if not in English, and if so required by the Lender or Agent, accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

23.3 Delivery

23.3.1 This Clause 23.3.1 sets out the delivery methods for sending a notice to a party under this Debenture and, for each delivery method, the date and time when the notice is deemed to have been received or given (provided that all other requirements of this clause have been satisfied and subject to the provision in Clause 23.3.2).

- (a) if delivered by hand, at the time the notice is left at the address;
- (b) if sent by pre-paid first class post or other next working day delivery service providing proof of postage, at 9.00am on the second Business Day after posting;
- (c) if sent by document exchange (DX), at 9.00 am on the second Business Day after being put into the DX.

23.3.2 If deemed receipt under Clause 23.3.1 would occur outside business hours in the place of receipt, it shall be deferred until business hours resume. In this Clause 23.3.2, business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.

23.3.3 Any notice or other communication given to the Lender shall be deemed to have been received only on actual receipt.

23.4 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

23.5 A notice given under this Debenture is not valid if sent by fax or email.

24. GOVERNING LAW

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

25. JURISDICTION

Each party irrevocably agrees that, subject as provided below, the courts of England and Wales shall have exclusive jurisdiction over any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Debenture or its subject matter or formation. Nothing in this clause shall limit the right of the Lender to take proceedings against the Chargor in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdictions, whether concurrently or not, to the extent permitted by the law of such other jurisdiction.

EXECUTED AND DELIVERED AS A DEED by the Chargor and the Lender on the date set out at the beginning of this Debenture.

DETAILS OF LAND
REGISTERED LAND – LEASEHOLD

| Title number | Description | Parties |
|---------------------|---|---|
| GR212462 | South East Camp, Gloucestershire Airport, Staverton, Cheltenham, GL51 6SR | The Council of the City of Gloucester & Cheltenham Borough Council (1) and Gloucestershire Airport Limited (2) |
| GR195186 | Meteor Business Park | The Council of the City of Gloucester & Cheltenham Borough Council (1) and Gloucestershire Airport Limited (2) |
| GR195187 | Operational Area | The Council of the City of Gloucester & Cheltenham Borough Council (1) and Gloucestershire Airport Limited (2) |
| GR354403 | Land on the south east side of Cheltenham Road East, Churchdown, Gloucester | The Council of the City of Gloucester & Cheltenham Borough Council (1) and Gloucestershire Airport Limited (2) |
| GR364661 | Blenheim House, Cheltenham Road East, Gloucester (GL2 9QF) | The Council of the City of Gloucester & Cheltenham Borough Council (1) and Gloucestershire Airport Limited (2) |
| GR404722 | Meeting room The Aviator, Gloucestershire Airport, Staverton, Cheltenham (GL51 6SR) | The Council of the City of Gloucester & Cheltenham Borough Council (1) and Gloucestershire Airport Limited (2) |

UNREGISTERED LAND

None

The Chargor

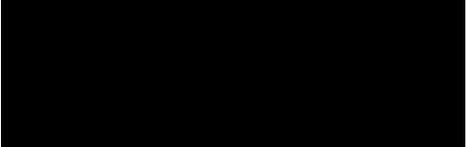
EXECUTED (but not delivered until)
the date hereof) **AS A DEED** by)
GLOUCESTERSHIRE AIRPORT LIMITED)
acting by)
in the presence of:-

 Director

KAREN TAYLOR

Signature of witness: 

Name of witness: *SUSAN ANNE COATES*

Address: 

The Lender

EXECUTED (but not delivered until)
the date hereof) **AS A DEED** by **THE**)
COMMON SEAL of **THE COUNCIL OF**)
THE CITY OF GLOUCESTER being affixed)
hereto and authenticated by the)
undermentioned person authorised by the)
Council to act for that purpose:-)

Signature of Authorised Signatory/Borough
Solicitor:

Name of Authorised Signatory/Borough
Solicitor:

DATED 22 MAY 2022 3 PM

(1) GLOUCESTERSHIRE AIRPORT LIMITED
(AS CHARGOR)

(2) THE COUNCIL OF THE CITY OF GLOUCESTER
(AS LENDER)

DEBENTURE



Pinsent Masons

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THIS DEBENTURE is made on

22 May

2023 PM

BETWEEN:-

- (1) **GLOUCESTERSHIRE AIRPORT LIMITED** (No. 02774189) whose registered office is at Terminal Building, Gloucestershire Airport, Staverton Cheltenham, Gloucestershire, GL51 6SR (the "Chargor"); and
- (2) **THE COUNCIL OF THE CITY OF GLOUCESTER** of 92 Westgate Street, Gloucester, GL1 2PE (the "Lender").

THIS DEED WITNESSES as follows:-

1. **INTERPRETATION**

1.1 **Definitions**

In this Debenture:-

| | |
|---------------------------------|--|
| "Account" | means any account opened or maintained by the Chargor at any bank or financial institution |
| "Authorisations" | means all licences, consents, permissions and agreements held by or used in connection with the business of the Chargor, the use of any of its assets, the Land or the Development |
| "Building Contract" | means the building contract dated 13 December 2021 between the Chargor and the Contractor relating to the Development in a form approved by the Lender and shall include any other building contract entered into by the Chargor and a Contractor in relation to the Development from time to time |
| "Charged Property" | means all the assets and undertaking of the Chargor which from time to time are, or purport to be, the subject of the security created in favour of the Lender by or pursuant to this Debenture |
| "Collateral Warranties" | means any collateral warranty given by any trade or building sub-contractor, any consultant, or any other adviser in favour of the Chargor, or of which the Chargor has the benefit, in relation to the Development |
| "Consultant" | has the meaning given to that term in the Facility Agreement |
| "Consultant Appointment" | means an agreement for the appointment of a Consultant by the Chargor or the Contractor |
| "Contractor" | has the meaning given to that term in the Facility Agreement |
| "Development" | has the meaning given to that term in the Facility Agreement |
| "Development Document" | means:- |

- (a) the Building Contract;
- (b) the Consultant Appointments;
- (c) the Collateral Warranties;
- (d) all other building contracts, sub-contracts, appointments, collateral warranties, guarantees, indemnities and other contracts entered into or to be entered into by the Chargor in respect of the Land and/or the Development from time to time; and
- (e) any other document designated as such by the Lender and the Borrower from time to time.

"Enforcement Action"

means:-

- (a) the acceleration of any Secured Liabilities or any declaration that any Secured Liabilities are prematurely due and payable or payable on demand
- (b) the taking of any steps to enforce or require the enforcement of this Debenture (including the crystallisation of any floating charge)
- (c) the making of any demand against the Chargor in relation to any guarantee, indemnity or other assurance against loss in respect of any Secured Liabilities
- (d) the exercise of any right of set-off against the Chargor in respect of any Secured Liabilities excluding any right of set off under a netting arrangement with the Chargor's clearing bank
- (e) the suing for, commencing or joining of any legal or arbitration proceedings against the Chargor to recover any Secured Liabilities or
- (f) the petitioning, applying or voting for, or the taking of any steps which may lead to any administration, winding-up, insolvency or dissolution of or in relation to the Chargor

"Enforcement Date"

means the date on which the Lender first takes Enforcement Action

"Event of Default"

has the meaning given to that term in the Facility Agreement

"Facility Agreement"

means the £7,750,000 facility agreement between the Chargor and the Lender dated on or about the date of this Debenture

"Finance Documents"

has the meaning given to it in the Facility Agreement

"Fixed Plant and Equipment"

means all plant, machinery or equipment of the Chargor of any kind which does not for any reason constitute a Fixture, but is now or at any time directly or indirectly attached by any means and for any purpose to any land

or building, whether or not it is removable or intended to form part of the land or building

"Fixtures"

means all things of any kind now or at any time affixed to the Land for any purpose, including, without limitation, trade and tenants fixtures

"Insurances"

means any policy of insurance or assurance in which the Chargor has an interest and all claims and rebates of premium under any such policy

"Intellectual Property"

means any of the following in which the Chargor has an interest:-

- (a) any registered intellectual property right in any territory or jurisdiction, including, without limitation, patents, trade marks, service marks, registered designs, and any similar right in any territory or jurisdiction and any applications or right to apply for any of the above
- (b) any invention, copyright, design right or performance right
- (c) any trade secrets, know-how and confidential information and
- (d) the benefit of any agreement or licence for the use of any such right

"Land"

means any estate, right or interest in or over land, whether legal or equitable, and wherever the land is situated including, without limitation, any buildings and Fixtures on the Land, and the benefit of any covenants or rights owed to any person or enforceable by him by virtue of the ownership possession or occupation of land but for these purposes "Land" excludes heritable property situated in Scotland

"Loose Plant and Equipment"

means, in relation to the Chargor, all plant, machinery, equipment and motor vehicles now or at any time owned by the Chargor as a capital asset which is not Fixed Plant and Equipment

"LPA"

means the Law of Property Act 1925

"Monetary Claims"

means all book and other debts and monetary claims now or in the future owing to the Chargor (whether alone or jointly with any other person), whenever payable and whether liquidated or unliquidated, certain or contingent including, without limitation, credit balances on any Account, and together with all cheques, bills of exchange, negotiable instruments, credits and securities at any time given in relation to, or to secure payment of, any such debt

"Notice of Charge"

means a notice of charge in such form as may be specified by the Lender

| | |
|--|--|
| "Receiver" | means any receiver, receiver and manager or administrative receiver of the whole or any part of the Charged Property |
| "Related Rights" | means in relation to any Charged Property <ul style="list-style-type: none"> (a) the proceeds of sale of any part of that Charged Property (b) all rights under any licence, agreement for sale or agreement for lease in respect of that Charged Property (c) all rights, benefits, claims, contracts, warranties, remedies, security, indemnities or covenants for title in respect of that Charged Property and (d) any moneys and proceeds paid or payable in respect of that Charged Property |
| "Secured Liabilities" | means all present and future obligations and liabilities expressed to be due, owing or payable by the Chargor to the Lender (whether present or future, actual or contingent and whether incurred solely or jointly (or jointly and severally) with any other person) including without limitation interest, commission, costs, charges and expenses charged by the Lender at rates agreed between it and the Chargor |
| "Securities" | means all the right, title and interest of the Chargor, now or in the future, in any:- <ul style="list-style-type: none"> (a) stocks, shares, bonds, debentures, loan stocks, or other securities issued by any person (b) warrants, options or other rights to subscribe, purchase or otherwise acquire any stocks, shares, bonds, debentures, loan stocks or other securities or investments issued by any person and (c) units or other interests in any unit trust or collective investment scheme |
| "Security" | means a mortgage, charge, pledge, lien or any other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect |
| "UK Financial Collateral Regulations" | means the Financial Collateral Arrangements (No. 2) Regulations 2003 (S.I.2003/3226) as amended by the Financial Collateral Arrangements (No. 2) Regulations 2003 (Amendment) Regulations 2009 (S.I.2009/2462), the Financial Markets and Insolvency (Settlement Finality and Financial Collateral Arrangements) (Amendment) Regulations 2010, the European Union (Withdrawal) Act 2018 (as amended) and the Financial Markets and Insolvency (Amendment and Transitional Provision) (EU Exit) Regulations 2019 |

(S.I.2019/341) and "UK Financial Collateral Regulation"
means any of them

1.2 Incorporation of terms

Unless the context otherwise requires or unless defined in this Debenture, all words and expressions defined or whose interpretation is provided for in the Facility Agreement shall have the same meanings in this Debenture.

1.3 Interpretation

In this Debenture, unless the context otherwise requires:-

- 1.3.1 words importing the singular shall include the plural and vice versa and reference to any gender includes the other gender;
- 1.3.2 the term "**assets**" includes all property, rights and revenues whatsoever, and wheresoever, present and future;
- 1.3.3 references to a "**guarantee**" include an indemnity or any other form of surety;
- 1.3.4 a Default or an Event of Default is "**continuing**" if it has not been waived;
- 1.3.5 all references to documents include all variations and replacements of such documents and supplements to such documents;
- 1.3.6 all references to a party include references to its personal representatives, permitted assigns and transferees and its successors in title;
- 1.3.7 references to persons include bodies corporate, unincorporated associations and partnerships; and
- 1.3.8 words and phrases defined in the Companies Act 2006 have the same meanings in this Debenture but the word "**company**" includes any body corporate.

1.4 Statutes and headings

In this Debenture:-

- 1.4.1 any reference to any statute or statutory instrument includes any enactment replacing or amending it or any instrument, order or regulation made under it and also includes any past statutory provisions (as from time to time modified or re-enacted) which such provision has directly or indirectly replaced; and
- 1.4.2 headings are for reference purposes only and shall not affect the construction of anything in this Debenture.

1.5 Clauses and Schedules

In this Debenture references to "**Clauses**" are to the clauses or sub-clauses of this Debenture and references to the "**Schedule**" are to the schedule to this Debenture. The Schedule shall be treated as an integral part of this Debenture and references to this Debenture shall include the Schedule.

2. COVENANT TO PAY

2.1 Secured Liabilities

The Chargor covenants that it will on demand of the Lender pay and discharge any or all of the Secured Liabilities when due.

2.2 Interest

The Chargor covenants to pay interest to the Lender upon any sum demanded in accordance with Clause 2.1 (*Secured Liabilities*) until payment (both before and after any judgment) at the rate specified in clause 8.3 of the Facility Agreement.

3. CHARGES

3.1 Mortgages and Fixed Charges

As a continuing security for payment of the Secured Liabilities, the Chargor with full title guarantee charges to the Lender all its right, title and interest from time to time in each of the following assets:-

- 3.1.1 by way of first legal mortgage all Land which is described in Schedule 1 (if any) and all other Land now vested in the Chargor;
- 3.1.2 by way of first fixed charge all other Land now vested in the Chargor (to the extent not effectively charged by Clause 3.1.1) and all Land acquired by the Chargor after the date of this Debenture;
- 3.1.3 by way of first fixed charge:-
 - (a) the Securities;
 - (b) the Intellectual Property;
 - (c) the Monetary Claims;
 - (d) the Fixed Plant and Equipment;
 - (e) the Loose Plant and Equipment;
 - (f) the Accounts;
 - (g) to the extent not the subject of an effective assignment pursuant to Clause 3.2, the Insurances;
 - (h) the Authorisations;
 - (i) the Development Documents;
 - (j) the Related Rights under or in connection with the Securities, the Accounts, the Insurances, the Intellectual Property, the Monetary Claims, the Fixed Plant and Equipment, the Loose Plant and Equipment, the Authorisations and the Development Documents; and
 - (k) its present and future goodwill and uncalled capital.

3.2 **Assignments**

The Chargor assigns absolutely, subject to a proviso for reassignment on the irrevocable discharge in full of the Secured Liabilities, all its right, title and interest from time to time in:-

- 3.2.1 the Insurances;
- 3.2.2 the Development Documents; and
- 3.2.3 all Related Rights under or in connection with the Insurances and the Development Documents.

3.3 **Floating Charge**

As continuing security for payment of the Secured Liabilities, the Chargor with full title guarantee charges by way of first floating charge the whole of the Chargor's undertaking and assets, present and future and wherever situated, which are not for any reason effectively charged (whether in law or equity) by way of fixed security by this Debenture, including, without limitation, any heritable property of the Chargor situated in Scotland.

3.4 **Trust**

If or to the extent that for any reason the assignment or charging of any Charged Property is prohibited, the Chargor shall hold it on trust for the Lender.

3.5 **Qualifying floating charge**

Paragraph 14 of Schedule B1 to the Insolvency Act 1986 will apply to any floating charge created by this Debenture.

4. **CRYSTALLISATION OF FLOATING CHARGE**

4.1 **Crystallisation: By Notice**

The Lender may at any time by notice in writing to the Chargor convert the floating charge created by Clause 3.3 (*Floating Charge*) with immediate effect into a fixed charge as regards any property or assets specified in the notice if:-

- 4.1.1 the Enforcement Date has occurred;
- 4.1.2 the Lender considers that any of the Charged Property may be in jeopardy or in danger of being seized or sold pursuant to any form of legal process; or
- 4.1.3 the Lender considers that it is necessary in order to protect the priority of the Security created by or pursuant to this Debenture.

4.2 **Crystallisation: Automatic**

The floating charge created by Clause 3.3 (*Floating Charge*) will automatically be converted (without notice) with immediate effect into a fixed charge as regards all of the undertaking and assets subject to the floating charge if:-

- 4.2.1 the Chargor creates or attempts to create any Security (other than as permitted pursuant to the terms of the Finance Documents) over any of the Charged Property; or
- 4.2.2 any person levies or attempts to levy any distress, execution or other process against any of the Charged Property; or

4.2.3 any step is taken (including the presentation of a petition, the passing of a resolution or the making of an application) to appoint a liquidator, provisional liquidator, administrator or Receiver in respect of the Chargor, over all or any part of its assets, or if such person is appointed.

4.3 Crystallisation: Moratorium where directors propose voluntary arrangement

The floating charge created by Clause 3.3 (*Floating Charge*) may not be converted into a fixed charge solely by reason of:-

4.3.1 the obtaining of a moratorium; or

4.3.2 anything done with a view to obtaining a moratorium,

under Schedule A1 to the Insolvency Act 1986.

5. PERFECTION OF SECURITY

5.1 Notices of Charge

The Chargor shall deliver to the Lender (or procure delivery of) Notices of Charge duly executed by, or on behalf of, the Chargor in respect of any asset which is the subject of a charge pursuant to Clause 3.1.3, as soon as reasonably practicable upon the reasonable request of the Lender from time to time.

5.2 Delivery of Documents of Title

The Chargor shall upon the execution of this Debenture (or, if later, upon receipt or entitlement thereof), deposit with the Lender and the Lender during the continuance of this security shall be entitled to hold all deeds, certificates and other documents of title relating to Land, the Securities and the Insurances.

5.3 Application to the Land Registry

The Chargor and the Lender apply to the Land Registry for the following to be entered into on the register of the title to any Land now or in the future owned by the Chargor a restriction in the following terms:-

"No disposition of the registered estate by the proprietor of the registered estate or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction, is to be registered without a written consent signed by the proprietor for the time being of the charge dated _____ in favour of ~~Cheltenham Borough Council~~ referred to in the charges register (Form P)".

THE COUNCIL OF THE CITY OF
GLOUCESTER

RM

6. FURTHER ASSURANCE

6.1 General

The Chargor shall, at its own expense, at any time when required by the Lender, execute and deliver to the Lender:-

6.1.1 a valid legal mortgage of any Land now or in the future owned by the Chargor;

6.1.2 a fixed charge over any interest, not capable of being charged by way of legal mortgage, in any Land now or in the future belonging to the Chargor;

6.1.3 a legal assignment or other fixed Security over all or any of the Charged Property;

6.1.4 where any of its assets are situated outside England and Wales, such fixed security (or such security in that jurisdiction most closely akin to fixed security) under the law of the place where the asset is situated as the Lender may require; and

6.1.5 a notice to any third party of any of the charges or assignments created by or pursuant to this Debenture,

in each case, in the Lender's standard form or such other form as the Lender may require.

6.2 Other acts

Without prejudice to Clause 6.1 (*General*), the Chargor shall, at its own expense, at any time when required by the Lender, do and concur in all acts or things as the Lender may deem necessary or desirable for the purpose of the creation, perfection, protection or maintenance of any of the Security intended to be created by this Debenture over all or any of the Charged Property or to facilitate the enforcement of that Security, or the exercise of any powers or discretions intended to be vested in the Lender or any Receiver by this Debenture.

7. RESTRICTIONS ON DEALING

7.1 Negative Pledge

The Chargor undertakes that it shall not, at any time during the subsistence of this Debenture, create or permit to subsist any Security over all or any part of the Charged Property.

7.2 Disposals

The Chargor undertakes that it shall not (and shall not agree to) at any time during the subsistence of this Debenture, except as expressly permitted under the terms of the Finance Documents, sell, transfer, assign, factor, discount, lend, part with its interest in or otherwise dispose of any of the Charged Property or permit the same to occur, or agree to do any of the foregoing, provided that, until:-

7.2.1 the floating charge created by Clause 3.3 (*Floating Charge*) is converted into a fixed charge; or

7.2.2 the occurrence of the Enforcement Date,

the Chargor may hold, enjoy and deal with, in accordance with the Finance Documents, the Charged Property which is not at the relevant time expressed to be subject to a fixed charge or mortgage.

8. SECURITIES

8.1 Securities: Before Enforcement Date

Prior to the occurrence of the Enforcement Date, the Chargor shall:-

8.1.1 pay all dividends, interest and other monies arising from the Securities into an Account; and

8.1.2 exercise all voting rights in relation to the Securities for any purpose not inconsistent with the terms of the Finance Documents.

8.2 **Securities: After Enforcement Date**

After the occurrence of the Enforcement Date, the Lender may at its discretion (in the name of the Chargor or otherwise and without any further consent or authority from the Chargor):-

- 8.2.1 exercise (or refrain from exercising) any voting rights in respect of the Securities;
- 8.2.2 apply all dividends, interest and other monies arising from the Securities in accordance with Clause 16 (*Application of Moneys*);
- 8.2.3 transfer the Securities into the name of such nominee(s) of the Lender as it shall require; and
- 8.2.4 exercise (or refrain from exercising) the powers and rights conferred on or exercisable by the legal or beneficial owner of the Securities,

in each case, in such manner and on such terms as the Lender may think fit and the proceeds of any such action shall form part of the Charged Property.

8.3 **Securities: Payment of Calls**

The Chargor shall pay when due all calls or other payments which may be or become due in respect of any of the Securities which are not fully paid (unless reasonably contested), and in any case of default by the Chargor in such payment, the Lender may, if it thinks fit, make such payment on behalf of the Chargor in which case any sums paid by the Lender shall be reimbursed by the Chargor to the Lender on demand and shall carry interest from the date of payment by the Lender until reimbursed at the rate notified to the Chargor by the Lender.

8.4 **Securities: Exercise of Rights**

The Chargor shall not exercise any of its respective rights and powers in relation to any of the Securities in any manner which, in the opinion of the Lender, would prejudice the effectiveness of, or the ability of the Lender to realise, the security created by or pursuant to this Debenture.

9. **ACCOUNTS**

9.1 **Accounts: Notification and Variation**

The Chargor, during the subsistence of this Debenture:-

- 9.1.1 shall promptly deliver to the Lender on the date of this Debenture (and, if any change occurs after the date of this Debenture, on that date), details of each Account maintained by it with any bank or financial institution; and
- 9.1.2 shall not, without the Lender's prior written consent, permit or agree to any variation of the rights attaching to any Account or close any Account unless such account closure is notified in advance to the Lender.

9.2 **Accounts: Operation Before Enforcement Date**

The Chargor shall, prior to the occurrence of the Enforcement Date, be entitled to receive, withdraw or otherwise transfer any credit balance from time to time on any Account.

9.3 Accounts: Operation After Enforcement Date

After the occurrence of the Enforcement Date, the Chargor shall not be entitled to receive, withdraw or otherwise transfer any credit balance from time to time on any Account except with the prior consent of the Lender.

9.4 Accounts: Application of Moneys

The Lender shall, upon the occurrence of the Enforcement Date, without notice to the Chargor give instructions to the bank and/or financial institution holding each of the Accounts to apply, transfer or set-off any or all of the credit balances from time to time on any Account in or towards the payment or other satisfaction of all or part of the Secured Liabilities in accordance with Clause 16 (*Application of Moneys*).

10. MONETARY CLAIMS

10.1 No dealing with Monetary Claims

The Chargor shall not at any time during the subsistence of this Debenture, without the prior written consent of the Lender sell, factor, discount, transfer, assign, lend or otherwise dispose of any of the Monetary Claims or enter into any agreement to do any of the foregoing.

10.2 Proceeds of Monetary Claims

The Chargor shall get in and realise the Monetary Claims in the ordinary course of business and pay the proceeds of those Monetary Claims into an Account.

11. INSURANCES

11.1 Insurances: Undertakings

The Chargor shall at all times during the subsistence of this Debenture:-

11.1.1 keep the Charged Property insured with those insurances normally maintained by prudent companies carrying on a similar business and with an insurance office or underwriters to be approved by the Lender in writing from time to time and otherwise in accordance with the terms of the Finance Documents;

11.1.2 if required by the Lender, cause each Insurance relating to the Charged Property to contain (in form and substance satisfactory to the Lender) an endorsement naming the Lender as sole loss payee in respect of all claims;

11.1.3 promptly pay all premiums and other moneys payable under all its Insurances or procure that such is done and, promptly upon request, produce to the Lender a copy of each policy and evidence (acceptable to the Lender) of the payment of such sums (or procure that such is done) and not do or omit to do or permit or suffer to be done or omitted to be done, anything which might render any Insurance required by this clause void, voidable or unenforceable; and

11.1.4 if required by the Lender, provide a copy of all Insurances relating to the Charged Property to the Lender.

11.2 Insurance: Default

If the Chargor defaults in complying with Clause 11.1 (*Insurance: Undertakings*), the Lender may effect or renew any such Insurance on such terms, in such name(s) and in such amount(s) as it considers appropriate, and all moneys expended by the Lender in

doing so shall be reimbursed by the Chargor to the Lender on demand and shall carry interest from the date of payment by the Lender until reimbursed at the rate specified in Clause 2 (*Covenant to Pay*).

11.3 Application of Insurance Proceeds

All moneys received under any Insurance relating to the Charged Property shall, prior to the occurrence of the Enforcement Date, be applied in accordance with the terms of the Finance Documents. After the occurrence of the Enforcement Date, the Chargor shall hold such moneys upon trust for the Lender pending payment to the Lender for application in accordance with Clause 16 (*Application of Moneys*) and the Chargor waives any right it may have to require that any such moneys are applied in reinstatement of any part of the Charged Property.

12. LAND

The Chargor shall (with the intent that this Clause 12 (*Land*) shall apply in relation to all Land now vested in the Chargor or acquired by the Chargor after the date of this Debenture):-

12.1 Repair and Alterations

12.1.1 keep or cause to be kept all buildings and Fixtures from time to time on or in any of its Land and all other plant, machinery and equipment belonging to it in good and substantial repair and good working order; and

12.1.2 permit any authorised representative of the Lender at any time to enter any of its Land for any purpose without becoming liable to account as a mortgagee in possession and to inspect and test any work being carried out and, where any breach of covenant, defect, disrepair or unauthorised alteration, improvement or addition shall be found, remedy all such breaches and execute all such repairs or removals as the Lender may require within 28 days after notice (or immediately, in case of emergency);

12.2 Statutes

12.2.1 comply with the provisions of all statutes and the requirement of any competent authority affecting any of its Land or the use of any of its Land or anything done on any Land; and

12.2.2 ensure that all consents and approvals under all statutes and the regulations and codes of practice of any competent authority affecting any of its Land have been obtained and are complied with, and produce on demand such evidence as the Lender may require to satisfy itself that such consents and approvals have been obtained and are complied with;

12.3 Leases

12.3.1 pay the rents and observe and perform all covenants, conditions, agreements or obligations on its part to be observed and performed contained in any lease under which any of its Land is held by the Chargor and any licence, consent or approval given under any lease, and use its best endeavours to enforce observance and performance of the lessor's covenants in any lease;

12.3.2 not accelerate or defer payment of any moneys payable under any such lease and where any lease contains a provision for the review of rent promptly notify the Lender of any attempt by the lessor to implement a review but not agree the reviewed rent or appoint or agree to the appointment of a third party to determine a rent review without the prior written consent of the Lender;

12.3.3 not to apply for any licence, consent or approval under any such lease or any superior lease without the prior written consent of the Lender; and

12.3.4 promptly give notice to the Lender if the Chargor receives notice under section 146 of the LPA or any proceedings are commenced for forfeiture of any such lease or any superior lease or the lessor or any superior lessor re-enters or attempts to re-enter thereunder and at the request of the Lender but at the cost of the Chargor take such steps as the Lender may require in relation thereto;

12.4 **Power of Leasing**

not, without the prior written consent of the Lender, exercise any of the powers of leasing or agreeing to lease vested in or conferred on mortgagors by common law or by statute or create or suffer to be created a tenancy of any description of any of its Land or confer or permit to be conferred upon any person any contractual licence, right or interest to occupy or use or grant any licence or permission to assign, underlet or part with possession of the whole or any part of its Land or agree to do any of the foregoing, and sections 99 and 100 of the LPA shall not apply to this Debenture;

12.5 **Compulsory Acquisition**

not without the prior written consent of the Lender enter into any negotiations with any competent authority with regard to the compulsory acquisition of any of its Land or consent to the compulsory acquisition of any of its Land, and, if so requested by the Lender, permit the Lender or its authorised representatives to conduct such negotiations or to give such consent on the Chargor's behalf;

12.6 **Outgoings**

pay as and when the same become due all rates, taxes, duties, charges, assessments and other outgoings payable in respect of its Land; and

12.7 **Encumbrances**

comply with:-

12.7.1 all obligations, covenants, exceptions, reservations, licences, approvals, consents, stipulations, restrictions and conditions to which it is subject including, but without limitation, those relating to any of its Land or the use or enjoyment of any of its Land or imposed upon the Chargor as owner, occupier or user, as the case may be, of any of its Land; and

12.7.2 its obligations under any Security having priority to the Security created by or pursuant to this Debenture.

13. **DEMAND AND ENFORCEMENT**

13.1 **Enforcement**

This Debenture shall become enforceable in respect of and against the Chargor:-

13.1.1 upon any demand being made by the Lender under any Finance Document for payment of any of the Secured Liabilities by the Chargor;

13.1.2 upon any event of default by the Chargor as set out in any Finance Document;

13.1.3 upon any request being made by the Chargor to the Lender for the appointment of a Receiver or for the Lender to exercise any other power or right available to it;

13.1.4 upon the occurrence of any event causing, or purporting to cause, the floating charge created by this Debenture to become fixed in relation to any Charged Property; or

13.1.5 upon the passing of any resolution, or the presentation of a petition, for winding up of the Chargor or the making of an application for an administration order in relation to the Chargor or the taking of any steps in relation to the appointment of an administrator of the Chargor.

13.2 Demand for payment

Any demand for payment, and any other notice to be given by the Lender under this Debenture, shall be in writing and may be signed by any authorised signatory on behalf of the Lender, and may be made or given to the Chargor at any place of business of the Chargor, or the registered office of the Chargor:-

13.2.1 by delivering it to any such place; or

13.2.2 by sending it by first class post to any such place (in which case it shall be deemed received at 10.00am on the next Business Day after posting, and proof of posting shall be proof of delivery); or

13.2.3 by sending it by fax to any fax number of the Chargor (in which case it shall be deemed received when sent, and proof of sending shall be proof of receipt).

13.3 Powers on enforcement

At any time after this Debenture has become enforceable, the Lender may (without prejudice to any other rights and remedies and without notice to the Chargor) do all or any of the following:-

13.3.1 exercise the power of sale under section 101 of the LPA together with all other powers and rights conferred on mortgagees by the LPA, as varied and extended by this Debenture, without the restrictions contained in sections 103 or 109(1) of the LPA;

13.3.2 exercise the power of leasing, letting, entering into agreements for leases or lettings or accepting or agreeing to accept surrenders of leases in relation to any Charged Property, without the restrictions imposed by sections 99 and 100 of the LPA; and

13.3.3 to the extent that any Secured Asset constitutes "Financial Collateral" and this Deed constitutes a "security financial collateral arrangement" each as defined in the UK Financial Collateral Regulations, appropriate all or any part of the Secured Assets in or towards satisfaction of the Secured Liability (including transferring the title in and to it to the Lender insofar as not already transferred, subject to paragraphs (1) and (2) of UK Financial Collateral Regulation 18), the value of the property so appropriated being the amount standing to the credit of the relevant Account (where the property is the benefit of an Account) or, in any other case, such amount as the Lender shall determine in a commercially reasonable manner;

14. RECEIVERS

14.1 Appointment

At any time after this Debenture has become enforceable in respect of and against the Chargor, the Lender may appoint any person or persons to be a Receiver or Receivers of all or any part of the Charged Property of the Chargor charged under this Debenture or an administrator of the Chargor. An appointment over part only of such Charged

Property shall not preclude the Lender from making any subsequent appointment over any other part of such Charged Property.

14.2 Appointment in writing

The appointment of a Receiver shall be in writing, and may be signed by any authorised signatory on behalf of the Lender. Where more than one person is acting at any time as Receiver, they shall have power to act severally as well as jointly.

14.3 Remuneration

The Lender may from time to time determine the remuneration of the Receiver (which shall not be subject to the limit in section 109(6) of the LPA) and may (subject to the application of section 45 of the Insolvency Act 1986) remove any person from office in relation to all or any part of the Charged Property of which he is the Receiver and at any time appoint a further or other Receiver or Receivers over all or any part of such Charged Property.

14.4 Powers

The Receiver shall be the agent of the Chargor (which shall be solely liable for his acts, defaults and remuneration) unless and until the Chargor goes into liquidation from which time he shall act as principal and shall not become the agent of the Lender, and the Receiver shall have and be entitled to exercise in relation to the Charged Property all the powers:-

14.4.1 conferred by the LPA on mortgagees in possession and on receivers appointed under the LPA;

14.4.2 of an administrative receiver set out in Schedule 1 to the Insolvency Act 1986, whether or not the Receiver is an administrative receiver;

14.4.3 and rights that an absolute owner would have in relation to any Charged Property; and

14.4.4 to do all things incidental or conducive to any functions, powers, authorities or discretions conferred or vested in the Receiver.

15. POWER OF ATTORNEY

15.1 Appointment

The Chargor hereby irrevocably and by way of security appoints:-

15.1.1 the Lender (whether or not a Receiver has been appointed); and also

15.1.2 (as a separate appointment) each Receiver,

severally as the attorney and attorneys of the Chargor with power to do any act, and execute and deliver any deed or other document, on behalf of and in the name of the Chargor, which the Chargor could be required to do or execute under any provision of this Debenture, or which the Lender in its sole opinion may consider necessary or desirable for perfecting the Lender's title to any of the Charged Property of the Chargor or enabling the Lender or the Receiver to exercise any of its or his rights or powers under this Debenture.

15.2 Ratification

The Chargor ratifies and confirms and agrees to ratify and confirm whatever any such attorney as is mentioned in Clause 15.1 (*Appointment*) shall do or purport to do in the

exercise or purported exercise of all or any of the powers, acts or other matters referred to in Clause 15.1 (*Appointment*).

16. APPLICATION OF MONEYS

16.1 Application of moneys

All sums received by virtue of this Debenture by the Lender or the Receiver shall, subject to the payment of any claim having priority to this Debenture, be paid or applied in the following order of priority:-

16.1.1 first, in or towards satisfaction of all costs, charges and expenses incurred and payments made by the Lender, or the Receiver (including, without limitation, legal expenses) and of the remuneration of the Receiver;

16.1.2 secondly, in or towards payment of the Secured Liabilities in such order as the Lender may at its discretion require; and

16.1.3 thirdly, as to the surplus (if any), to the person or persons entitled to such surplus,

and section 109(8) of the LPA shall not apply.

17. PROTECTION OF THIRD PARTIES

17.1 Statutory powers

In favour of any purchaser, the statutory powers of sale and of appointing a Receiver which are conferred upon the Lender, as varied and extended by this Debenture, and all other powers of the Lender, shall be deemed to arise (and the Secured Liabilities shall be deemed due and payable for that purpose) immediately after the execution of this Debenture.

17.2 Purchasers

No purchaser from or other person dealing with the Lender, any person to whom it has delegated any of its powers, or the Receiver shall be concerned to enquire whether any of the powers which they have exercised has arisen or become exercisable, or whether the Secured Liabilities remain outstanding or whether any event has happened to authorise the Receiver to act or as to the propriety or validity of the exercise of any such power, and the title and position of a purchaser or such person shall not be impeachable by reference to any of those matters.

17.3 Receipts

The receipt of the Lender or the Receiver shall be an absolute and conclusive discharge to a purchaser or any other person dealing with the Lender.

18. PROTECTION OF THE LENDER AND ANY RECEIVER

18.1 No liability

The Lender and any Receiver shall not be liable in respect of any loss or damage which arises out of the exercise, or attempted or purported exercise of, or the failure to exercise any of their respective powers under this Debenture.

18.2 Not mortgagee in possession

Without prejudice to any other provision of this Debenture, entry into possession of any Charged Property shall not render the Lender or the Receiver liable:-

- 18.2.1 to account as mortgagee in possession;
- 18.2.2 for any loss on realisation; or
- 18.2.3 for any default or omission for which a mortgagee in possession might be liable,

and if and whenever the Lender or the Receiver enters into possession of any Charged Property it shall be entitled at any time it or he thinks fit to go out of such possession.

18.3 Indemnity

The Chargor shall indemnify and keep indemnified the Lender, every Receiver, and any person who acts as the servant, agent, delegate or attorney of any of them, against all claims and liabilities and properly incurred costs and expenses which they may suffer or incur arising in any way out of the taking or holding of this Debenture, the exercise or purported exercise of any right, power, authority or discretion given by it, or any other act or omission in relation to this Debenture or the Charged Property.

18.4 Currency protection

If any amount due to be paid to the Lender is, for any reason, paid in a currency (the "currency of payment") other than the currency in which it was expressed to be payable (the "contractual currency"), the Lender may wherever it thinks fit apply the amount of the currency of payment received by it in the purchase, in accordance with its normal practice, of the contractual currency, and if this results in any shortfall below the amount due in the contractual currency, after deducting all taxes, costs and commissions payable in connection with that purchase, the Chargor shall indemnify the Lender against the amount of the shortfall.

18.5 Continuing protection

The provisions of this Clause 18 shall continue in full force and effect notwithstanding any release or discharge of this Debenture, or the discharge of any Receiver from office.

19. PROVISIONS RELATING TO THE LENDER

19.1 Powers and discretions

The rights, powers and discretions given to the Lender in this Debenture:-

- 19.1.1 may be exercised as often as, and in such manner as, the Lender thinks fit;
- 19.1.2 are cumulative, and are not exclusive of any of its rights under the general law; and
- 19.1.3 may only be waived in writing and specifically, and any delay in exercising, or non-exercise of, any right, is not a waiver of it.

19.2 Certificates

A certificate by an authorised officer of the Lender as to any sums payable to the Lender under this Debenture shall (save in the case of manifest error) be conclusive and binding upon the Chargor for all purposes.

19.3 Assignment

The Lender may assign this Debenture to any successor in title to any of the Secured Liabilities and the Lender may disclose any information in its possession relating to the Chargor, its affairs or the Secured Liabilities to any actual or prospective assignee.

19.4 **Delegation**

The Lender may at any time and from time to time delegate by power of attorney or in any other manner to any person or persons all or any of the rights, powers and discretions which are for the time being exercisable by it under this Debenture.

20. **PRESERVATION OF SECURITY**

20.1 **Continuing Security**

This Debenture shall be a continuing security to the Lender and shall remain in force until expressly discharged in writing by the Lender notwithstanding any intermediate settlement of account or other matter or thing whatsoever and shall be without prejudice and in addition to any other right, remedy or Security of any kind which the Lender may have now or at any time in the future for or in respect of any of the Secured Liabilities.

20.2 **No Merger**

This Debenture is in addition to, without prejudice to, and shall not merge with, any other right, remedy, guarantee or Security which the Lender may at any time hold for any other Secured Liabilities.

20.3 **Waiver of Defences**

Neither the Security created by this Debenture nor the obligations of the Chargor under this Debenture will be affected by an act, omission, matter or thing which, but for this Clause, would reduce, release or prejudice that Security or any of those obligations (whether or not known to it or the Lender) including:-

- 20.3.1 any time, waiver or consent granted to, or composition with, the Chargor or other person;
- 20.3.2 the release of the Chargor or any other person under the terms of any composition or arrangement with any person;
- 20.3.3 the taking, variation, compromise, exchange, renewal, enforcement or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or Security over, assets of the Chargor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any Security;
- 20.3.4 any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of the Chargor or any other person;
- 20.3.5 any amendment (however fundamental), replacement, variation, novation, assignment or the avoidance or termination of a Finance Document or any other document or Security;
- 20.3.6 any unenforceability, illegality or invalidity of any obligation of, or any Security created by, any person under any Finance Document or any other document; or
- 20.3.7 an insolvency, liquidation, administration or similar procedure.

20.4 **Order of Recourse**

This Debenture may be enforced against the Chargor without the Lender first having recourse to any other right, remedy, guarantee or Security held by or available to any of them.

20.5 **Suspense Accounts**

The Lender may, without prejudice to any other rights it may have, at any time and from time to time place (and keep for such time as it may think prudent) any moneys received, recovered or realised under or by virtue of this Debenture on a separate or suspense account to the credit either of the Chargor or, at the sole discretion of the Lender if an Event of Default has occurred and is continuing, of the Lender as the Lender shall think fit without any intermediate obligation on the Lender's part to apply the same or any part of it in or towards the discharge of the Secured Liabilities.

20.6 **New Accounts**

If the Lender receives notice of any subsequent charge or other security interest affecting any of the Charged Property, the Lender shall be entitled to close the Chargor's then current account or accounts and to open a new account or accounts for the Chargor. If the Lender does not open a new account or accounts immediately on receipt of such notice it shall nevertheless be treated as if it had done so at the time when it received such notice, and as from that time all payments made for the credit of the Chargor shall be credited or be treated as having been credited to such new account or accounts and shall not operate to reduce the amount due from the Chargor to the Lender at the time when it received such notice.

20.7 **Tacking**

For the purposes of section 94(1) of the LPA and section 49(3) of the Land Registration Act 2002 the Lender confirms that it shall make further advances to the Chargor on the terms and subject to the conditions of the Finance Documents.

20.8 **Reinstatement**

If any payment by the Chargor or discharge given by the Lender (whether in respect of the obligations of the Chargor or any Security for those obligations or otherwise) is avoided or reduced as a result of insolvency, liquidation, administration or any similar event:-

20.8.1 the liability of the Chargor and the Security created by this Debenture shall continue as if the payment, discharge, avoidance or reduction had not occurred; and

20.8.2 the Lender shall be entitled to recover the value or amount of that Security or payment from the Chargor, as if the payment, discharge, avoidance or reduction had not occurred.

21. **RELEASE**

21.1 Upon the irrevocable and unconditional payment and discharge in full of the Secured Liabilities, the Lender shall, or shall procure that its appointees will, at the request and cost of the Chargor:-

21.1.1 release the Charged Property from this Debenture; and

21.1.2 re-assign the Charged Property that has been assigned to the Lender under this Debenture.

21.2 Section 93 of the LPA dealing with the consolidation of mortgages shall not apply to this Debenture.

22. MISCELLANEOUS PROVISIONS

22.1 Severability

If any provision of this Debenture is illegal, invalid or unenforceable in any jurisdiction, that shall not affect:-

22.1.1 the validity or enforceability of any other provision, in any jurisdiction; or

22.1.2 the validity or enforceability of that particular provision, in any other jurisdiction.

22.2 Costs, charges and expenses

All costs, charges and expenses incurred or paid by the Lender or by the Receiver in the exercise of any power or right given by this Debenture or in relation to any consent requested by the Chargor, or in perfecting or otherwise in connection with this Debenture, the other Finance Documents or the Charged Property, all sums recoverable under Clause 18 (*Protection of the Lender and any Receiver*) and all costs of the Lender (on an indemnity basis) of all proceedings for the enforcement of this Debenture or for obtaining payment of moneys by this Debenture secured, shall be recoverable from the Chargor as debts.

22.3 Contracts (Rights of Third Parties) Act 1999

The Lender, any Receiver and their respective officers, employees and agents may enforce any term of this Debenture which purports to confer a benefit on that person, but no other person who is not a party to this Debenture has any right under the Contracts (Rights of Third Parties) Act 1999 (the "**Third Parties Act**") to enforce or to enjoy the benefit of any term of this Debenture.

22.4 Counterparts

This Debenture 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 Debenture.

22.5 Law of Property (Miscellaneous Provisions) Act 1989

The terms of the other Finance Documents and of any side letters between any parties in relation to any Finance Document are incorporated in this Debenture to the extent required to ensure that any purported disposition of an interest in Land contained in this Debenture is a valid disposition in accordance with Section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.

23. NOTICES

23.1 Communication

A communication given to a party under or in connection with this Debenture shall be in writing and sent to the party at the address given in this Debenture or as otherwise notified in writing to the other party by not less than five Business Days' notice.

23.2 English language

23.2.1 Any notice given under or in connection with this Debenture must be in English.

23.2.2 All other documents provided under or in connection with this Debenture must be:-

- (a) in English; or
- (b) if not in English, and if so required by the Lender or Agent, accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

23.3 Delivery

23.3.1 This Clause 23.3.1 sets out the delivery methods for sending a notice to a party under this Debenture and, for each delivery method, the date and time when the notice is deemed to have been received or given (provided that all other requirements of this clause have been satisfied and subject to the provision in Clause 23.3.2).

- (a) if delivered by hand, at the time the notice is left at the address;
- (b) if sent by pre-paid first class post or other next working day delivery service providing proof of postage, at 9.00am on the second Business Day after posting;
- (c) if sent by document exchange (DX), at 9.00 am on the second Business Day after being put into the DX.

23.3.2 If deemed receipt under Clause 23.3.1 would occur outside business hours in the place of receipt, it shall be deferred until business hours resume. In this Clause 23.3.2, business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.

23.3.3 Any notice or other communication given to the Lender shall be deemed to have been received only on actual receipt.

23.4 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

23.5 A notice given under this Debenture is not valid if sent by fax or email.

24. GOVERNING LAW

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

25. JURISDICTION

Each party irrevocably agrees that, subject as provided below, the courts of England and Wales shall have exclusive jurisdiction over any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Debenture or its subject matter or formation. Nothing in this clause shall limit the right of the Lender to take proceedings against the Chargor in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdictions, whether concurrently or not, to the extent permitted by the law of such other jurisdiction.

EXECUTED AND DELIVERED AS A DEED by the Chargor and the Lender on the date set out at the beginning of this Debenture.

DETAILS OF LAND
REGISTERED LAND – LEASEHOLD

| Title number | Description | Parties |
|---------------------|---|---|
| GR212462 | South East Camp, Gloucestershire Airport, Staverton, Cheltenham, GL51 6SR | The Council of the City of Gloucester & Cheltenham Borough Council (1) and Gloucestershire Airport Limited (2) |
| GR195186 | Meteor Business Park | The Council of the City of Gloucester & Cheltenham Borough Council (1) and Gloucestershire Airport Limited (2) |
| GR195187 | Operational Area | The Council of the City of Gloucester & Cheltenham Borough Council (1) and Gloucestershire Airport Limited (2) |
| GR354403 | Land on the south east side of Cheltenham Road East, Churchdown, Gloucester | The Council of the City of Gloucester & Cheltenham Borough Council (1) and Gloucestershire Airport Limited (2) |
| GR364661 | Blenheim House, Cheltenham Road East, Gloucester (GL2 9QF) | The Council of the City of Gloucester & Cheltenham Borough Council (1) and Gloucestershire Airport Limited (2) |
| GR404722 | Meeting room The Aviator, Gloucestershire Airport, Staverton, Cheltenham (GL51 6SR) | The Council of the City of Gloucester & Cheltenham Borough Council (1) and Gloucestershire Airport Limited (2) |

UNREGISTERED LAND

None

The Chargor

EXECUTED (but not delivered until)
the date hereof) **AS A DEED** by)
GLOUCESTERSHIRE AIRPORT LIMITED)
acting by)
in the presence of:-

Director

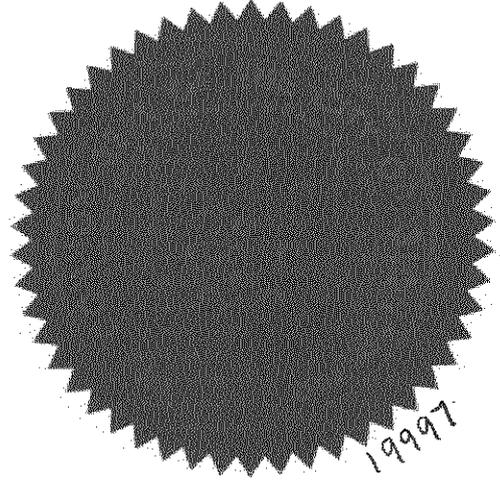
Signature of witness:

Name of witness:

Address:

The Lender

EXECUTED (but not delivered until)
the date hereof) **AS A DEED** by **THE**)
COMMON SEAL of **THE COUNCIL OF**)
THE CITY OF GLOUCESTER being affixed)
hereto and authenticated by the)
undermentioned person authorised by the)
Council to act for that purpose:-)



Signature of Authorised Signatory/Borough
Solicitor: [Redacted]

Name of Authorised Signatory/Borough
Solicitor:

*Head of Law (Commercial
& Property)*

