

101147 / 23

In accordance with  
Sections 859A and  
859J of the Companies  
Act 2006

# MR01

## Particulars of a charge



Companies House



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A fee is be payable with  
Please see 'How to pay' on

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

☒ **What this form is NOT for**  
You may not use this form to  
register a charge where the  
instrument Use form MR0

FRIDAY



A09 \*A5KZK4TL\* 02/12/2016 #246  
COMPANIES HOUSE

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

☒ You must enclose a certified copy of the instrument with this form. This will be  
scanned and placed on the public record. **Do not send the original**

### 1 Company details

Company number 0 3 1 4 2 4 0 6

Company name in full CAREY UK LIMITED

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

### 2 Charge creation date

Charge creation date 2 3 1 1 2 0 1 6

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

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

Name ACF FINCO I LP, as Lender

Name

Name

Name

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

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

MR01

## Particulars of a charge

<b>4</b>	<b>Brief description</b>	
	Please give a short description of any land, ship, aircraft or intellectual property registered or required to be registered in the UK subject to a charge (which is not a floating charge) or fixed security included in the instrument	
Brief description	None	<p>Please submit only a short description if there are a number of plots of land, aircraft and/or ships, you should simply describe some of them in the text field and add a statement along the lines of, "for more details please refer to the instrument"</p> <p>Please limit the description to the available space</p>
<b>5</b>	<b>Other charge or fixed security</b>	
	<p>Does the instrument include a charge (which is not a floating charge) or fixed security over any tangible or intangible or (in Scotland) corporeal or incorporeal property not described above? Please tick the appropriate box</p> <p><input checked="" type="checkbox"/> <b>Yes</b></p> <p><input type="checkbox"/> <b>No</b></p>	
<b>6</b>	<b>Floating charge</b>	
	<p>Is the instrument expressed to contain a floating charge? Please tick the appropriate box</p> <p><input checked="" type="checkbox"/> <b>Yes</b> Continue</p> <p><input type="checkbox"/> <b>No</b> Go to <b>Section 7</b></p> <p>Is the floating charge expressed to cover all the property and undertaking of the company?</p> <p><input checked="" type="checkbox"/> <b>Yes</b></p>	
<b>7</b>	<b>Negative Pledge</b>	
	<p>Do any of the terms of the charge prohibit or restrict the company from creating further security that will rank equally with or ahead of the charge? Please tick the appropriate box</p> <p><input checked="" type="checkbox"/> <b>Yes</b></p> <p><input type="checkbox"/> <b>No</b></p>	
<b>8</b>	<b>Trustee statement <sup>①</sup></b>	
	<p>You may tick the box if the company named in Section 1 is acting as trustee of the property or undertaking which is the subject of the charge</p> <p><input type="checkbox"/></p>	<p><sup>①</sup> This statement may be filed after the registration of the charge (use form MR06)</p>
<b>9</b>	<b>Signature</b>	
Signature	<p>Please sign the form here</p> <p>Signature</p> <p>X <i>King &amp; Spalding International Ltd</i> X</p> <p>This form must be signed by a person with an interest in the charge</p>	

# MRO1

## Particulars of a charge

### Presenter information

You do not have to give any contact information, but if you do, it will help Companies House if there is a query on the form. The contact information you give will be visible to searchers of the public record.

Contact name  
EMILY PITTMAN

Company name

KING & SPALDING INTERNATIONAL LLP

Address  
125 OLD BROAD ST

Post town  
LONDON

County/Region

Postcode  
E C 2 N 1 A R

Country  
UNITED KINGDOM

DX

Telephone  
+44 (0) 207 551 7532

### Certificate

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

### Checklist

We may return forms completed incorrectly or with information missing

Please make sure you have remembered the following

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

### Important information

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

### How to pay

A fee of £23 is payable to Companies House in respect of each mortgage or charge filed on paper

Make cheques or postal orders payable to 'Companies House'

### Where to send

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

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

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

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

### Further information

For further information, please see the guidance notes on the website at [www.gov.uk/companieshouse](http://www.gov.uk/companieshouse) or email [enquiries@companieshouse.gov.uk](mailto:enquiries@companieshouse.gov.uk)

This form is available in an alternative format. Please visit the forms page on the website at [www.gov.uk/companieshouse](http://www.gov.uk/companieshouse)



**FILE COPY**

## **CERTIFICATE OF THE REGISTRATION OF A CHARGE**

Company number: 3142406

Charge code: 0314 2406 0004

The Registrar of Companies for England and Wales hereby certifies that a charge dated 23rd November 2016 and created by CAREY UK LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 2nd December 2016.

Given at Companies House, Cardiff on 8th December 2016



**Companies House**



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

EXECUTION VERSION

Dated 23 November 2016

EMBARQUE LONDON LIMITED,

CAREY UK LIMITED,

CAREY EUROPE LIMITED,

CAREY ENGLAND LIMITED,

as the Chargors,

CAREY SERVICES, INC

EMBARQUE HOLDINGS, INC ,

as Pledgors,

and

ACF FINCO I LP,

as Lender

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DEBENTURE

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*Note: This Debenture  
is subject to the terms of an intercreditor agreement dated as of the date hereof by and among the  
Lender, Term Loan Facility Agent and the Borrowers*

CERTIFIED AS A TRUE COPY OF THE ORIGINAL

*King & Spalding International*  
.....  
KING & SPALDING INTERNATIONAL LLP

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**THIS DEED** is dated 23 November 2016

**BETWEEN:**

- (1) The companies detailed in Part A of Schedule 1 (*The Obligors*), as the Chargors,
- (2) The companies detailed in Part B of Schedule 1 (*The Obligors*), as the Pledgors, and
- (3) ACF FINCO I LP, as Lender

**IT IS AGREED** as follows

**1. DEFINITIONS AND INTERPRETATION**

**1.1 Definitions: In this Deed**

"Account Bank" means any bank or financial institution with which a Chargor maintains a bank account

"Administrator" means an administrator appointed under Schedule B1 of the Insolvency Act 1986

"Additional Material Contract" means future intercompany loan agreements and contracts material to a Chargor's business.

"Bank Account" means any account with any bank or financial institution in which any Chargor now or in the future has an interest (including any replacement or substitute account or subdivision or sub-account of that account) and to the extent of such interest, all credit balances now or in the future on such accounts and all Related Rights

"Charged Assets" means the assets and undertakings from time to time which are the subject of any Security created or purported to be created by or pursuant to this Deed and, where the context permits, the proceeds of sale of such assets

"Charged Investments" means Investments forming part of the Charged Assets.

"Charged Real Property" means all Real Property forming part of the Charged Assets and any buildings, fixtures, fittings, fixed plant or machinery from time to time situated on or forming part of such Real Property and all Related Rights

"Charges" means Security from time to time created or expressed to be created by or pursuant to this Deed

"Chargors" means the companies detailed in Schedule 1 (*The Obligors*) and any member of the Group which accedes to this Deed pursuant to Clause 27 (*Changes to parties*)

"Delegate" means a delegate, sub-delegate, attorney or co-trustee appointed, directly or indirectly, pursuant to Clause 17.3 (*Delegation*)

"Derivative Rights" include

- (a) all rights relating to Investments which are deposited with, or registered in the name of, any security agent, depositary, custodian, nominee, trustee, fiduciary, investment

manager or clearing house or system or other similar person or its nominee, in each case whether or not on a fungible basis (including rights against such person), and

- (b) all other present and future rights or cash or other assets attaching or relating to or accruing or offered on or deriving from Investments or from such rights (whether by way of redemption, conversion, exercise of option rights, substitution, exchange, preference, bonus or otherwise)

**"Excluded Property"** has the meaning given to it in Clause 61 (Leases restricting charging)

**"Fixtures"** means trade and other fixtures and fittings and fixed plant, machinery and other apparatus

**"Group"** means each Borrower and each of its Subsidiaries for the time being

**"Holding Company"** means, in relation to a person, any other person in respect of which it is a Subsidiary

**"Insurance Policy"** means any contract or policy of insurance (including life insurance or assurance) in which any Chargor may from time to time have an interest as a beneficiary under its terms

**"Intellectual Property"** means any patents, trademarks, service marks, business names, copyrights, database rights, design rights, domain names, moral rights, inventions, confidential information, knowhow, utility models, plant variety rights and other intellectual property rights and interests (which may now or in the future subsist), whether registered or unregistered

**"Intercreditor Agreement"** means the Intercreditor Agreement dated as of the date hereof by and among the Lender, the Term Loan Facility Agent and the Borrowers

**"Investments"** means

- (a) any shares, stocks, debentures, certificates of deposit, securities, bonds or other securities,
- (b) all interests in collective investment schemes, and
- (c) all warrants, options and other rights to subscribe for or acquire any of the investments referred to in paragraph (a) or (b),

(including, without limitation, the Scheduled Investments), in each case whether held directly by the relevant Obligor or by the Lender, depositary, custodian, trustee, nominee, fiduciary, investment manager or clearing house or system on its behalf and all Related Rights (including all rights against such person) and all Derivative Rights

**"Loan Agreement"** means that certain loan and security agreement dated on or about the date of this Deed between, among others, Carey Holdings, Inc., a Delaware corporation, its Subsidiaries party thereto from time to time and the Lender

**"LPA"** means the Law of Property Act 1925

**"Monetary Claims"** means any book and other debts and monetary claims of any nature owing to any Chargor and any proceeds of such debts and claims (including any claims or sums of money deriving from or in relation to any Intellectual Property, any Investment, any claim, return of premium or the proceeds paid or payable in respect of any Insurance Policy, any court order or judgment, any contract or other agreement to which any Chargor is a party and any other assets, property, rights or undertaking of any Chargor, but excluding the Bank Accounts)

**"Notice of Insurance Assignment"** means a notice of assignment in the form set out in Schedule 9 (*Form of Notice of Assignment to Insurers*) or such other form as the Lender may approve

**"Obligors"** means each Chargor and each Pledgor

**"Pensions Notice"** means a contribution notice or a financial support direction issued by the Pensions Regulator under the Pensions Act 2004

**"Planning Acts"** means the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Planning (Hazardous Substances) Act 1990, the Planning (Consequential Provisions) Act 1990, the Planning and Compensation Act 1991, the Planning and Compulsory Purchase Act 2004 and any re-enactment, variation or modification of any of them and any orders, regulations or permissions made, issued or granted under or by virtue of the foregoing Acts or any of them

**"Real Property"** means freehold, leasehold or immoveable property in England and Wales (including, without limitation, the Scheduled Real Property) and any buildings, fixtures, fittings, fixed plant or machinery from time to time situated on or forming part of such property, and includes all Related Rights

**"Receiver"** means a receiver, receiver and manager or, where permitted by law, administrative receiver appointed in respect of the Charged Assets by the Lender pursuant to this Deed for otherwise.

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

- (a) the proceeds of sale of any part of that asset,
- (b) all rights under any licence, agreement for sale or agreement for lease in respect of that asset,
- (c) all rights, powers, benefits, claims, contracts, warranties, negotiable instruments, remedies, Security, guarantees, indemnities or covenants for title in respect of that asset, and
- (d) any moneys and proceeds paid or payable in respect of that asset

**"Release Date"** has the meaning given to that term in Clause 23 11 (*Final redemption*)

**"Scheduled Bank Accounts"** means the Bank Accounts described in Schedule 6 (*Details of the Scheduled Bank Accounts*)

**"Scheduled Intellectual Property"** means the Intellectual Property described in Schedule 3 (*Details of the Scheduled Intellectual Property*)

**"Scheduled Investments"** means the Investments described in Schedule 4 (*Details of the Scheduled Investments*)

**"Scheduled Real Property"** means the Real Property described in Schedule 2 (*Details of the Scheduled Real Property*) and all Related Rights.

**"Secured Liabilities"** means all present and future obligations and other liabilities of any nature in any currency, at any time, of each Borrower due, owing or incurred under or in connection with the Loan Documents to the Lender or any Receiver including, without limitation, under any amendments, supplements or restatements of any Loan Document (however fundamental) or in relation to any change of purpose, new or increased advances or utilisations, any extensions of any date for payment, incremental commitments or facilities (in each case to the extent permitted under the Loan Documents)

- (a) whether originally owed to the Lender and/or any Receiver or other person or persons,
- (b) whether actual or contingent, matured or unmatured, liquidated or unliquidated,
- (c) whether incurred solely or jointly with any other person, and
- (d) whether incurred as principal or surety or in any other capacity whatsoever, together with all interest accruing thereon (calculated in accordance with Clause 2.2 (*Interest*)), (both before and after judgment) and all costs, charges and expenses (to the extent payable by the relevant Borrower pursuant to the terms of the Loan Documents) incurred in connection therewith, but excluding any liabilities which, if they did constitute part of the Secured Liabilities, would result in this Deed contravening section 678 or 679 of the Companies Act 2006 or any equivalent and applicable provisions under the laws of the jurisdiction of incorporation of the relevant Obligor and "Secured Liability" shall be construed accordingly,

subject to, in each case, to Section 10.1 of the Loan Agreement

**"Security"** means a mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect

**"Security Accession Deed"** means such form as the Lender may approve

**"Supplemental Legal Charge"** means a legal charge in such form as the Lender may approve

**"Tax"** means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same)

**"this Deed"** means this debenture as varied, amended or supplemented from time to time

**"VAT"** means

- (a) any tax imposed in compliance with the Council Directive of 28 November 2006 on the common system of value added tax (EC Directive 2006/112), and
- (b) any other tax of a similar nature, whether imposed in a member state of the European Union in substitution for, or levied in addition to, such tax referred to in paragraph (a) above, or imposed elsewhere

- 1.2 **Loan Agreement:** Unless otherwise expressly defined in this Deed or the context otherwise requires, words and expressions defined in the Loan Agreement or the Intercreditor Agreement have the same meaning in this Deed or any notice given under or in connection to this Deed
- 1.3 **Construction**
- (a) The "Loan Agreement", a "Loan Document" or any other agreement or instrument is a reference to that Loan Agreement, Loan Document or other agreement or instrument as amended, novated, supplemented, extended or restated
  - (b) "assets" includes present and future properties, revenues and rights of every description
  - (c) A "regulation" includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation
  - (d) "rights" shall be construed as including rights, benefits, privileges, consents, authorities, discretions, remedies and powers and "right" shall be construed accordingly
  - (e) A reference to "Secured Liabilities" includes any liabilities which would be treated as such but for the liquidation or dissolution or similar event affecting a Borrower.
  - (f) Any reference to the Lender or a Chargor shall be construed so as to include its or their (and any subsequent) successors and any permitted transferees or permitted assigns in accordance with their respective interests
  - (g) A provision of law is a reference to that provision as amended or re-enacted
  - (h) References in this Deed to any Clause or Schedule shall be to a clause or schedule of this Deed unless otherwise specified
  - (i) Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders
  - (j) Clause and schedule headings are for ease of reference only
- 1.4 **Deed:** This document is to take effect as a deed notwithstanding that the Lender has executed it under hand only
- 1.5 **Law of Property (Miscellaneous Provisions) Act 1989** The terms of the other Loan Documents and other documents under which the Secured Liabilities arise and of any side letters relating thereto between each Obligor and the Lender are incorporated herein to the extent required for any purported disposition of the Charged Assets contained in this Deed to be a valid disposition in accordance with section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.
- 1.6 **Law of Property (Miscellaneous Provisions) Act 1994** The obligations of the Chargors under this Deed and any document entered into pursuant to this Deed shall be in addition to the covenants deemed to be included in this Deed or such other document by virtue of Part I of the Law of Property (Miscellaneous Provisions) Act 1994

- 1.7 **Schedules.** Any failure to state any Intellectual Property, Real Property or Investments of any Obligor on the date of this Deed in any of Schedule 2 (*Details of the Scheduled Real Property*), Schedule 3 (*Details of the Scheduled Intellectual Property*) or Schedule 4 (*Details of the Scheduled Investments*) will not affect any Charges over such assets
- 1.8 **Third party rights:** Save as expressly stated in this Deed, a person who is not a party to this Deed has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Deed
- 1.9 **Covenants and representations**
- (a) Each covenant of an Obligor contained in this Deed remains in force until the Release Date.
  - (b) The representations and warranties set out in this Deed are made on the date of this Deed and are, unless otherwise stated herein, deemed to be repeated by an Obligor on each day from the date of this Deed until the Release Date with reference to the circumstances existing at such time of repetition
- 1.10 **Intercreditor Agreement** Notwithstanding any other provision of this Deed, the Security constituted by this Deed and the exercise of any right or remedy by the Lender hereunder shall be subject to the Intercreditor Agreement. In the event of any conflict between the terms of the Intercreditor Agreement and the terms of this Deed, the terms of the Intercreditor Agreement shall prevail
2. **COVENANT TO PAY**
- 2.1 **Covenant to pay:** Each Obligor shall on demand pay or discharge to the Lender the Secured Liabilities when the same have become due in the manner provided for in the Loan Documents
- 2.2 **Interest:** If an Obligor fails to pay any Secured Liabilities on the due date for payment of that sum, such Obligor shall on demand pay to the Lender interest on all such sums from the due date until the date of payment (both before and after judgment) calculated and payable in accordance with the rate and in the manner specified in the Loan Agreement. Any such interest not paid when due shall be compounded and bear interest calculated as provided above
- 2.3 **Proportionate discharge** Each sum appropriated by the Lender in accordance with the Loan Documents towards payment of accrued default interest on any Secured Liabilities which have not been paid on their due date under any obligation under the Loan Documents which constitutes a Secured Liability shall to the extent of that appropriation discharge an Obligor's obligations to pay such interest under Clause 2.2 (*Interest*)
- 3 **SECURITY**
- 3.1 **Creation of Charges:** All Charges and assignments under this Deed are
- (a) made in favour of the Lender,
  - (b) made with full title guarantee, and
  - (c) Security for the payment and discharge of all Secured Liabilities
- 3.2 **Fixed Charges:**

(a) Each Chargor charges

(i) **Real Property**

(A) by way of first legal mortgage the Scheduled Real Property and all other Real Property in England or Wales now belonging to it, and

(B) by way of first fixed charge all its rights, title and interest, present and future, in and to Real Property in England or Wales not mortgaged pursuant to paragraph (i) above,

(ii) **Investments**

(A) by way of first fixed charge all its rights, title and interest in and to the Scheduled Investments and all other Investments now belonging to it, and

(B) by way of first fixed charge all its rights, title and interest in and to all Investments belonging to it (present and future) not referred to in paragraph (i) above,

(iii) **Monetary Claims:** by way of first fixed charge all its rights, title and interest present and future in and to all Monetary Claims and all Related Rights other than any claims which are otherwise subject to a fixed charge or assignment (at law or in equity) pursuant to this Deed,

(iv) **Intellectual Property:** by way of first fixed charge all its rights, title and interest present and future in and to intellectual Property and all Related Rights (including the Scheduled Intellectual Property),

(v) **Bank Accounts:** by way of first fixed charge all its rights, title and interest present and future in and to the Bank Accounts (including the Scheduled Bank Accounts),

(vi) **Insurance Policies:** by way of first fixed charge all its rights, title and interest present and future in and to the Insurance Policies and all Related Rights, and

(vii) **Goodwill and uncalled capital and pension fund** by way of first fixed charge all its rights, title and interest present and future in and to

(A) all its uncalled capital,

(B) all its goodwill, and

(C) any pension fund and plan (to the extent such Security does not breach the terms of such plan)

(b) Each Pledgor charges

(i) by way of first fixed charge all its rights, title and interest in and to the Scheduled Investments, and

(ii) any Related Rights

3.3 **Intentionally Omitted**

3.4 **Floating Charge**

- (a) Each Chargor charges by way of first floating charge its undertaking and all its assets both present and future other than any asset effectively mortgaged or charged under *Clause 3 2 (Fixed Charges)* including any assets comprised within a Charge reconverted under *Clause 3 7 (Reconversion)*. The floating Charge created by each Chargor under this Clause is a qualifying floating charge for the purposes of paragraph 14 of Schedule B1 of the Insolvency Act 1986
- (b) The floating Charges created by this *Clause 3 4 (Floating Charge)* shall be deferred in point of priority to all fixed Security validly and effectively created by a Chargor under the Loan Documents in favour of the Lender as Security for the Secured Liabilities

### 3.5 Automatic crystallisation

- (a) Notwithstanding any other provision of this Deed (and without prejudice to any law which may have a similar effect), the floating charge created under this Deed will automatically be converted without notice and with immediate effect into a fixed charge as regards the Charged Assets subject to such floating charge but subject to *Clause 14 3 (Effect of moratorium)*, if
  - (i) any person levies or attempts to levy any distress, execution, attachment, expropriation, sequestration or other legal process against any of those Charged Assets, or
  - (ii) any Chargor creates or attempts to create any Security or trust over any of those Charged Assets which is prohibited under the terms of the Loan Documents, or
  - (iii) a resolution is passed or an order is made or a petition is presented for the winding-up or administration, dissolution or reorganisation of any Chargor or a resolution is passed for a creditors voluntary winding-up or a creditors' voluntary winding-up is commenced, or
  - (iv) an Administrator or Receiver is appointed in respect of a Chargor or any person (who is entitled to do so) gives notice of its intention to appoint an Administrator in respect of a Chargor pursuant to paragraphs 15 or 26 of Schedule B1 of the Insolvency Act 1986 or files such notice with the court

### 3 6 Crystallisation of Floating Charge by notice

The Lender may at any time by notice in writing to any Chargor convert the floating Charge created by such Chargor pursuant to *Clause 3 4 (Floating Charge)* with immediate effect into a fixed Charge as regards such assets as may be specified (whether generally or specifically) in such notice if

- (a) an Event of Default has occurred and is continuing; or
- (b) the Lender considers those assets to be in jeopardy (whether due to a risk of being seized or sold pursuant to any distress, attachment, execution, sequestration or other legal process), or
- (c) the Lender considers that it is necessary in order to protect the priority of Security

### 3 7 Reconversion: Any Charge which has converted into a fixed charge under *Clause 3 5 (Automatic crystallisation)* or *Clause 3 6 (Crystallisation of Floating Charge by notice)*

may be reconverted into a floating Charge by notice in writing given at any time by the Lender to the relevant Chargor in relation to the assets specified in such notice

**3.8 Intentionally Omitted**

**3.9 Excluded assets** If the rights of any Charger under any instrument or agreement cannot be the subject of legal, valid, binding and enforceable Security pursuant to any Charges which this Deed purports to create under Clause 3.2(a)(iii) (*Monetary Claims and Related Rights*), 3.2(a)(iv) (*Intellectual Property*) or paragraph 3.2(a)(viii)(C) of Clause 3.2(a)(viii) (*Goodwill and uncalled capital and pension fund*) without the consent of another party

- (a) the relevant Chargor shall notify the Lender promptly,
- (b) this Deed will charge all amounts which the relevant Chargor may receive, or has received, under that document, and
- (c) the relevant Chargor shall use all reasonable endeavours to promptly obtain any necessary consent or waiver relating to third party arrangements (including shareholder agreements or joint venture agreements) which would otherwise prevent or prohibit such rights being charged under this Deed and, if such consent or waiver is obtained, such rights shall immediately become subject to an effective fixed charge or assignment pursuant to Clause 3.2 (*Fixed Charges*) and such Chargor shall promptly provide a copy of such consent to the Lender

Each Chargor shall use reasonable endeavours to ensure that instruments and agreements which it enters into after the date of this Deed do not contain restrictions which would cause them to be excluded from the charges pursuant to paragraph (c) above

**4. GENERAL OBLIGATIONS**

**4.1 Negative pledge and disposals:** Subject to Clause 8 (*Monetary Claims*), except with the written consent of the Lender, each Obligor shall not

- (a) create or permit to subsist any Security or Quasi-Security over any Charged Assets and Excluded Property and/or assign the benefit of a Charged Asset save as expressly permitted pursuant to the Loan Documents, or
- (b) enter into a single transaction or a series of transactions (whether related or not and whether voluntary or involuntary) to sell, transfer, assign, lease, license, sub-license, hire out, grant, lend or otherwise dispose of any of the Charged Assets or the equity of redemption therein or permit any person to do any such thing except as permitted pursuant to the terms of this Deed and the Loan Documents

**4.2 General undertakings**

Each Obligor shall, promptly on request from the Lender, furnish the Lender with such information as the Lender may reasonably require about the Charged Assets to determine the compliance by such Obligor with this Deed and the other Loan Documents. Each Obligor shall permit the Lender, its representatives and professional advisers, free access at all reasonable times and on reasonable notice to

- (a) inspect and take copies and extracts from the accounts and records of such Obligor, and
- (b) to view the Charged Assets

## 5. FURTHER ASSURANCE

Each Obligor shall, at its own expense, promptly do all such acts and things as the Lender may reasonably require for

- (a) creating, registering, perfecting, maintaining or protecting the Charges or any Security intended to be created by or pursuant to this Deed or any of the Charged Assets,
- (b) creating a fixed charge over Monetary Claims,
- (c) executing a *Supplemental Legal Charge over Real Property* owned by any Chargor,
- (d) facilitating the realisation of any Charge after the Charge has become enforceable or the exercise of any right, power or discretion in relation to any Charged Asset or Charge vested in the Lender, any Receiver or any Delegate,

including, without limitation, the execution (including by sealing) of any transfer, assignment, mortgage, charge or Security or any other document or any notice or instruction which the Lender may reasonably require, including any such document, notice or instruction required to enable the Lender or its nominee to obtain legal title to any Charged Assets in circumstances in which it is entitled to obtain such legal title under this Deed

## 6. REAL PROPERTY

### 6.1 Leases restricting charging

- (a) There shall be excluded from the charge created by Clause 3.2 (*Fixed Charges*), Clause 3.4 (*Floating Charge*) and from the operation of Clause 5 (*Further assurance*) any Real Property referred to in Schedule 2 (*Details of the Scheduled Real Property*) (or, as the case may be, as specified in any Security Accession Deed) held by a Chargor under a lease or which is subject to any other property agreement which either precludes absolutely or conditionally (including requiring the consent of any third party) that Chargor from creating any charge or assignment over its interest in that Real Property (each an "**Excluded Property**") until the relevant condition or waiver has been satisfied or obtained
- (b) For each Excluded Property, the relevant Chargor undertakes to
  - (i) notify the Lender that the relevant Real Property is an Excluded Property,
  - (ii) apply for the relevant consent or waiver of prohibition or condition within 10 Business Days of the date of this Deed and, in respect of each such Excluded Property which provides that the relevant third party will not unreasonably withhold its consent to charging, to use reasonable endeavours (for a reasonable amount of time) to obtain that consent as soon as possible and, if requested by the Lender, to keep the Lender informed of the progress of its negotiations but shall not be required to take legal proceedings, and

- (iii) notify the Lender in writing upon receipt of the relevant waiver or consent
- (c) Promptly upon receipt of the relevant waiver or consent, the charge by way of first legal mortgage granted in Clause 3.2(a)(i)(A) (*Fixed Charges*) shall take effect in respect of the former Excluded Property. If required by the Lender at any time following receipt of that waiver or consent, the relevant Chargor will promptly execute a Supplemental Legal Charge

## 6.2 Acquisition of Real Property

- (a) Each Chargor shall promptly notify the Lender of any acquisition by it or on its behalf of any Real Property after the date of this Deed ("After-acquired Property").
- (b) Each Chargor shall promptly, on request of the Lender and at the cost of the relevant Chargor, execute and deliver to the Lender a Supplemental Legal Charge in favour of the Lender over any After-acquired Property
- (c) If any After-acquired Property is held by a Chargor under a lease or is subject to any other property agreement which either precludes absolutely or conditionally (including requiring the consent of any third party) that Chargor from creating any charge or assignment over its interest in that After-acquired Property ("After-acquired Excluded Property") then that Chargor shall not be required to execute and deliver to the Lender any Supplemental Legal Charge referred to in paragraph (b) above until the relevant condition or waiver has been satisfied or obtained. For each After-acquired Excluded Property the relevant Chargor undertakes, at the cost of that Chargor, to
  - (i) notify the Lender that the relevant After-acquired Property is an After-acquired Excluded Property,
  - (ii) promptly, on request of the Lender, apply for the relevant consent or waiver of prohibition or condition and, in respect of each such After-acquired Excluded Property which provides that the relevant third party will not unreasonably withhold its consent to charging, to use reasonable endeavours (for a reasonable amount of time) to obtain that consent as soon as possible and, if requested by the Lender, to keep the Lender informed of the progress of its negotiations but shall not be required to take legal proceedings,
  - (iii) notify the Lender in writing upon receipt of the relevant waiver or consent, and
  - (iv) promptly upon receipt of the relevant waiver or consent execute and deliver to the Lender a Supplemental Legal Charge in favour of the Lender over such After-acquired Property
- (d) If title to any After-acquired Property is or is to be registered at the Land Registry, such Chargor shall, as soon as reasonably practicable after acquisition of the After-acquired Property, notify the Lender of the relevant title number and shall apply to the relevant Land Registry to enter
  - (i) a notice of the Supplemental Legal Charge referred to in paragraph (b) or (c)(iv) above (as applicable) on the charges register of such After-acquired Property, and
  - (ii) the restriction set out in Clause 6.6(a) (*Registered land*) (as repeated in such legal mortgage) on the proprietorship register of such property

In the case of any other After-acquired Property in England or Wales, the relevant Chargor shall apply to register this Deed at the Land Charges Registry if, for any reason, the title deeds and documents relating thereto are not deposited with the Lender. In relation to any After-acquired Property anywhere else in the world, such Chargor shall take such equivalent action as the Lender shall deem appropriate.

**6.3 Delivery of title documents:** Each Chargor shall, upon the execution of this Deed or, if later, upon receipt, deposit with the Lender (or as it may direct) all deeds, certificates and other documents evidencing title relating to any Charged Real Property. If any such documents are at the relevant time at the Land Registry, such Chargor shall, promptly following a demand by the Lender, provide or procure the provision to the Lender of such undertakings and such letters addressed to the Land Registry as the Lender may reasonably require.

**6.4 Real Property undertakings:** Each Charger shall (whether in exercise of any statutory power or otherwise) comply with the provisions of Schedule 8 (*Real Property Undertakings*).

**6.5 Real Property representations and warranties** Each Chargor represents and warrants to the Lender that

- (a) it is the sole legal and beneficial owner of all the Scheduled Real Property listed against its name in Schedule 2 (*Details of the Scheduled Real Property*) and no other person has any legal or beneficial interest or rights on, over or in any part of the Charged Real Property (other than as disclosed to and approved by the Lender),
- (b) no part of the Charged Real Property is subject to any covenants, restrictions, easements or rights, orders, agreements, notices or disputes which are of an unusual or onerous nature or which may materially and adversely affect its intended use or its disposal and nothing has arisen or been created or is subsisting which could be or could create an overriding interest over such Charged Real Property,
- (c) there subsists no breach of any Planning Acts, by-laws or local authority or statutory requirements which materially and adversely affects or which materially or adversely affects the value of the Charged Real Property owned by such Chargor,
- (d) no facilities necessary for the enjoyment and use of the Charged Real Property or any part of it are enjoyed or used by such Charged Real Property on terms entitling any person to terminate or curtail its or their use,
- (e) the Charged Real Property or any part of it is free from any lease, tenancy, licence or right to occupy other than as disclosed to and approved by the Lender, and
- (f) except for the Scheduled Real Property, neither it nor any of its Subsidiaries owns any estate or interest in any Real Property save as disclosed to and approved by the Lender prior to the date of this Deed.

**6.6 Registered land**

- (a) Each Chargor consents to an application being made to the Land Registry for a restriction in the following terms to be entered on the Proprietorship Register of such of the Charged Real Property as is now or hereafter registered at the Land Registry under the Land Registration Act 2002

"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 23 November 2016 in favour of ACF Finco I LP referred to in the Charges Register or if appropriate signed on such proprietor's behalf by its authorised signatory "

- (b) To the extent that the Lender is under an obligation to make further advances, each Chargor shall also make an application (and consents to an application being made) to the Land Registry for a note of such obligation to be entered on the Charges Register of any registered land forming part of the Charged Real Property
- (c) Each Chargor hereby certifies, in respect of any part of its Charged Real Property title to which is registered at the Land Registry, that the Charges created by this Deed do not contravene any of the provisions of the constitution of such Chargor.

**6.7 Right to remedy:** If a Chargor fails to perform any obligation affecting its Charged Real Property, that Chargor shall allow the Lender or its agents and contractors.

- (a) to enter any part of its Charged Real Property and carry out any repairs or other works which the Chargor has failed to do, and
- (b) to comply with or object to any notice served on that Chargor in respect of its Charged Real Property

and the Chargor shall reimburse the Lender on demand for all costs and expenses incurred by the Lender in doing so together with interest from the date of payment by the Lender until the reimbursement calculated in accordance with Clause 2.2 (*Interest*)

## **7 INVESTMENTS**

### **7.1 Deposit of documents**

Each Obligor shall, immediately upon the execution of this Deed or, if later, (the date required in accordance with the Loan Agreement) and upon its becoming entitled to the relevant Investment, deliver (or procure delivery) to the Lender, or as it directs

- (a) all certificates and other documents of title or evidencing title in respect of each of the Scheduled Investments listed against its name in Schedule 4 (*Details of the Scheduled Investments*) and each of the other Charged Investments belonging to it,
- (b) all stock transfer forms and other documents which the Lender may request in such form and executed in such manner as the Lender may require with a view to perfecting or maintaining the Charges over the Charged Investments or registering any Charged Investment in the name of the Lender or its nominees, and
- (c) declarations of trust in relation to any Investments in which an Obligor has an interest but which are not held in its sole name as required by the Lender

All documents required by this Clause 7.1 shall be in such form as the Lender shall require

### **7.2 Voting rights and distributions**

- (a) Until the Charges have become enforceable, the relevant Obligor shall be entitled to
  - (i) receive and retain all dividends, distributions and other amounts paid on or derived from any shares or stock comprised in its Charged Investments, and
  - (ii) exercise or direct the exercise of the voting rights and other rights and powers attached to its Charged Investments in any manner as it sees fit other than in a manner which
    - (A) is in breach of any Loan Document or which may adversely affect the validity or enforceability of the Charges or the value of such Charged Investments, or
    - (B) would cause the Lender or its nominee to incur any cost or expense or render itself subject to any liability for which it has not previously been indemnified to its satisfaction) or would otherwise prejudice the Lender
- (b) After an Event of Default has occurred and is continuing
  - (i) the Lender or any applicable Receiver may at its discretion (in the name of the relevant Obligor otherwise and without any further consent or authority from the relevant Obligor) but shall not be obliged to
    - (A) transfer the Charged Investments of each Obligor on behalf of the relevant Obligor to such nominee as the Lender shall select,
    - (B) receive and retain all dividends, distributions and other moneys paid on the Charged Investments and apply the same in accordance with Clause 16.1 (*Application*), and
    - (C) exercise any voting rights and any other rights and powers attached to any Charged Investments in such manner as it considers fit as if it were the sole beneficial owner of the Charged Investment (including all powers given to trustees under Part II of the Trustee Act 2000),
  - (ii) each Obligor shall comply, or procure the compliance, with any directions of the Lender or any Receiver in respect of the exercise of any rights and powers exercisable in relation to such Charged Investments and shall promptly execute and/or deliver to the Lender or any Receiver such forms of proxy as it or he requires with a view to enabling such person as it or he selects to exercise those rights, and
  - (iii) any Derivative Rights shall, if received by any Obligor or its nominee, be held on trust for and forthwith paid or transferred to the Lender or the Receiver

### 7.3 Notification of dividends

Each Obligor shall promptly notify the Lender of the declaration, payment, allotment, offer or issue of any dividend, distribution or other Related Right accruing or deriving from the Charged Investments

### 7.4 Calls

- (a) Each Obligor shall promptly pay all calls or other payments which may at any time become due in respect of any of its Charged Investments

- (b) If an Obligor fails to comply with paragraph (a) above, the Lender may, if it thinks fit, pay such calls or other payments on behalf of the relevant Obligor. Such Obligor shall promptly on request from the Lender reimburse the Lender for any such payment plus interest from the date of payment by the Lender until the date of reimbursement at the rate and in accordance with Clause 2.2 (*Interest*).

## 7.5 Offers

If any Investments are offered for subscription or purchase by way of rights in respect of any of the Charged Investments

- (a) if those Investments are vested in an Obligor or its nominee, such Obligor shall forthwith notify the Lender of the offer and if the Lender so requires by notice to such Obligor, such Obligor shall accept or procure the acceptance of the offer and make any payments required in connection with such acceptance, or
- (b) if those Investments are vested in the Lender or its nominee and if the Lender so requires by notice to an Obligor, such Obligor shall immediately put the Lender in funds to enable it or its nominee to accept the offer and make any payments required in connection with such acceptance.

## 7.6 Representations regarding Investments

Each Obligor represents and warrants to the Lender that

- (a) it is the sole legal and beneficial owner of the Scheduled Investments listed against its name in Schedule 4 (*Details of the Scheduled Investments*),
- (b) such Investments are free from all Security, options and other third party rights (except as created by this Deed),
- (c) its Scheduled Investments and, where applicable, its other Investments are fully paid,
- (d) the constitutions of the Scheduled Investments do not restrict or otherwise limit the relevant Obligor's right to transfer or charge such Scheduled Investments,
- (e) neither it nor any member of the Group is or has at any time been an employer (for the purposes of sections 38 to 51 of the Pensions Act 2004) of an occupational pension scheme which is not a money purchase scheme (both terms as defined in the Pensions Schemes Act 1993), and
- (f) neither it nor any member of the Group has been issued with a Pensions Notice or received any written communication from the Pensions Regulator that on its face is preparatory to the issue of a Pensions Notice.

## 8. MONETARY CLAIMS

### 8.1 Dealing with Monetary Claims

- (a) Save as permitted by the Loan Agreement, no Chargor shall enter into a single transaction or a series of transactions (whether related or not and whether voluntary or involuntary) to release, sell, transfer, assign, factor, discount or otherwise deal in any way with any of the Monetary Claims except as required by paragraph (b) below.

- (b) Each Chargor shall get in and realise in a prudent manner (on behalf of the Lender) all its Monetary Claims and pay such moneys into a Bank Account or, after the Charges have become enforceable, as the Lender may require. Each Chargor shall hold such moneys on trust for the Lender prior to such payment in

## 8.2 Release of Monetary Claims

- (a) Prior to the Charges becoming enforceable, the proceeds of the realisation of the Monetary Claims received by any Chargor shall, upon such proceeds being credited to a Bank Account, be released from the fixed charge created by Clause 3.2(a)(iii) (*Monetary Claims*) and only be subject to the floating Charge created by Clause 3.4 (*Floating Charge*) and the relevant Chargor may withdraw such proceeds from such Bank Accounts and shall be free to deal with such moneys or proceeds in the ordinary course of business, subject to any applicable restrictions set out in the Loan Agreement and this Deed
- (b) After the Charges have become enforceable, each Chargor shall not, except with the prior written consent of the Lender, be entitled to withdraw or otherwise transfer the proceeds of realisation of any Monetary Claims standing to the credit of any Bank Account and shall
  - (i) pay all moneys received or receivable by it from any source (including all proceeds of collection of Monetary Claims) into such Bank Accounts as are specified by the Lender, and
  - (ii) give notice to the debtors of any of its Monetary Claims of the Security created by this Deed in such form as the Lender may require.

## 9. BANK ACCOUNTS

### 9.1 Notification, maintenance and variation

Each Chargor shall

- (a) promptly after any Bank Account becomes charged pursuant to this Deed, deliver to the Lender a duly completed notice in respect of each Bank Account in the relevant form set out in Schedule 7 (*Notices for Bank Accounts*) (as applicable) or in such other form as the Lender may approve,
- (b) use all reasonable endeavours to procure the prompt delivery to the Lender of a duly completed acknowledgement in respect of any notice delivered pursuant to paragraph (a) above in the relevant form set out in Schedule 7 (*Notices for Bank Accounts*) (as applicable) or in such other form as the Lender may approve, acting reasonably,
- (c) deliver to the Lender on the date of this Deed (and, if any Bank Account becomes charged by this Deed thereafter, on the date falling five Business Days after such Bank Account becomes charged), details of each Bank Account maintained by such Chargor (other than with the Lender), and
- (d) not without the Lender's prior written consent,
  - (i) permit or agree to any variation of the rights attached to any Bank Account the result of which is materially prejudicial to the Lender, or

- (ii) close any Bank Account unless (i) such Bank Account is no longer required by the Group, (ii) the Lender receives five Business Days' notice prior to the closing of such Bank Account and (iii) any credit balance held in such Bank Account is transferred to another bank account over which Security is granted in favour of the Lender or such credit balance is otherwise applied in a manner permitted (or not prohibited) by the Loan Agreement

## 9.2 Location of Bank Accounts

- (a) Each Chargor shall maintain all its Bank Accounts with a branch of the Lender or another Account Bank approved by the Lender in accordance with Clause 9.1 above
- (b) Each Chargor which maintains a Bank Account which is not in compliance with paragraph (a) above shall transfer the Bank Account to an Account Bank which complies with paragraph (a) promptly after the date of this Deed

## 9.3 Operation of Bank Accounts

- (a) Until the Charges become enforceable, the Chargors shall be entitled to receive, withdraw or otherwise transfer any credit balance from time to time on any Bank Account subject to the terms of the Loan Agreement
- (b) After the Charges have become enforceable, the Chargors shall not be entitled to receive, withdraw or otherwise transfer any credit balance from time to time on any Bank Account except with the prior written consent of the Lender

## 9.4 Application of moneys

- (a) The Lender (or its Receiver) may (subject to the Intercreditor Agreement) apply, transfer or set-off any credit balances from time to time on any Bank Accounts in or towards payment or satisfaction of all or part of the Secured Liabilities in accordance with Clause 16.1 (*Application*) after the Charges have become enforceable or at any time when the Lender is entitled to exercise the relevant set-off rights under the terms of the Loan Agreement
- (b) Save as provided in this Clause 9 (*Bank Accounts*), each Chargor shall not release, sell, transfer, assign, factor, discount or otherwise deal in any way with any of the Bank Accounts other than in a manner which is not prohibited by the Loan Agreement

## 9.5 Exercise of rights following enforcement by Lender

After the Charges have become enforceable, the Lender shall be entitled without notice to exercise all rights and powers held by it in relation to the Bank Accounts and to

- (a) demand and receive any moneys due under or arising out of each Bank Account, and
- (b) exercise all rights the relevant Chargor was then entitled to exercise in relation to the Bank Accounts or would, but for this Deed, be entitled to exercise

## 10 INTELLECTUAL PROPERTY

### 10.1 Intellectual Property licence agreements restricting charging, etc

- (a) There shall be excluded from Clause 3 2 (*Fixed Charges*) or Clause 3 4 (*Floating Charge*) any Intellectual Property licence agreement where Clauses 3 2 or 3 4 would breach the terms of that licence agreement (an "Excluded IP Licence").
- (b) in respect of each Excluded IP Licence
  - (i) the relevant Chargor shall notify the Lender promptly of that Excluded IP Licence,
  - (ii) this Deed will charge all amounts which the relevant Chargor may receive, or has received, under that Excluded IP Licence,
  - (iii) the relevant Chargor shall use all reasonable endeavours to promptly obtain any necessary consent or waiver relating to that Excluded IP Licence which would otherwise prevent or prohibit such rights being charged or assigned under this Deed and, if such consent or waiver is obtained, such rights shall immediately become subject to an effective fixed Charge, floating Charge or assignment pursuant to Clause 3 2 (*Fixed Charges*) or Clause 3 4 (*Floating Charge*) (as the case may be) and such Chargor shall promptly provide a copy of such consent or waiver to the Lender

## 10.2 Intellectual Property undertakings

- (a) Each Chargor undertakes that it shall, in respect of its present and future Intellectual Property
  - (i) duly pay all fees for the Intellectual Property registrations,
  - (ii) not amend, abandon or cancel the Intellectual Property registrations,
  - (iii) duly maintain the prosecution of the Intellectual Property applications (including payment of all fees),
  - (iv) continue to use the trade marks in all countries and in respect of all goods and services for which they are currently used by any Chargor,
  - (v) promptly seek to prevent any material infringement of the Intellectual Property
- (b) Each Chargor undertakes that, in respect of its present and future Intellectual Property, it shall
  - (i) not consent to the trade mark application of another person,
  - (ii) not make any admissions that are prejudicial to the validity of the intellectual Property,
  - (iii) not grant any exclusive or sole licences in respect of the Intellectual Property,
  - (iv) not grant any non-exclusive licences other than in the ordinary course of business and on ordinary terms

## 10.3 Representations regarding Intellectual Property

Each Chargor represents and warrants to the Lender at the date hereof that

- (a) it is the sole legal and beneficial owner of the Scheduled Intellectual Property listed against its *name in Schedule 3 (Details of the Scheduled Intellectual Property)* free from all Security; and
- (b) in respect of all of its Intellectual Property
  - (i) none of such Intellectual Property is subject to an exclusive or sole licence,
  - (ii) the validity and ownership of such Intellectual Property is not being challenged in any proceedings, and no such proceedings have been threatened, and
  - (iii) so far as it is aware, there is currently no material infringement of such Intellectual Property

## **11 INSURANCE**

### **11.1 Notices**

Each Chargor shall promptly serve (with a copy to the Lender) a Notice of Insurance Assignment to the brokers or underwriters of each Insurance Policy and each Chargor shall use all its reasonable endeavours to procure the prompt delivery to the Lender of a duly completed acknowledgement in the form set out in Schedule 9 (*Form of Notice of Assignment to Insurers*) or in such other form as the Lender may approve.

### **11.2 Insurance undertakings**

- (a) Each Chargor shall maintain insurances on and in relation to the Charged Assets against those risks and to the extent as is usual for companies carrying on the same or substantially similar business, in accordance with the terms of the Loan Agreement.
- (b) All insurances shall be with reputable independent insurance companies or underwriters
- (c) Such Chargor shall also comply with any obligations imposed on it by any tenancy agreement or lease to insure or to reimburse the landlord under such tenancy or lease for any costs of insurance incurred by such landlord.
- (d) The insurance required to be effected pursuant to paragraph (a) above shall be in an amount which is not less than the aggregate cost of rebuilding, reinstating or replacing such Charged Assets in the event of their being completely destroyed, together with architects' and surveyors' fees
- (e) Any such insurance shall be in the joint names of the Lender and the relevant Chargor or, at the option of the Lender, such Chargor shall procure that a note of the Lender's interest is endorsed upon all policies of insurance maintained by that Chargor or any person on its behalf in respect of its Charged Assets

### **11.3 Application of moneys**

Any moneys received under any Insurance Policies relating to Charged Assets shall be applied (subject to the terms of the Intercreditor Agreement and any person having prior rights to such moneys)

- (a) prior to the occurrence of an Event of Default which is continuing in accordance with the Loan Agreement, and
- (b) following an Event of Default, the Chargor shall hold such moneys upon trust for the Lender pending payment to the Lender for application in accordance with Clause 16.1 (*Application*)

#### **11.4 Premiums, etc**

- (a) Each Chargor shall
  - (i) promptly pay all premiums and other moneys payable under its Insurance Policies required to be maintained under this Deed,
  - (ii) promptly on request by the Lender, produce to the Lender a copy of each policy effected by it and the related premium receipts and of such other documents relating to the Insurance Policies, as the Lender shall require, and
  - (iii) (if required by the Lender), but subject to the provisions of any lease of Charged Assets, deposit all its Insurance Policies with the Lender
- (b) If a Chargor fails to comply with its obligations under this Clause 11 (*Insurance*), the Lender may effect such insurance as it thinks fit and the relevant Chargor shall reimburse the Lender on demand for the cost of effecting such insurance

#### **12 INTENTIONALLY OMITTED**

#### **13. INTENTIONALLY OMITTED**

#### **14. ENFORCEMENT**

**14.1 Power of sale:** The power of sale or other disposal and other powers conferred on the Lender and on any Receiver by this Deed shall operate as a variation and extension of the statutory power of sale and other powers conferred on mortgagees under section 101 of the LPA and such powers shall arise on the date of this Deed free from the restrictions imposed by section 103 of the LPA, which shall not apply to the Charges

#### **14.2 Enforceability of Security**

- (a) For the purposes of all powers implied by the LPA or any other applicable statute, the Secured Liabilities shall be deemed to have become due and payable upon the date of this Deed
- (b) Save as provided in Clause 14.3 (*Effect of moratorium*) below, the Security created by or pursuant to this Deed shall become immediately enforceable upon
  - (i) the occurrence of an Event of Default which is continuing, or
  - (ii) a petition being presented or application made for the appointment of an Administrator in respect of the relevant Chargor, or
  - (iii) notice being given by a person entitled to do so of the intention to appoint an Administrator or such notice being filed with the court,
 and the power of sale conferred by section 101 of the LPA and all other powers conferred on mortgagees and Receivers by law (as varied and extended by this Deed)

shall be exercisable in relation to the Charges and the Lender may, without notice to the Chargor(s) or prior authorisation from any court, in its absolute discretion, take possession, hold or dispose of any Charged Asset at any time after the Charges have become enforceable

- (c) The statutory power of leasing conferred upon the Lender shall be extended so as to authorise the Lender to lease, make agreements for leases, accept surrenders of leases and grant options as the Lender thinks fit and without the need to comply with any of the provisions of sections 99 and 100 of the LPA and any lease granted will bind any holder of a subsequent Security deriving title under the Lender

**14.3 Effect of moratorium:** The Charges will not become enforceable solely as a result of any person obtaining or taking steps to obtain a moratorium under Schedule A1 of the Insolvency Act 1986

**14.4 Contingencies:** If the Charges are enforced at a time when no amount is due under the Loan Documents but at a time when amounts may or will become due, the Lender (or the Receiver) may pay the proceeds of any recoveries effected by it into a suspense account

**14.5 Renewal of deposits:** Without prejudice to any right of set-off the Lender may have under any other Loan Document or otherwise, if any time deposit matures on any account a Chargor has with the Lender prior to the Release Date when:

- (a) the Charges have become enforceable, and
- (b) no Secured Liability is at that time due and payable,

that time deposit will automatically be renewed for any further period which that the Lender considers appropriate

**14.6 Right of appropriation: financial collateral:** To the extent that any of the Charged Assets constitute "financial collateral" and this Deed and the obligations of any Chargor hereunder constitute a "security financial collateral arrangement" (in each case as defined in, and for the purposes of, the Financial Collateral Arrangements (No 2) Regulations 2003 (SI 2003 No 3226)(the "Regulations")), the Lender shall have the right following enforcement of this Deed to appropriate all or any part of such financial collateral in or towards discharge of the Secured Liabilities and may exercise such right to appropriate upon giving written notice to the relevant Chargor. For this purpose, the parties agree that the value of such financial collateral so appropriated shall be

- (a) in the case of cash, the amount standing to the credit of each of the Bank Accounts, together with any accrued but unposted interest, at the time the right of appropriation is exercised, and
- (b) in the case of Investments, the market price of such Investments determined by the Lender by reference to a public index or by such other process as the Lender may select, including independent valuation

In each case, the parties agree that the method of valuation provided for in this Deed shall constitute a commercially reasonable method of valuation for the purposes of the Regulations

## 15 APPOINTMENT AND RIGHTS OF RECEIVERS AND ADMINISTRATORS

### 15.1 Appointment of Receivers and Administrators

(a) If

- (i) an Event of Default occurs and is continuing,
- (ii) so requested by the relevant Obligor, or
- (iii) subject to Clause 14.3 (*Effect of moratorium*), a petition is presented or application made for the appointment of an administrator, a liquidator or a provisional liquidator in respect of the relevant Obligor or notice is given by any person entitled to do so of the intention to appoint an Administrator or such notice is filed with the court,

the Lender may, by deed or otherwise in writing signed by any officer of the Lender or any other person authorised by the Lender for this purpose without the prior consent of the relevant Obligor

- (A) appoint one or more persons to be Receiver of any Charged Assets of the relevant Obligor and/or appoint two or more Receivers of separate parts of the Charged Assets, or
  - (B) when permitted by law, appoint one or more persons to be an Administrator of the relevant Obligor pursuant to paragraph 14 of Schedule B of the Insolvency Act 1986, or
  - (C) (subject to any requirement for a court order under the Insolvency Act 1986 or any other applicable insolvency law) remove any Receiver so appointed and, at its option, appoint another person(s) to be an additional or replacement Receiver
- (b) If more than one person is appointed Receiver or Administrator of any assets, each Receiver or Administrator may act either jointly or severally unless the document appointing him states otherwise
- (c) Section 109(1) of the LPA does not apply to this Deed
- (d) The powers of appointment of a Receiver under this Deed shall be in addition to all other statutory and other powers of appointment of the Lender under the LPA or otherwise

**15.2 Rights of Receivers.** Any Receiver appointed pursuant to this Deed shall (subject to any restrictions in the instrument appointing him but notwithstanding any winding-up or dissolution of the relevant Obligor) have and be entitled to exercise, in relation to the Charged Assets (and any other assets which when got in, would be Charged Assets) in relation to which he is appointed

- (a) all the rights, powers, privileges and immunities conferred on an administrative receiver or other receivers duly appointed under the Insolvency Act 1986 (whether or not the Receiver is an administrative receiver),
- (b) all the powers conferred by the LPA or any other applicable law on mortgagees, mortgagees in possession and on receivers, and

- (c) all the powers and rights of an absolute owner and power to do or omit to do anything which such Obligor itself could do or omit to do

In addition, a Receiver shall be entitled (either in his own name or in the name of the relevant Obligor or any trustee or nominee for the relevant Obligor) or otherwise and in such manner and upon such terms and conditions as the Receiver thinks fit and either alone or jointly with any other person

- (a) **Take possession:** to enter upon, take possession of, get in and collect the Charged Assets, to require directors of such Obligor to call up unpaid share capital and to take action to enforce payment of unpaid calls and to require payment to him or the Secured Parties of any Monetary Claims or credit balance on any Bank Account,
- (b) **Carry on business:** to manage or carry on any business of the relevant Obligor;
- (c) **Contracts:** to enter into any contract or arrangement and to perform, repudiate, rescind or vary any contract or arrangement to which such Obligor is a party to the extent necessary to dispose of the Charged Assets and to perform its obligations,
- (d) **Deal with Charged Assets:** to sell, transfer, assign, exchange, hire out, lend or otherwise dispose of, convert into money or realise the Charged Assets (including any Fixtures, other than landlord's fixtures, which may be severed and sold separately from the Real Property containing them) either by public offer or auction, tender or private contract to any person on any terms and for a consideration of any nature he thinks fit,
- (e) **New Subsidiary:**
  - (i) to form or procure the formation of any new corporation, trust or partnership (a 'new vehicle');
  - (ii) to subscribe for or acquire any Investment in such new vehicle,
  - (iii) to transfer or transfer any right in or grant any lease or licence in any Charged Assets to such new vehicle, and
  - (iv) to sell, transfer, assign, exchange or otherwise dispose of any such investments or any rights attaching thereto,
- (f) **Borrowings:** to borrow or raise money either unsecured or on the Security of the Charged Assets either in priority to the Charges or otherwise and on such terms as he thinks fit,
- (g) **Covenants and guarantees:** to lend money or advance credit to any customer of a Chargor, enter into bonds, covenants, commitments, guarantees, indemnities or like matters and to make all requisite payments to effect, maintain or satisfy the same,
- (h) **Rights of ownership:** to the extent permitted by law to manage and use the Charged Assets and to exercise and do (or permit the relevant Obligor or any nominee of it to exercise and do) all such rights and things as the Receiver would be capable of exercising or doing if he were the absolute beneficial owner of the Charged Assets,

- (i) **Leases and tenancies:** to grant leases, tenancies or licences and rights of user in relation to any Charged Assets to any person on any terms and for any rent or fee, to agree to any change to such terms or rent and to accept any surrender of such lease, tenancy, licence or rights of user on any terms (including the payment of any surrender premium) and to make agreements and arrangements with and make allowances to any lessees, tenants or other persons from whom any rents and profits may be payable, in each case it shall think fit,
- (j) **Repairs:** to effect any repairs or improvements to or insurance on, or do any act which he may think desirable to protect or improve, any Charged Asset or any business of any Chargor or make it more productive, to carry out and/or complete any building operations and to apply for and maintain any planning permissions, building regulation approvals and other consents, in each case as he thinks fit,
- (k) **Proceedings and claims:** to bring, prosecute, enforce, defend and abandon actions, suits and proceedings in relation to the Charged Assets or the business of the relevant Chargor,
- (l) **Compromise of claims:** to settle, adjust, refer to arbitration, compromise and arrange any claims, accounts, disputes, questions and demands with or by any person who is or claims to be a creditor of the relevant Obligor or relating in any way to the Charged Assets,
- (m) **Redemption of Security:** to redeem any Security (whether or not having priority to the Charges) over the Charged Assets and to settle the accounts of encumbrancers,
- (n) **Employment:** to appoint and discharge officers, employees, agents and advisors and others for the purposes of this Deed and to discharge any person appointed by the relevant Chargor,
- (o) **Receipts** to give a valid receipt for any moneys and execute any document which is necessary or desirable for realising any Charged Assets,
- (p) **Insolvency Act 1986:** to exercise all powers set out in Schedule 1 or Schedule B1 to the Insolvency Act 1986 (whether or not the Receiver is an administrative receiver) and any powers added to Schedule 1 or Schedule B1, as the case may be, after the date of this Deed, and
- (q) **Other powers:** to do all such other acts and things the Receiver may consider necessary or expedient for preserving, improving or realising the Charged Assets or the getting in and collection of the Charged Assets (or any assets which when got in would constitute Charged Assets) or which are incidental to the exercise of any of the rights, powers and discretions conferred on the Receiver under or by virtue of this Deed or by law

Each of the powers specified in each of the above paragraphs shall (except as otherwise provided) be distinct and shall not be in any way limited by reference to any other paragraph or the order in which they appear

- 153 **Agent of Chargor:** Any Receiver shall be the agent of the relevant Obligor for all purposes unless and until the relevant Obligor goes into liquidation after which time the

Receiver shall act as principal and shall not become agent of the Lender. Subject to any applicable law, the Obligors alone shall be responsible for his contracts, engagements, acts, omissions, defaults and liabilities. The Lender shall not incur any liability by reason of the appointment of a Receiver under this Deed.

- 15.4 **Remuneration:** The Lender may from time to time determine the remuneration of any Receiver and the maximum rate specified in section 109(6) of the LPA will not apply. The Lender may direct payment of such remuneration out of moneys accruing to the Receiver but the Obligors alone shall be liable for the payment of such remuneration and for all other costs, charges and expenses of the Receiver.

## 16. DISTRIBUTION

- 16.1 **Application:** All moneys from time to time received or recovered by the Lender or a Receiver or Delegate pursuant to this Deed or pursuant to the powers conferred by it shall (subject to the terms of the Intercreditor Agreement and the payment of any liabilities having priority to the Secured Liabilities by law and by way of variation of the provisions of the LPA), be applied in the following order:

- (a) in or toward the payment of or provision for all costs, losses, liabilities and expenses incurred by the Lender or any Receiver or Delegate under or in connection with this Deed or their appointment and the Receiver's remuneration due in connection with this Deed,
- (b) in or toward discharge of the Secured Liabilities in accordance with the Intercreditor Agreement, and
- (c) in payment of any surplus to the relevant Obligor or other person entitled thereto.

## 17. LENDER'S RIGHTS

- 17.1 **General rights:** All or any of the rights which are conferred by this Deed (either expressly or impliedly) or by law upon a Receiver may be exercised after the Charges become enforceable by the Lender or, to the extent permitted by law, an Administrator, irrespective of whether the Lender shall have taken possession or appointed a Receiver of the Charged Assets.

### 17.2 Redemption of prior Security.

- (a) Subject to the Intercreditor Agreement and Clause 14.3 (*Effect of moratorium*), in the event of any action, proceeding or step being taken to exercise any powers or remedies conferred by any prior ranking Security or upon the exercise of any power of sale under this Deed by the Lender or any Receiver, the Lender may at any time redeem any Security having priority to any Charges or procure the transfer of that Security to itself and may settle the accounts of the prior encumbrancer and any accounts so settled shall, in the absence of manifest error, be conclusive and binding on each Obligor.
- (b) Each Obligor shall, on demand by the Lender, pay to the Lender all the costs and expenses incurred by it in connection with any such redemption or transfer.
- (c) All the rights conferred by a prior charge upon the chargee or any receiver thereunder shall be exercisable by the Lender or a Receiver in like manner as if the same were expressly

included herein and the Lender shall be entitled to exercise all the rights of a receiver appointed thereunder

**17.3 Delegation:**

- (a) The Lender, any Receiver and any Delegate may, at any time, delegate by power of attorney or otherwise to any person for any period any of the rights, powers or discretions vested in it under this Deed
- (b) That delegation may be made upon any terms and conditions (including the power to sub delegate) and subject to any restrictions that the Lender, that Receiver or that Delegate (as the case may be) may, in its discretion, think fit in the interests of the Lender and it shall not be bound to supervise, or be in any way responsible for any loss incurred by reason of any misconduct, omission or default on the part of any such delegate or sub delegate

**17.4 Continuation of accounts:** At any time following the commencement of the winding-up of any Obligor or if the Lender receives notice or is deemed to have received notice of any subsequent Security affecting the Charged Assets or of any assignment or transfer, the Lender may open a new account with it in the name of such Obligor. If the Lender does not open a new account, it shall nevertheless be treated as if it had done so at the time when the winding-up commenced or the Lender received, or was deemed to have received, notice of such subsequent Security. All payments made thereafter by an Obligor to the Lender shall be treated as having been credited to a new account of such Obligor and not as having been applied in reduction of the Secured Liabilities as at the time when the winding-up commenced or the Lender received such notice

**17.5 Retention of documents:** The Lender shall be entitled to continue to retain any document delivered to it under this Deed relating to a Charged Asset until the Charges over such Charged Asset are released in accordance with this Deed. If, for any reason, it ceases to hold any such document before such time, it may by notice to the relevant Obligor require that the relevant document be redelivered to it and the relevant Obligor shall promptly comply with that requirement or procure that it is complied with

**17.6 Custody:** The Lender shall be entitled to keep all certificates and documents of title relating to the Charged Assets in safe custody at any of its branches or otherwise provide for their safe custody by third parties and shall not be responsible for any loss or damage occurring to or in respect thereof unless such loss or damage shall be caused by its own gross negligence or wilful misconduct

**17.7 Recovery of debts:** The Lender and any manager or officer of the Lender or of any branch is hereby irrevocably empowered on or after the date the Charges are first enforced to receive all Monetary Claims and on payment to give an effectual discharge therefor and on non-payment to take (if the Lender in its sole discretion so decides) all steps and proceedings either in the name of each Obligor or in the name of the Lender for the recovery thereof and also to agree accounts and to make allowances and to give time to any surety. Neither the Lender nor any Receiver shall be obliged to make any enquiry as to the sufficiency of any sums received in respect of any Monetary Claims or to make any claims or take any other action to collect or enforce the same

**18 RESPONSIBILITIES OF THE LENDER, RECEIVERS AND DELEGATES**

- 18.1 No obligation to remain in possession:** If the Lender, any Receiver or any Delegate shall take possession of the Charged Assets, it may from time to time in its absolute discretion relinquish such possession
- 18.2 No liability as mortgagee in possession:** Neither the Lender nor any Receiver or Delegate will be liable, by reason of entering upon or into possession of a Charged Asset (or viewing or repairing any Charged Assets or otherwise), to account as mortgagee in possession in respect of any Charged Assets or for any loss upon realisation or for any neglect, default or omission in respect of any Charged Assets for which a mortgagee in possession might otherwise be liable
- 18.3 Lender's obligation to account** Neither the Lender nor any Receiver or Delegate shall (either by reason of taking possession of the Charged Assets or for any other reason)
- (a) be liable to account to any Obligor or any other person for anything except the Lender's own actual receipts which have not been distributed or paid to such Obligor or the persons entitled (or at the time of payment believed by the Lender to be entitled) thereto, or
  - (b) be liable to such Obligor or any other person for any costs, losses, liabilities or
  - (c) expenses related to any realisation of any Charged Assets or from any act, default, omission or misconduct of the Lender, any Receiver, any Delegate or their respective officers, employees or agents in relation to the Charged Assets or in connection with any Loan Document unless caused by its own gross negligence or wilful misconduct

**19. POWER OF ATTORNEY**

- 19.1 Appointment:** Each Obligor by way of Security irrevocably appoints the Lender, every Receiver and every Delegate severally to be its attorney (with full power of substitution), on its behalf and in its name or otherwise, at such time and in such manner as the attorney thinks fit
- (a) to do all acts and things which such Obligor is obliged to do under this Deed (or any other Loan Document) but has failed to do, including, without limitation
    - (i) to fill in the name of the transferee and to date and complete any instrument of transfer in respect of any Charged Investments which has been executed in blank by such Obligor and, in the case of registered Charged Investments, to procure the registration of the transferee as the holder of the relevant Charged Investments in circumstances in which the Charged Investments are to be transferred under the terms of this Deed,
    - (ii) to execute charges over, transfers, conveyances, assignments and assurances of, and all other instruments, notices, orders and directions relating to, the Charged Assets, and
    - (iii) to register or renew registration of the existence of the Charges or the restrictions on dealing with the Charged Assets in any register,

- (b) to transfer any interest in any Charged Assets in the circumstances in which such transfer may be required under this Deed, including on an enforcement of the Charges over such Charged Assets; and
  - (c) to exercise any right conferred on the Lender, any Receiver or any Delegate in relation to the Charged Assets under this Deed or any other Loan Document or by law after such right has become exercisable
- 19.2 **Ratification:** Each Obligor agrees to ratify and confirm whatever any such attorney shall do or purport to do in the exercise or purported exercise of the power of attorney granted by Clause 19.1 (*Appointment*)
- 19.3 **Sums recoverable:** All moneys expended by the Lender, any Receiver, any Delegate or any attorneys shall be recoverable from the Chargor under Clause 21 (*Expenses, stamp duty and indemnities*) below and Section 10.9 of the Loan Agreement
- 20. **PROTECTION OF THIRD PARTIES**
- 20.1 **No duty to enquire:** No person dealing with the Lender, any Receiver or any Delegate shall be concerned to enquire
  - (a) whether any right which the Lender or any Receiver or Delegate is purporting to exercise or any of its powers has arisen or become exercisable;
  - (b) whether the Secured Liabilities have become payable or any amount remains outstanding under the Loan Documents,
  - (c) as to the application of any money borrowed or raised or paid to the Lender or any Receiver, Administrator or Delegate, or
  - (d) as to the propriety or regularity of such dealings
- 20.2 **Receipt:** The receipt of the Lender or any Receiver or Delegate shall be conclusive discharge to a purchaser and, in making any sale or disposal of any of the Charged Assets or in making any acquisition, the Lender or any Receiver may do so for any such consideration, in such manner and on such terms as it thinks fit
- 20.3 **Statutory protection:** All the protection to purchasers contained in sections 104 and 107 of the LPA, section 42(3) of the insolvency Act 1986 or in any other applicable legislation shall apply to any person purchasing from or dealing with the Lender, any Receiver or any Delegate
- 20.4 **Tacking:** Subject to the terms of the Loan Agreement, each Lender is under an obligation to make further advances and that obligation will be deemed to be incorporated in this Deed as if set out in this Deed
- 21. **EXPENSES, STAMP DUTY AND INDEMNITIES**
- 21.1 **Expenses:** Each Obligor shall on demand pay to and reimburse the Lender, Receiver, Delegate, agent or attorney, on the basis of a full indemnity, all costs and expenses (including legal fees and other out of pocket expenses and any incurred by the Lender, Receiver, Delegate, agent or attorney in connection with this Deed and shall indemnify them against any failure to pay such amounts

- 21.2 **Indemnity.** Each Obligor shall, notwithstanding any release or discharge of all or any part of the Security, indemnify the Lender, its attorneys and any Receiver in accordance with the terms of the Loan Agreement
- 21.3 **Stamp Taxes:** Each Obligor shall on demand pay to and indemnify the Lender and any Receiver, Delegate, agent or attorney from and against any liability for any stamp duty, stamp duty reserve, stamp duty land tax, documentary or registration or similar Taxes or notarial fees which are or may subsequently become payable in connection with the entry into, performance, execution or enforcement of this Deed or to which this Deed may otherwise be or become subject or give rise. Each Obligor shall in addition on demand indemnify the Lender, any Receiver, Delegate, agent or attorney from and against any losses or liabilities which they incur as a result of any delay or omission by such Obligor to so pay any such amounts
22. **PAYMENTS**
- 22.1 **Certificates:** A certificate, determination, notification or opinion of the Lender as to the amount of the Secured Liabilities or any other matter connected with this Deed or the Charges shall, in the absence of manifest error, be conclusive evidence of the matters to which it relates
- 22.2 **Payments:** All payments under or pursuant to this Deed (including damages in respect of breaches hereof) shall be made in accordance with the Loan Agreement and the Intercreditor Agreement or in such other manner as the Lender may agree and direct
23. **EFFECTIVENESS OF SECURITY**
- 23.1 **Obligors' obligations continuing:** Each Obligor's obligations under Clause 2 (*Covenant to pay*) and the Charges are continuing obligations and will extend to the ultimate balance of the Secured Liabilities, regardless of any intermediate payment or discharge in whole or in part
- 23.2 **Cumulative rights:** The rights and remedies provided in this Deed are cumulative and in addition to and independent of and not in any way prejudiced by any rights or remedies provided by law or any other Security, guarantees or rights of set-off or combination thereof held by the Lender
- 23.3 **Failure to exercise rights:** No failure by the Lender to exercise or delay in the exercise of any right or remedy under this Deed will operate as a waiver thereof nor will any single or partial exercise of any right or remedy preclude any other or further exercise thereof or the exercise of any other right or remedy
- 23.4 **Immediate recourse:** This Deed and the Obligors' obligations under this Deed are in addition to, and not to be prejudiced by or to be merged with, any other guarantee, indemnity or Security at any time existing in favour of any person. Each Obligor waives any right it may have to require the Lender (or any trustee or agent on its behalf) to make demand of, proceed against or enforce any other rights or Security or claim payment from any person before claiming against such Obligor. This waiver applies irrespective of any law or any provision of any Loan Document (other than the Intercreditor Agreement) to the contrary

- 23.5 **Grant of waivers:** A waiver given or consent granted by the Lender under this Deed will be effective only if given in writing and then only in the instance and for the purpose for which it is given
- 23.6 **Waiver of defences:** As between each Obligor and the Lender but without affecting the obligations of any Borrower (as defined in the Loan Agreement), each Obligor shall be liable under Clause 2 (*Covenant to pay*) as if it were the principal debtor and not merely a surety. Neither the Charges nor the obligations of each Obligor under this Deed shall be discharged or affected by (and each Obligor hereby irrevocably waives any defences it may now or hereafter acquire in any way relating to) any act, omission, matter or thing which, but for this Clause 23.6, would reduce, release or prejudice any of its obligations under any Loan Document (without limitation and whether or not known to such Obligor or the Lender) including
- (a) any time, waiver or consent given to, or any composition with Obligor or any other person,
  - (b) the release of any Obligor or any other person under the terms of any composition or arrangement with any creditor of any other person,
  - (c) any amendment, novation, supplement, extension (whether of maturity or otherwise) or restatement (in each case however fundamental and of whatever nature) or replacement of any Loan Document or any other document or Security, including without limitation any change in the purpose of any new or increased advances or utilisations, any extension of any date for payment or any increase in any commitment or facility or the issue of any additional notes or the addition of any new facility under any Loan Document or other document or Security,
  - (d) the taking, perfection, enforcement, variation, compromise, exchange, renewal, release of, or the refusal or neglect to take, perfect or enforce, any rights against, or Security over, assets of, or any guarantee or undertaking given by, any Obligor 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,
  - (e) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or constitution or status of any Obligor or any other person,
  - (f) the illegality, invalidity or unenforceability of any obligation of any person under, or expressed to arise under, any Loan Document or other document or Security,
  - (g) any insolvency or similar proceedings under the laws of any jurisdiction or the making of any arrangement or composition with or for the benefit of creditors by any Obligor, the Lender or any other person,
  - (h) the Lender ceasing or refraining from giving credit or making loans or advances to or otherwise dealing with any Obligor or any other person (but without prejudice to any rights which any Obligor may have against the Lender by reason of default by the Lender under the Loan Documents), or
  - (i) the failure of the Lender to disclose to any Obligor any information relating to the business, assets, financial condition or prospects of any other Obligor now or hereafter known to the Lender (each Obligor waiving any duty on the part of the Lender to disclose such information)

**23.7 Deferral of Chargor's rights:** Until all Secured Liabilities have been irrevocably and unconditionally paid and discharged in full or the Lender otherwise directs, no Obligor shall exercise any rights which it may have (by reason of performance by it of its obligations under the Loan Documents or by reason of any amount being payable, or liability arising, under this Deed)

- (a) to be indemnified by any other Obligor,
- (b) to claim any contribution or payment from any other provider of Security or surety of any Obligor's obligations under the Loan Documents,
- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Lender under the Loan Documents or of any other Security or guarantee taken pursuant to, or in connection with, the Loan Documents by the Lender,
- (d) to bring legal or other proceedings for an order requiring any Obligor to make any payment, or perform any obligation, in respect of which any Obligor has given a guarantee, undertaking or indemnity under this Deed,
- (e) to exercise any right of set-off against any Obligor, and/or
- (f) to claim or prove as a creditor of any Obligor in competition with the Lender

Such Obligor shall hold any benefit, payment or distribution received or recovered by it as a result of any exercise of any such right on trust for the Lender and shall pay an amount equal to the amount received or recovered immediately to the Lender

**23.8 Partial invalidity:** If at any time any provision of this Deed is or becomes invalid, illegal or unenforceable in any respect (or any of the Charges intended to be created by or pursuant to this Deed is ineffective) in any jurisdiction, that shall not affect the legality, validity or enforceability of

- (a) the remaining provisions or the effectiveness of any of the remaining Charges in that jurisdiction, or
- (b) that or any other provision or the effectiveness of such Charges in any other jurisdiction

**23.9 Reinstatement:** If any discharge, release or arrangement (whether in respect of the obligations of any Obligor or any Security for those obligations or otherwise) is made by the Lender in whole or in part on the basis of any payment, Security or other disposition which is avoided or reduced (or must be restored in insolvency, liquidation, administration or otherwise, without limitation), then

- (a) the liability of each Obligor and the Charges will continue or be reinstated as if the discharge, release or arrangement, avoidance or reduction had not occurred,
- (b) the Lender shall be entitled to recover the value or amount of that payment, Security or arrangement from each Chargor, as if the avoidance or reduction had not occurred, together with any other cost, loss, expense or liability incurred by the Lender as a result of such avoidance or reduction, and
- (c) each Obligor shall on demand indemnify the Lender against any funding or other cost, loss, liability or expense incurred by the Lender as a result of the Lender being

required for any reason to refund all or part of any amount received by it in respect of any of the Secured Liabilities

**23.10 Security retention:** If the Lender considers that any amount paid or credited under any Loan Documents is capable of being avoided or otherwise set aside under any laws relating to insolvency or otherwise that amount shall not be treated as paid for the purposes of determining whether the Secured Liabilities have been paid

**23.11 Final redemption:**

- (a) The Lender shall at the cost of the relevant Obligor on the date on which it is satisfied that all the Secured Liabilities have been irrevocably and unconditionally paid and discharged in full and no further Secured Liabilities are capable of becoming outstanding (the "Release Date") or following receipt of a notice under paragraph (b) below, take all reasonable steps to release and/or re-assign the Charged Assets from the Charges but without recourse to or any representation or warranty by the Lender or any of its nominees
- (b) If the Obligors are entitled to, under the terms of the Loan Agreement, and wish to require the release of the Charges in whole or part, they shall give the Lender not less than seven Business Days' prior notice in writing requesting release of the Charges
- (c) All documents which are necessary in connection with the redemption of the Charges or the transfer of the Charged Assets back to the relevant Obligor shall be in such form as the Lender shall require
- (d) On any release of Investments hereby charged or any part of them from this Deed at a time when the Charges are enforceable, the Lender shall not be bound to return or re-transfer to the relevant Obligor the identical Investments deposited with it or transferred to it or its nominee or nominees but the relevant Obligor shall accept Investments of the same class and denomination or other Investments (as the case may be)

**23.12 Consolidation:** Section 93 of the LPA (restricting the right of consolidation of the Charges with any other Security) shall not apply to the Charges and the Lender may consolidate all or any of the Charges with any other Security to the extent lawful

**23.13 Appropriations:** Until all Secured Liabilities have been irrevocably and unconditionally paid and discharged in full and all facilities which might give rise to Secured Liabilities have been terminated, the Lender (or any trustee or agent on its behalf) may, subject to the terms of the Intercreditor Agreement and without affecting the liability of any Obligor under this Deed

- (a) refrain from applying or enforcing any other moneys, Security or rights held or received by the Lender (or any trustee or agent on its behalf) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and no Obligor shall be entitled to the benefit of the same, and
- (b) hold in an interest-bearing suspense account any moneys received from any Obligor or on account of any Obligor's liability under this Deed

**24 SET-OFF**

- 24.1 Set-Off:** The Lender may (without notice to the relevant Obligor) set off or otherwise apply against the Secured Liabilities any credit balance to which any Chargor is entitled on any account with the Lender and any other obligation (contingent or otherwise) owing by the Lender regardless of the place of payment, booking branch or currency of either obligation or the terms of any deposit standing to the credit of such account
- 24.2 Currency conversion:** The Lender may exercise such rights notwithstanding that the obligations concerned may be expressed in different currencies and the Lender is authorised to convert either obligation at a market rate of exchange in its usual course of business for the purpose of the setoff
- 24.3 Set-off rights cumulative:** This Clause 24 (*Set-off*) shall be in addition to and without prejudice to any rights of set-off or any other rights or remedies which the Lender may have

**25. COMMUNICATIONS**

Any communication or document made or delivered under or in connection with this Deed shall be made or delivered in accordance with Section 10.5 (*Notices*) of the Loan Agreement

**26. COUNTERPARTS**

- 26.1 Counterparts** This Deed may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Deed
- 26.2 Non-signatories:** Failure by one or more parties ("**Non-Signatories**") to execute this Deed on the date hereof will not invalidate the provisions of this Deed as between the other parties who do execute this Deed. Such Non-Signatories may execute this Deed (or a counterpart thereof) on a future date and will thereupon become bound by its provisions

**27. CHANGES TO PARTIES**

- 27.1 Assignment:** The Lender may at any time assign or otherwise transfer all or any part of its rights under this Deed in accordance with and subject to the Loan Documents. Subject to the provisions of the Loan Agreement, the Lender shall be entitled to disclose such information concerning the Obligors and this Deed as the Lender considers appropriate to any actual or proposed direct or indirect successor, or to any person to whom information may be required to be disclosed by any applicable law
- 27.2 Accession:**
- (a) Each Obligor shall procure that any new Subsidiary of it which is required to do so by the terms of the Loan Agreement executes a Security Accession Deed and thereby charges its assets and undertaking contemplated by this Deed to the Lender
  - (b) Each Obligor consents to new Subsidiaries becoming an Obligor as contemplated by Clause 27.1 (*Assignment*) and irrevocably appoints Carey UK Limited as its agent for the purpose of executing accession deeds on its behalf

**28 GOVERNING LAW AND SUBMISSION TO JURISDICTION**

**28.1 Governing law:** This Deed and any non-contractual obligations arising out of or in connection with this Deed are governed by, and construed in accordance with, English law

**28.2 Jurisdiction**

- (a) Subject to paragraph (c) below, the courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute regarding the existence, validity or termination of this Deed or any non-contractual obligation arising out of or in connection with this Deed) or the consequences of its nullity (a "Dispute")
- (b) The parties agree that the courts of England are the most appropriate and convenient courts to settle any Disputes between them and accordingly no party shall argue to the contrary
- (c) This Clause is for the benefit of the Lender only. As a result, the Lender shall not be prevented from taking
  - (i) proceedings relating to a Dispute in any other courts with jurisdiction, and
  - (ii) to the extent allowed by law, concurrent proceedings in any number of jurisdictions

**28.3 Service of process:** Without prejudice to any other mode of service allowed under any relevant law, each Obligor (other than an Obligor incorporated in England and Wales)

- (a) irrevocably appoints Carey UK Limited as its agent for service of documents starting proceedings before the English courts in connection with this Deed or any documents required to be served in relation to such proceedings, which appointment Carey UK Limited accepts by signing this Deed,
- (b) agrees that failure by a process agent to notify the relevant Obligor of any process will not invalidate the proceedings concerned, and
- (c) agrees that if the entity nominated by it in paragraph (a) above is unable to act as its agent for service of process for any reason, it shall immediately appoint another process agent on the same terms or other terms acceptable to the Lender, failing which the Lender may select a replacement process agent for such purpose )

**IN WITNESS WHEREOF** the parties hereto have caused this Deed to be duly executed and delivered as a deed on the date first written above

**SCHEDULE 1**  
**The Obligors**

**Part A:**

<u>Chargors</u>	<u>Companies House Company Number</u>
EMBARQUE LONDON LIMITED	07143590
CAREY UK LIMITED	03142406
CAREY EUROPE LIMITED	05113700
CAREY ENGLAND LIMITED	03087934

**Part B:**

<u>Pledgors</u>	<u>Delaware File Number</u>
CAREY SERVICES, INC	2566492
EMBARQUE HOLDINGS, INC	4662741

**SCHEDULE 2**  
**Details of the Scheduled Real Property**

<u>Chargor</u>	<u>Registered land</u>		<u>Title No</u>
	<u>County and District (or London Borough)</u>	<u>Address or description</u>	
CAREY ENGLAND LIMITED	Hounslow	Manderson House Commerce Road Brentford TW8 8LH	AGL334474

<u>Chargor</u>	<u>Unregistered land</u>		<u>Root of title</u>
	<u>County and District (or London Borough)</u>	<u>Address or description</u>	
NONE			

**SCHEDULE 3**  
**Details of the Scheduled Intellectual Property**

None

**SCHEDULE 4**  
**Details of the Scheduled Investments**

<u>Issuer</u>	<u>Registered holder</u>	<u>Number of shares</u>
EMBARQUE LONDON LIMITED	EMBARQUE HOLDINGS, INC	100
CAREY UK LIMITED	CAREY SERVICES, INC	650,000
CAREY EUROPE LIMITED	CAREY UK LIMITED	1
CAREY ENGLAND LIMITED	CAREY UK LIMITED	92,000

**SCHEDULE 5**  
**INTENTIONALLY OMITTED**

**SCHEDULE 6**  
**Details of the Scheduled Bank Accounts**

Account Holder	Bank/Currency	Bank Account number	Sort Code
CAREY ENGLAND LTD	Barclays/GBP	00035084	20-32-29
CAREY ENGLAND LTD	Barclays/GBP	60491136	20-32-29
CAREY ENGLAND LTD	Barclays/GBP	30099589	20-32-29
CAREY ENGLAND LTD	Barclays/EUR	48719644	20-32-29
CAREY ENGLAND LTD	Barclays/USD	82496999	20-32-29
CAREY ENGLAND LTD	Barclays/GBP	83843289	20-32-29
CAREY ENGLAND LTD	Barclays/GBP	90227013	20-32-29

**SCHEDULE 7**  
**Form of Notice to Account Bank for a Bank Account**

To                    *[name of Account Bank]*

*[address]*

Dated                *[•]*

Dear Sirs

*[•]* (the "Chargor")

Name of account

Account number and sort code

Debenture dated *[•]* made between[, *amongst others,*] the Chargor and *[•]* as Lender (the "Deed")

- 1        We hereby give notice that, pursuant to the Deed, the Chargor has charged (by way of first fixed charge) in favour of the Lender all its rights, title and interest in and to, the accounts with you listed above (the "Specified Accounts") and any other bank account maintained with you (the "Accounts"), including all moneys which may at any time be standing to the credit of such accounts. A copy of the Deed is enclosed. The Deed prohibits any dealing with the Accounts except with the consent of the Lender as provided in the Deed. Unless otherwise defined herein, all defined terms used shall have the meaning given to them in the Deed.
- 2        The Chargor hereby irrevocably and unconditionally instructs and authorises you
  - (a)      to disclose to the Lender any information relating to the Accounts which the Lender requests you to disclose,
  - (b)      to pay or to release any moneys standing to the credit of the Accounts, in accordance with any instructions which you receive from the Lender,
  - (c)      following notice from the Lender that the Security created under the Deed has become enforceable, not to permit any withdrawal of any moneys standing to the credit of the Accounts, without the prior written consent of the Lender and to hold all such moneys to the order of the Lender, and
  - (d)      to comply with the terms of any written notices or instructions relating to the Deed and/or the Accounts and the debts represented by them which you receive from the Lender.
- 3        The Lender hereby confirms that it consents to the following transactions in relation to the Accounts subject to paragraph 4 below
  - (a)      you may collect and pay to the credit of any Specified Accounts the proceeds of credits for the account of the Chargor,
  - (b)      you may make payments to third parties or to other Accounts in the name of the Chargor on the instructions of the Chargor and debit the amounts involved to any Accounts,

- (c) you may debit to any Account amounts due to you from the Chargor for operating such account, and
- (d) in order to enable you to make available net overdraft facilities on the Accounts, you may set-off debit balances against credit balances on any of following Accounts

*[Specify accounts and account numbers.]*

- 4 The Lender may, by notice to you, amend or withdraw the consents given in paragraph 3 above
- 5 If the consent referred to in paragraph 3(d) above is withdrawn, you may immediately set off debit balances and credit balances on the Accounts existing immediately prior to the receipt by you of the notice of such withdrawal
- 6 The instructions and authorisations which are contained in this letter shall remain in full force and effect until the Chargor and the Lender together give you notice in writing revoking or amending them. You may comply with the instructions contained in this letter without further authority from the Chargor
- 7 The instructions and authorisations in this letter supersede any instructions and authorisations to the contrary given to you by or on behalf of any Chargor
- 8 This letter and any non-contractual obligations arising out of or in connection with it are governed by English law
- 9 Please acknowledge your acceptance of the instructions and authorisations contained in this notice by signing the attached Form of Acknowledgement and returning it to the Lender at [•] copied to us

Yours faithfully

*[name of Chargor]*

*[name of Lender]*

By .....

Authorised Signatory

By .....

Authorised Signatory

**Form of Acknowledgement of Notice to Account Bank for a Bank Account**

To [name of Lender]

Copy [Chargor]

Dear Sirs

**Debenture dated [•] between [•] (the "Deed")**

We hereby acknowledge receipt of the notice (a copy of which is attached hereto (the "Notice")) dated [•] and addressed to us by you regarding the Accounts Terms defined in the Notice shall have the same meanings when used in this letter We hereby confirm that we

- (a) accept the instructions and authorisations contained in the Notice and agree to comply with the terms thereof,
- (b) do not have, and will not make or exercise, any claims or demands, any rights of counterclaim, Security, rights of combination, consolidation or set-off or rights against the Chargor in respect of the Accounts and/or the debts represented by them other than in respect of fees for operating the accounts,
- (c) have not received notice of any interest of any third party in any Account and/or the debts represented by them and to our knowledge there are no restrictions on the creation of Security over the Accounts pursuant to the Deed;
- (d) have not designated [any of] the [Specified] Account[s] a dormant account within the meaning of the Dormant Bank and Building Society Accounts Act 2008 and we agree that we will not so designate the [Specified] Account[s] or take any steps to transfer the balance standing to the credit of the [Specified] Account to the reclaim fund without the Lender's prior written consent, and
- (e) shall not permit any amount to be withdrawn from any Account save as permitted by the Notice or with your prior written consent

We agree that, in the event that we become aware at any time that any person other than yourselves has or will have any right or interest in the Accounts and/or the debts represented by them, we will promptly notify you

The only Account[s] maintained with us [is] [are] the Specified Account[s] referred to in the Notice [and [•]]

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

Yours faithfully

.....  
[name of bank]

**SCHEDULE 8**  
**Real Property Undertakings**

- 1     **Registration:** Each Chargor shall promptly provide, if so requested by the Lender
- (a)     a clear Land Charges Registry search against each Chargor or clear Land Registry priority search results in favour of the Lender on the appropriate Land Registry forms against all of the registered titles comprising each Chargor's interests comprised within the Charged Real Property and giving not less than 28 days priority,
  - (b)     appropriate Land Registry application forms duly completed accompanied by all necessary Land Registry fees, and
  - (c)     notice to the reversioner of the assignment/transfer of any headlease to the relevant Chargor and the charging of that headlease to the Lender, together with the appropriate registration fees, where such notification is required under those headleases
- 2     **Leasing:** Each Chargor shall
- (a)     not grant, or agree to grant, any lease or tenancy of all or any part of any Charged Real Property or confer or agree to confer upon any person any contractual licence or right to occupy or use any Charged Real Property save as permitted under the Loan Agreement or in the ordinary course of business where such lease, tenancy, licence or right to occupy does not adversely affect the value of such Charged Real Property,
  - (b)     pay any applicable rents and shall not accelerate or defer payment of any moneys due or agree to any reduction in rent or waive or vary any obligation to pay rent or other moneys due under the terms of any lease or other property agreement comprised in the Charged Real Property,
  - (c)     duly and promptly implement any rent review under any lease comprised in the Charged Real Property but not agree to the reviewed rent or appoint or agree to the appointment of a third party to determine the same without the prior written approval of the Lender,
  - (d)     comply with all material obligations imposed on it and enforce the performance of all material obligations owed to it by any person under any lease, licence or other agreement giving the right to occupy any Charged Real Property and shall not do anything or permit anything to be done which could result in the termination of any such lease, licence or other agreement,
  - (e)     not extend or renew on substantially different terms or determine or accept any surrender of any lease, tenancy, licence or right to occupy comprised in the Charged Real Property or agree to do any of these things save as permitted under the Loan Agreement or in the ordinary course of business where such extension, renewal, determination or surrender does not adversely affect the value of such Charged Real Property, and

- (f) give prompt notice in writing to the Lender if any tenant, lessee or licensee shall withhold rent or exercise any right of set-off against sums payable under any lease or other property agreement comprised in the Charged Real Property or purports, attempts or threatens to do so
- 3 **Compulsory acquisition:** Each Chargor shall not, without the consent of the Lender, enter into any negotiations with any competent agency of any state with regard to the compulsory acquisition of any Charged Assets nor consent to the compulsory acquisition thereof. However, if so requested by the Lender, such Chargor shall permit the Lender or its representatives to conduct such negotiations or give such consent on such Chargor's behalf
4. **Affixing of Charged Assets:** Each Chargor shall not fix or permit the affixing of the Charged Assets to any Real Property other than Charged Real Property.
- 5 **Compliance:** Each Chargor shall comply with all laws or material regulations, directives, consents, authorisations, covenants or planning permissions relating to or affecting any Charged Real Property
- 6 **Planning:** No Chargor shall, without the prior written consent of the Lender, carry out or permit to be carried out on any part of its Charged Real Property any development (within the meaning of that expression in the Planning Acts) nor to make any application for planning permission for the development or change of use of its Charged Real Property or carry out any work for which planning permission has been granted or enter into any agreement under section 106 of the Town and Country Planning Act 1990, section 33 of the Local Government (Miscellaneous Provisions) Act 1982 or any other agreement with any local government, planning or other regulatory authority to build roads, amenities or carry out other works save as permitted under the Loan Agreement or in the ordinary course of business where such development, change of use, work or agreement does not adversely affect the value of such Charged Real Property
- 7 **VAT:** No Chargor shall elect to charge VAT or to transfer the right to recover or levy VAT or to treat supplies made by it as taxable supplies for the purposes of VAT or fail to do any of the foregoing without the prior written consent of the Lender
- 8 **Repair:** Each Chargor shall keep all buildings on its Charged Real Property in good and substantial repair
- 9 **Valuation reports:** Each Chargor shall, promptly on receipt, cause a copy of each professional valuation report that it obtains in relation to its Charged Real Property to be provided to the Lender
- 10 **No building:** No Chargor shall without the prior written consent of the Lender, save in the ordinary course of business where such works do not adversely affect the value of such Charged Real Property or as required by law or regulation, carry out any building work on its Charged Real Property, nor make any structural alteration to any building on its Charged Real Property, nor at any time sever, alter, remove or dispose of any Fixtures on it
- 11 **No onerous obligations.** No Chargor shall, without the prior written consent of the Lender, enter into onerous or restrictive obligations affecting its Charged Real Property or

create or permit to arise any overriding interest or any easement or right whatever in or over it which would be reasonably likely to adversely affect its value or the value of the Security constituted by this Deed over it

- 12 **User:** Each Chargor shall use its Charged Real Property only for such purpose or purposes as may from time to time be authorised as the permitted use or user thereof under or by virtue of the Planning Acts
- 13 **Investigation of title:** Each Chargor shall grant the Lender or its lawyers on request all facilities within the power of such Chargor to enable such lawyers to carry out investigations of title of all or any part of such Chargor's Real Property which is or may become charged by it under this Deed and enquiries into such matters in connection therewith at the expense of such Chargor
- 14 **Certificate of title:** Each Chargor shall promptly on demand by the Lender provide to the Lender at the expense of the Chargor a certificate of title in such form as the Lender may require addressed to the Lender in relation to any of its Real Property which is or may become charged by it under this Deed
- 15 **Notices:** Each Chargor shall promptly deliver a copy of any material communication received by it which has been given with respect to any Charged Real Property and take such steps as the Lender shall reasonably require in relation thereto
- 16 **Entry:** Each Chargor shall permit the Lender and any person nominated by it at all reasonable times and with reasonable prior notice to enter any of its Charged Real Property to view its condition

**SCHEDULE 9**  
**FORM OF NOTICE OF ASSIGNMENT TO INSURERS**

To [insert name and address of insurance company]

-[•]

Dear Sirs,

Re [identify the relevant Insurance Policy(ies)] (the "Policies")

- 1 We hereby notify you that [insert name of [relevant] Chargor] (the "Company") has charged in favour of [insert name of Lender] (the "Lender") all its right, title and interest in the Policies as Security for certain obligations owed by the Company to the Lender
- 2 We further notify you that
  - (a) the Company may not agree to amend, modify or terminate the Policies without the prior written consent of the Lender;
  - (b) subject to paragraph (a) above you may continue to deal with the Company in relation to the Policies until you receive written notice to the contrary from the Lender. Thereafter the Company will cease to have any right to deal with you in relation to the Policies and therefore from that time you should deal only with the Lender;
  - (c) you are authorised to disclose information in relation to the Policies to the Lender on request,
  - (d) following notice from the Lender that the Security has become enforceable, you must hold all sums from time to time due and payable by you to us under the Policies to the order of the Lender,
  - (e) you will pay or release all moneys to which the Company is entitled under the Policies to such persons as the Lender shall direct,
  - (f) you will notify the Lender promptly of any claim, or notification likely to result in a claim, under any Policy for an amount in excess of £500,000, and
  - (g) the provisions of this notice may only be revoked with the written consent of the Lender
- 3 Please sign and return the enclosed copy of this notice to the Lender (with a copy to the Company) by way of confirmation that
  - (i) you agree to the terms set out in this notice and to act in accordance with its provisions,
  - (ii) you have noted the Lender's interest as assignee/chargee on the Policies,
  - (iii) you will not cancel, avoid, release or otherwise allow the Policies to lapse without giving the Lender at least 30 days' written notice,
  - (iv) you have not received notice that the Company has assigned its rights under the Policies to a third party or created any other interest (whether by way of Security or otherwise) in the Policies in favour of a third party,

- (v) you shall not permit any sums to be paid to the Company or any other person under or pursuant to the Policies without the prior written consent of the Lender,
- (vi) the Lender shall not in any circumstances be liable for the premiums in relation to the Policies, and
- (vii) the Policies shall not be rendered void, voidable or unenforceable by reason of any non-disclosure by the Lender

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

Yours faithfully

-----  
for and on behalf of

*[insert name of Company]*

**Form of Acknowledgement of Notice of Assignment to Insurers**

To *[insert name and address of Lender]*

Copy to *[insert name and address of Chargor]*

We hereby acknowledge receipt of the above notice and confirm the matters set out in paragraph 3 above

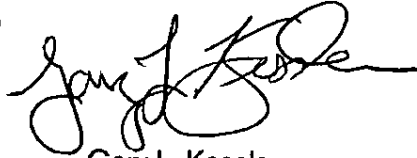
.....  
for and on behalf of


*[insert name of Company]*

Dated


SIGNATORIES

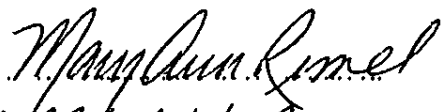
EXECUTED as a deed  
by EMBARQUE LONDON LIMITED  
acting by a director  
In the presence of

)  
)  
)   
)  
Gary L. Kessler  
Director

Witness's  
Signature   
Name MARY ANN RIMER  
Address 4530 WISCONSIN AVE, NW  
WASHINGTON, D.C. 20016  
Occupation EXECUTIVE ASSISTANT

EXECUTED as a deed  
by CAREY UK LIMITED  
acting by a director  
In the presence of

)  
)   
)  
Gary L. Kessler  
Director

Witness's  
Signature   
Name MARY ANN RIMER  
Address 4530 WISCONSIN AVE, NW  
.... WASHINGTON, DC 20014

Occupation EXECUTIVE ASSISTANT

EXECUTED as a deed  
by CAREY EUROPE LIMITED  
acting by a director  
In the presence of

)  
)   
)  
) Gary L. Kessler  
Director

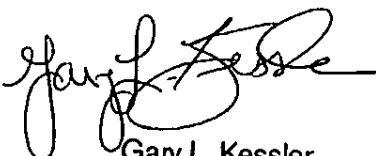
Witness's  
Signature 

Name MARY ANN RIMER

Address 4530 WISCONSIN AVE, NW  
WASHINGTON, DC 20016

Occupation EXECUTIVE ASSISTANT

EXECUTED as a deed  
by CAREY ENGLAND LIMITED  
acting by a director  
In the presence of

)  
)  
)   
)  
Gary L. Kessler  
Director

Witness's  
Signature 

Name MARY ANN RIMER

Address 4530 WISCONSIN AVE, NW  
WASHINGTON, DC 20016

Occupation EXECUTIVE ASSISTANT

EXECUTED as a deed  
by CAREY SERVICES, INC  
acting by a director  
In the presence of

)   
)  
) **Mitchell J. Lahr**  
) **Vice President, Finance**


Witness's  
Signature 

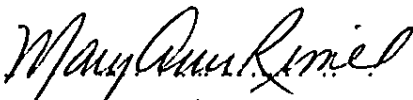
Name **MARY ANN RIMEZ**

Address **4530 WISCONSIN AVENUE  
WASHINGTON, DC 20016**

Occupation **EXECUTIVE ASSISTANT**

EXECUTED as a deed  
by EMBARQUE HOLDINGS, INC  
acting by a director  
In the presence of

)  
)  
)  
)  
)  
  
Mitchell J. Lahr  
Vice President, Finance

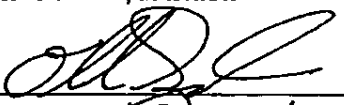
Witness's  
Signature   
Name MARY ANN RIMEL  
Address 4530 WISCONSIN AVE, NW  
WASHINGTON, DC 20016  
  
Occupation EXECUTIVE ASSISTANT

Security Agent:

EXECUTED by

ACF FINCO I LP, as Lender

By.

  
Name. *Oleg Sclupak*  
Title *Vice President*