



**Registration of a Charge**

Company name: **EASTERN AIRWAYS (UK) LIMITED**

Company number: **03468489**



X4HM5NSS

Received for Electronic Filing: **08/10/2015**

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**Details of Charge**

Date of creation: **02/10/2015**

Charge code: **0346 8489 0011**

Persons entitled: **SANTANDER UK PLC**

Brief description:

**Contains fixed charge(s).**

**Contains floating charge(s) .**

**Contains negative pledge.**

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**Authentication of Form**

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

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**Authentication of Instrument**

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

Certified by:

**AMELIA SAINSBURY**



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

Company number: 3468489

Charge code: 0346 8489 0011

The Registrar of Companies for England and Wales hereby certifies that a charge dated 2nd October 2015 and created by EASTERN AIRWAYS (UK) LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 8th October 2015 .

Given at Companies House, Cardiff on 9th October 2015

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



**Companies House**



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

Bond Dickinson

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Execution form

2 October 2015

Security Agreement

Eastern Airways International Limited (as Borrower) <sup>(1)</sup>  
The Companies Listed in Schedule 1 (as Chargors) <sup>(2)</sup> and  
Santander UK plc (as Lender) <sup>(3)</sup>

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DATE 2 October 2015

- (1) **Eastern Airways International Limited** a company incorporated in England and Wales with company number 04082547 whose registered office is at c/o Bristow Helicopters Limited, Redhill Aerodrome, Kings Mill Lane, Redhill, RH1 5JZ (the **Borrower**);
- (2) **The companies listed in Schedule 1** (together with the Borrower and each company which becomes a Party by executing a Deed of Accession, each a **Chargor** and together the **Chargors**); and
- (3) **Santander UK plc** (the **Lender**).

## 1. INTERPRETATION

- 1.1 In this security agreement (this Deed), each of the following shall, unless otherwise stated, have the following meanings:

<b>Aircraft</b>	the aircraft owned by any Chargor from time to time.
<b>Authorisation</b>	an authorisation, consent, approval, resolution, license, exemption, filing, notarisation or registration.
<b>Bank Balances</b>	all monies (including interest) from time to time standing to the credit of any and all present or future accounts which any Chargor has, or has interest in, with any bank, financial institution, or other person and any other cash cover or suspense account established pursuant to any of the Finance Documents), and all debts represented by any such amounts.
<b>Charged Debts</b>	all accounts receivable charged to the Lender under this Deed.
<b>Chargor's Intellectual Property</b>	in relation to any Chargor the Intellectual Property owned or used by such Chargor from time to time.
<b>Collection Account</b>	in relation to any Chargor such specially designated account with the Lender or such other account with such other bank as the Lender may from time to time direct for the purposes of clause 7.2.1 ( <i>Collection of accounts receivable, etc.</i> ).
<b>Deed of Accession</b>	a deed substantially in the form set out in Schedule 6 subject to such variations as the Lender shall agree.
<b>Discharge Date</b>	the date with effect from which all the Secured Obligations have been unconditionally and irrevocably paid and discharged in full and all relevant commitments of the Lender cancelled.
<b>Distribution Rights</b>	<p>all dividends, distributions, interest and other income paid or payable on the relevant Investment or Shares;</p> <p>all shares or other property derived from the relevant Investment or Shares (whether by way of conversion, consolidation, subdivision, substitution, redemption, bonus, preference, option or otherwise); and</p> <p>all other allotments, accretions, rights, benefits and advantages of all kinds accruing, offered or otherwise derived from or</p>

	incidental to the relevant Investment or Shares.
<b>Enforcement Party</b>	any of the Lender, a Receiver or a Delegate.
<b>Facilities Agreement</b>	the term and revolving facilities agreement dated on or around the date of this Deed between (1) the Borrower (2) other subsidiaries of the Borrower as Subsidiary Guarantors and (3) the Lender as the same may be varied, amended, modified, supplemented or replaced.
<b>Floating Charge Asset</b>	at any time, all of the Secured Assets which are at that time the subject of the floating charge created under this deed.
<b>Insurances</b>	all contracts or policies of insurance of whatever nature which from time to time are taken out or maintained by or on behalf of any Chargor or (to the extent of its relevant interest) in which any Chargor has an interest.
<b>Insurance Proceeds</b>	the cash proceeds of any insurance claim actually received by any Chargor, except for Excluded Insurance Proceeds after deducting any reasonable expenses incurred in relation to the relevant claim and payable by such Chargor to any person which is not a member of the Group together with the benefit of all bonuses, profits, returns of premium and other benefits of whatever nature arising by virtue of any Chargor's ownership of any Insurances and all interest on any of the foregoing.
<b>Insolvency Act</b>	the Insolvency Act 1986.
<b>Investment</b>	any negotiable instrument, certificate of deposit, share or other investment (as specified for the purposes of Section 22 of the Financial Services and Markets Act 2000 as at the date of this Deed) now or in the future owned by any Chargor including (save where the context otherwise requires) the Shares (other than: (i) in the case of the Borrower any shares or other securities in or of Regional Handling Limited, Air South West Limited and Easternhill Estates Limited; (ii) in the case of Eastern Airways (Europe) Limited any shares or other securities in or of Eastern Airways IoM Limited and (iii) in the case of Eastern Airways (UK) Limited and any other Chargor, any shares or other securities in or of The Professional Darts Corporation Limited).
<b>Interest</b>	interest at the rate provided and calculated in accordance with the Facilities Agreement both before and after judgement.
<b>LPA</b>	Law of Property Act 1925.
<b>Mortgage</b>	the mortgage of Humberside Airport in the form set out in Schedule 2.
<b>Party</b>	a party to this Deed.
<b>Receiver</b>	any one or more receivers and managers or (if the Lender so specifies in the relevant appointment) receivers appointed by the Lender pursuant to this Deed in respect of any Chargor or in respect of the Secured Assets of any Chargor.

<b>Secured Assets</b>	the assets charged, assigned or otherwise the subject of any security created by or pursuant to this Deed and includes any part or parts of such assets.
<b>Secured Obligations</b>	all indebtedness and all obligations or liabilities of any kind which may now or at any time in the future be due, owing or incurred by each of the Obligors under any of the Finance Documents to the Lender, whatever their nature or basis, in any currency or currencies and however they are described.
<b>Security Period</b>	the period beginning on the date of this Deed and ending on the Discharge Date.
<b>Shares</b>	(in relation to each Chargor) all shares (if any) specified in Schedule 3 in respect of such Chargor and also all other stocks, shares, debentures, bonds, warrants, coupons or other securities now or in the future owned by such Chargor from time to time or any in which it has an interest (other than: (i) in the case of the Borrower any shares or other securities in or of Regional Handling Limited, Air South West Limited and Easternhill Estates Limited; (ii) in the case of Eastern Airways (Europe) Limited any shares or other securities in or of Eastern Airways IoM Limited and (iii) in the case of Eastern Airways (UK) Limited and any other Chargor, any shares or other securities in or of The Professional Darts Corporation Limited).
<b>Third Parties Act</b>	the Contracts (Rights of Third Parties) Act 1999.

## 1.2 Construction

In this Deed:

### 1.2.1 any reference to:

- (a) the word **assets** includes present and future property, revenue, rights and interests of every kind;
- (b) the word **guarantee** includes any guarantee or indemnity and any other financial support (including any participation or other assurance against loss and any deposit or payment) in respect of any person's indebtedness;
- (c) the word **indebtedness** includes any obligation for the payment or repayment of money, whatever the nature or basis of the relevant obligation (and whether present or future, actual or contingent);
- (d) the word **law** includes law established by or under statute, constitution, treaty, decree, regulation or judgment, common law and customary law; and the word **lawful** and similar words and phrases are to be construed accordingly;
- (e) the word **person** includes any individual, company, corporation, firm, government, state or any agency of a state and any association, partnership or trust (in each case, whether or not it has separate legal personality);



- (f) the word **regulation** includes any regulation, rule official directive, request or guideline (whether or not having the force of law) of any governmental, inter-governmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation;
  - (g) the word **security** includes any assignment by way of security, charge, lien, mortgage, pledge or other security interest securing any obligation of any person and any other agreement or arrangement having a similar effect;
  - (h) the word **set-off** includes analogous rights and obligations in other jurisdictions; and
  - (i) the word **tax** includes any tax, duty, impost or levy and any other charge or withholding of a similar nature (including any interest or penalty for late payment or non-payment);
- 1.2.2 except where this Deed expressly states otherwise, each term used in this Deed which is defined in the Facilities Agreement has the same meaning as in the Facilities Agreement, construed in accordance with the Facilities Agreement;
- 1.2.3 where something (or a list of things) is introduced by the word **including**, or by the phrase **in particular**, or is followed by the phrase **or otherwise**, the intention is to state an example (or examples) and not to be exhaustive (and the same applies when other similar words or phrases are used);
- 1.2.4 each reference to any **Chargor**, the **Borrower**, the **Lender** or any **Party**, or any of the **Obligors** includes its successors in title and its permitted assignees or permitted transferees;
- 1.2.5 unless this Deed expressly states otherwise or the context requires otherwise, (a) each reference in this Deed to any provision of any statute or of any subordinate legislation means, at any time, the relevant provision as in force at that time (even if it has been amended or re-enacted since the date of this Deed) and (b) each reference in this Deed to any provision of any statute at any time includes any subordinate legislation made pursuant to or in respect of such provisions as in force at such time (whether made before or after the date of this Deed and whether amended or re-enacted since the date of this Deed);
- 1.2.6 each reference to this Deed (or to any other agreement or deed) means, at any time, this Deed (or as applicable such other agreement or deed) as amended, novated or supplemented, at that time, provided that the relevant amendment, novation or supplement does not breach any term of this Deed or of any of the Finance Documents;
- 1.2.7 each reference to the singular includes the plural and vice versa, as the context permits or requires;
- 1.2.8 the index and each heading in this Deed is for convenience only and does not affect the meaning of the words which follow it;
- 1.2.9 each reference to a clause or Schedule is (unless expressly provided to the contrary) to be construed as a reference to the relevant clause or Schedule to this Deed;

- 1.2.10 wherever this Deed states that any Chargor must not take a particular step without the consent of the Lender, the Lender has discretion whether to give its consent and can impose conditions on any such consent it gives;
- 1.2.11 an Event of Default is continuing if it has not been remedied or waived in writing;
- 1.2.12 references to assets, matters or things specified, identified, included, inserted, particularised or referred to in a Schedule are, in relation to any Chargor who becomes a Party upon the execution and delivery of a Deed of Accession, to be deemed to include any assets, matters or things specified, identified, included, inserted, particularised or referred to in any corresponding or analogous schedule to such Deed of Accession;
- 1.2.13 references to the date of this Deed or to the execution of this Deed are to be deemed to include, in relation to a Chargor who becomes a Party upon the execution and delivery of a Deed of Accession, the date of or execution of such Deed of Accession; and
- 1.2.14 references to security given, made or created by this Deed are to be deemed to include security given made or created by any Deed of Accession and this Deed, in relation to each Chargor, is to be read and construed as if it were a separate deed in relation to such Chargor to the intent that if any security created by any other Chargor in this Deed shall be invalid or liable to be set aside for any reason, this shall not affect any security created under this Deed by such first Chargor.

### **1.3 Third Party Rights**

- 1.3.1 A person who is not an Enforcement Party has no right under the Third Parties Act to enforce or enjoy the benefit of any term of this Deed except to the extent that this Deed or any other of the Finance Documents expressly provides for it to do so.
- 1.3.2 No consent of any person who is not a Party is required to rescind or vary this Deed at any time.
- 1.3.3 This clause 1.3 does not affect any right or remedy of any person which exists, or is available, otherwise than pursuant to the Third Parties Act

### **1.4 Incorporation of other terms**

- 1.4.1 The terms of the other Finance Documents under which the Secured Obligations arise and of any side letters between any Chargor and the Lender relating to the Secured Obligations are incorporated in this Deed to the extent required for any purported disposition of the Secured 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.
- 1.4.2 This Deed is a Finance Document.

## **2. COVENANT TO PAY**

### **2.1 Covenant**

Each Chargor hereby, as primary obligor and not merely as surety, covenants with the Lender that it will pay, discharge and perform the Secured Obligations on demand and in the manner provided in the Finance Documents.

## **3. CHARGING CLAUSE**

### **3.1 Grant of security**

Each Chargor, as a continuing security for the payment, discharge and performance of the Secured Obligations, charges as security in favour of the Lender the following assets:

#### **3.1.1 First fixed charge on plant and machinery**

by way of first fixed charge, all plant and machinery (other than Aircraft), now or in the future owned by it (but not including any chattels mentioned in clause 3.1.2 below) and the benefit of all contracts, licences and warranties relating to the same to which such Chargor is entitled;

#### **3.1.2 First fixed charge on other chattels**

by way of first fixed charge, all vehicles (with the exception of the Aircraft) and computers, now or in the future owned by it and its interest in any vehicles and/or computers, in its possession (but not including any such chattels for the time being forming part of such Chargor's stock in trade or work in progress) and the benefit of all contracts, licences and warranties relating to the same to which such Chargor is entitled;

#### **3.1.3 First fixed charge on Investments**

by way of first fixed charge, all Investments together with all Distribution Rights of such Chargor from time to time accruing to or on such Investments;

#### **3.1.4 First fixed charge on accounts receivable**

by way of first fixed charge, all present and future accounts receivable of such Chargor and all rights and claims of whatever nature of such Chargor now or which may at any time be held or enjoyed by it against third parties and against any securities and guarantees in each case respect of such accounts receivable;

#### **3.1.5 First fixed charge on Bank Balances**

by way of first fixed charge, all of its Bank Balances;

#### **3.1.6 First fixed charge on Intellectual Property**

(to the extent that the Intellectual Property is incapable for any reason of being effectively assigned pursuant to clause 3.2.2 (*Assignment of Intellectual Property*)) by way of first fixed charge, all Intellectual Property (if any) owned by such Chargor or in which such Chargor shall have an interest

(in which case such charge shall be over such interest) except for any Intellectual Property in relation to any real estate or Aircraft or parts thereof;

**3.1.7 First Fixed Charge on Authorisations, compensation etc**

by way of first fixed charge, the benefit of all Authorisations held or utilised by such Chargor in connection with its business or the use of any of its assets (to the extent that such Authorisations are capable of being effectively charged) except for any Authorisations in relation to any real estate or Aircraft or parts thereof and the right of such Chargor to recover and receive all compensation which may at any time become payable to it in respect of such Authorisations to the extent permitted by the terms of such Authorisations and save in so far as any such Authorisations are effectively subject to any valid assignment to the Lender pursuant to this Deed; and

**3.1.8 First fixed charge on goodwill and uncalled capital**

by way of first fixed charge, all the goodwill and uncalled capital of such Chargor.

**3.2 Assignment by way of security**

As further continuing security for the payment of the Secured Obligations each Chargor assigns (to the fullest extent capable of assignment) to the Lender all its rights, title and interest in the following assets:

**3.2.1 Assignment of Insurance Proceeds**

the benefit of all Insurance Proceeds except for any Insurance Proceeds in relation to any real estate or Aircraft or parts thereof; and

**3.2.2 Assignment of Intellectual Property**

the Intellectual Property (if any) owned by such Chargor except for any Intellectual Property in relation to any real estate or Aircraft or parts thereof together with all damages, compensation, remuneration, profit, royalties, fees, rent or income which such Chargor may derive from or be awarded or entitled to in respect of such Intellectual Property, but in the case of any such assignment of Intellectual Property the Lender shall grant to such Chargor a licence to use such Intellectual Property in the ordinary course of its business and, if an Event of Default exists and is continuing upon such terms as may be specified by the Lender.

**3.3 Notice of assignment or charge**

Each Chargor shall forthwith upon receiving a request to that effect from the Lender give notice of each such assignment of its right, title and interest (if any) in and to the Insurance Proceeds, by sending a notice in the form of Part 1 of Schedule 4 (*Notices*) (with such amendments as the Lender may agree) duly completed to each of the other parties to the Insurances and each Chargor shall use reasonable endeavours to ensure that within 14 days of the date of its receiving such request each such other party delivers an acknowledgement to the Lender in the form of the acknowledgement of notice contained in the notice set out in Part 1 of Schedule 4. Nothing in this clause 3.3 shall prevent the Lender from giving any notice it considers necessary or desirable in relation to the Security created over any Secured Asset.

### **3.4 Floating charge**

- 3.4.1 As further continuing security for the payment to the Lender of the Secured Obligations each Chargor hereby charges in favour of the Lender, by way of first floating charge, (with the exception of the Aircraft and any real estate) all its assets and undertakings whatsoever and whosoever both present and future which are expressed to be charged by way of legal mortgage or fixed charge pursuant to the provisions of clause 3.1 (*Fixed charges*) or assigned by way of security pursuant to clause 3.2 (*Assignment by way of security*) and are not effectively charged by way of legal mortgage or fixed charge pursuant to the provisions of clause 3.1 (*Fixed charges*) or effectively assigned by way of security pursuant to clause 3.2 (*Assignment by way of security*), as applicable.
- 3.4.2 No Chargor shall be in breach of any provision of any Finance Document and no Event of Default shall arise as a result of any asset or undertaking being subject to a floating charge and not a fixed charge or assignment as referred to in clause 3.

### **3.5 Conversion of floating charge**

The Lender may at any time by notice in writing to any Chargor convert the floating charge created pursuant to clause 3.4 (*Floating Charge*) into a fixed charge as regards such assets as it shall specify in the notice if an Event of Default has occurred and is continuing.

### **3.6 Continuing security**

All the security granted or created by this Deed is to be a continuing security which shall remain in full force and effect notwithstanding any intermediate payment or settlement of account or other matter or thing whatsoever and in particular the intermediate satisfaction by any Chargor or any other person of the whole or any part of the Secured Obligations.

### **3.7 Full title guarantee and implied covenants**

All the security created or given under this deed is made with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994.

### **3.8 Release**

On the Discharge Date (but subject to clause 15.7 (*Avoidance of settlements and other matters*)) the Lender shall at the request and cost of each Chargor execute and do all deeds, acts and things as may be necessary to release the Secured Assets from the security constituted hereby or pursuant hereto.

### **3.9 Miscellaneous**

The fact that no or incomplete details of any particular Secured Assets are included or inserted in any relevant Schedule shall not affect the validity or enforceability of the charges created by this Deed.

#### **4. FURTHER ASSURANCE**

##### **4.1 Registration of security over Intellectual Property**

Each Chargor must, at the request of the Lender and at its own cost, prepare, execute and lodge for registration, recording and/or filing (as the case may require) all documents and forms necessary for:

- 4.1.1 this Deed and any other deed executed pursuant to this Deed relating to its Intellectual Property (or requisite particulars), except for any Intellectual Property in relation to any real estate or Aircraft or parts thereof;
- 4.1.2 the Lender's interest in such Chargor's Intellectual Property, present and future, except for any Intellectual Property in relation to any real estate or Aircraft or parts thereof;
- 4.1.3 any licences or other interests affecting such Chargor's Intellectual Property, except for any Intellectual Property in relation to any real estate or Aircraft or parts thereof; and
- 4.1.4 any pending or future patents, registered designs, registered trademarks, registered service marks or applications to register any of the same in the name of such Chargor,

to be registered, recorded or filed (as the case may be) on the relevant register maintained by any relevant patent office or registry whether in the United Kingdom or elsewhere and shall do all acts and things necessary, including payment of fees, to give effect to such registration, recording or filing or to such future grant of patent.

- 4.1.5 Each Chargor must perform its obligations under clause 4.1 promptly and efficiently.
- 4.1.6 Each Chargor hereby appoints the Lender to act as its agent, at such Chargor's expense, to prepare all such documents and do all things necessary for compliance with clause 4.1 in the event that such Chargor fails to comply with its obligations under clause 4.1.

#### **5. NEGATIVE PLEDGE AND DISPOSAL RESTRICTIONS**

##### **5.1 Negative pledge**

During the Security Period, no Chargor shall create, extend or permit to subsist any security over any of the Secured Assets, nor may it:

- 5.1.1 sell, transfer or otherwise dispose of any of its assets on terms that they are or may be leased to or re-acquired by any of the Obligors or by any other member of the Group;
- 5.1.2 sell, transfer or otherwise dispose of any of its receivables other than in the ordinary course of business or as otherwise permitted under the Facilities Agreement;
- 5.1.3 enter into any arrangement (other than pursuant to the standard terms of business of an account bank) under which money or the benefit of a bank or other account may be applied, set off or made subject to a combination of accounts; or

- 5.1.4 enter into any other preferential arrangement having a similar effect in respect of any Secured Asset, in circumstances where the arrangement or transaction is entered into primarily as a method of borrowing monies or otherwise raising indebtedness (whether actual or contingent and whatever the nature, structure or characteristic of the arrangement or transaction under which the relevant liability arises) or of financing the acquisition of an asset.

## 5.2 Restrictions on disposals

During the Security Period, no Chargor shall sell, transfer or otherwise dispose of its interest (whether legal or beneficial) over any of the:

- 5.2.1 Secured Assets (other than the Floating Charge Assets); or
- 5.2.2 Floating Charge Assets following crystallisation under clause 3.5 (*Conversion of floating charge*) or 3.6 (*Automatic conversion of floating charge*).

## 5.3 Exceptions

Clauses 5.1 (*Negative Pledge*) and 5.2 (*Restrictions on disposals*) do not apply:

- 5.3.1 to the security created or required to be created by this Deed or any other Finance Document;
- 5.3.2 to any security or transaction to which the Lender has given its written consent;
- 5.3.3 to any security or transaction permitted under the Facilities Agreement; or
- 5.3.4 to any sale, transfer or other disposal in the ordinary course of business.

## 6. REPRESENTATIONS AND WARRANTIES

Each Chargor represents and warrants to the Lender on the date of this Deed and on each day during the Security Period on which representations and warranties set out in clause 21 of the Facilities Agreement are or are deemed to be made or repeated as follows:

### 6.1 Matters affecting Shares

- 6.1.1 the Shares specified in Schedule 4 opposite its name are at the date of this Deed the only Shares legally and beneficially owned by it;
- 6.1.2 subject to the security created by this Deed, it is and will (save as otherwise permitted by the Facilities Agreement) remain the sole beneficial owner of the Shares and (save where the Shares have been registered in the name of the Lender or its nominee pursuant to the provisions of this Deed and save as otherwise permitted by the Facilities Agreement) it and/or its nominee is and will remain the absolute legal owner of the Shares;
- 6.1.3 the Shares are fully paid and neither the Shares nor the Distribution Rights of such Chargor are subject to any lien, charge, equity, encumbrance, option to purchase or similar rights of any person other than the Lender; and

- 6.1.4 if required following the enforcement of this Deed, the Lender is entitled to be registered or to require a nominee to be registered as member of each of the relevant companies specified in column 2 of Schedule 3 to which such Shares relate, other than Steadycontrast Limited, without any right of the board of directors of any such company to refuse registration or to consent to such registration only subject to satisfaction of conditions, except in each case as provided in the articles of association of the relevant companies provided to the Lender.

## **7. UNDERTAKINGS**

Each Chargor undertakes to the Lender in the terms of the following provisions of this clause 7, all such undertakings to commence on the date of this Deed and to continue throughout the Security Period:

### **7.1 Maintain Intellectual Property**

- 7.1.1 it will observe and perform all covenants and stipulations from time to time affecting the Intellectual Property required to carry out its business or operate its assets or the mode of user or the enjoyment of the same, make all payments, carry out all registrations or renewals and generally take all such steps as may be necessary to preserve, maintain and renew when necessary or desirable all such Intellectual Property;
- 7.1.2 it will not do (or fail to do) anything or permit anything to be done, if that might infringe any Intellectual Property owned or used by it which is required to carry out its business or operate its assets or affect the existence of any such Intellectual Property or its right or ability to use it;

### **7.2 Collection of accounts receivable, etc.**

it will:

- 7.2.1 collect (as agent for the Lender) all Charged Debts and pay into an account with the Lender or such other account with such other bank as the Lender may from time to time agree acting reasonably or if an Event of Default has occurred and is continuing, direct, all money which it shall receive in respect of such Charged Debts forthwith on receipt and pending such payment it will hold all such money upon trust for the Lender;
- 7.2.2 not, without the prior written consent of the Lender, charge, factor, discount or assign any of the Charged Debts, in favour of any other person or purport to do so; and
- 7.2.3 where any Bank Balances are charged to the Lender pursuant to the provisions of clause 3.1.6 (*First fixed charge on Bank Balances*) and held with another bank or financial institution, procure that such other bank or financial institution where such Bank Balances are held has received a notice in the form set out in Schedule 5, and
- 7.2.4 if an Event of Default has occurred and is continuing and the Lender has notified the Chargor that withdrawals are to be restricted without consent, not, without the prior consent of the Lender, withdraw all or any monies from time to time standing to the credit of any Bank Balances charged to the Lender pursuant to the provisions of clause 3.1.6 (*First fixed charge on Bank Balances*); and provided that unless an Event of Default has occurred and is continuing and the Lender has issued and not withdrawn such a notice of



withdrawal restriction a Chargor may freely withdraw and otherwise dispose of any Bank Balance or part thereof;

### **7.3 Shares and other investments**

- 7.3.1 it will promptly upon receipt of the same deliver to the Lender copies of all notices, circulars, letters, reports, accounts and other communications with shareholders relating to its holding of the Shares;
- 7.3.2 it will pay all calls or other payments due and payable in respect of any of the Shares and if it fails to do so the Lender may pay the calls or other payments on its behalf;
- 7.3.3 save with the prior written consent of the Lender, it will not:
  - (a) take any action by or as a consequence of which the rights attaching to the Shares are altered or diluted (except under a rights issue) in a manner that adversely affects the Lender's rights under this Deed or the issued capital of any of the companies whose Shares are charged by this Deed increased;
  - (b) participate in any rights issue relating to the Shares; nor
  - (c) apply for, or consent to, the conversion of any Shares held in certificated form into uncertificated form;
- 7.3.4 forthwith upon execution of this Deed or upon any subsequent acquisition by it of Shares which are held within CREST or otherwise in uncertificated form, it will provide to the Lender particulars of such Shares in which it is interested and it will, following request by the Lender, give such instructions and enter into such documents as the Lender may reasonably require to perfect the security over such Shares created by this Deed;
- 7.3.5 forthwith upon execution of this Deed it will, to the extent that such documents are not already in the possession of the Lender, deliver to the Lender (or as it shall direct) all bearer instruments, share certificates and other documents of title to or evidence of ownership of the Investments and/or the Distribution Rights owned by it or in which it has an interest together with (in the case of Shares, other than bearer instruments, held in certificated form) instruments of transfer in respect of each of the same executed in blank (except for the number and class of Shares and the name of the transferor) and left undated;
- 7.3.6 if it acquires Investments, whether pursuant to its Distribution Rights or for any other reason, after the date of this Deed the provisions of clause 7.3.3 and the remaining provisions of this clause 7.4 shall apply to such Investments;
- 7.3.7 the Lender may at any time when an Event of Default is continuing complete the instruments of transfer on behalf of such Chargor in favour of itself or such other person as it shall select, and such Chargor shall procure that such instruments of transfer are forthwith registered in the relevant company and that share certificates in the name of the Lender and/or its nominee(s) in respect of the Shares to which such instrument of transfer relates are delivered to the Lender as soon as reasonably practicable, but in any event no later than 5 Business Days after the date upon which the Lender has delivered the relevant instrument of transfer;

- 7.3.8 unless an Event of Default is continuing and the Lender otherwise notifies such Chargor pursuant to clause 7.3.9:
- (a) such Chargor will be entitled to receive and retain all dividends, distributions, interest and other monies paid on or derived from the Investments;
  - (b) will be entitled to exercise all voting and other rights and powers attaching to the Shares, provided that it will not exercise any such voting rights or powers in a manner which would prejudice the ability of the Lender to realise, the security created by this Deed; and
  - (c) shall give to the Lender reasonable notice of the manner in which it proposes to exercise the rights and powers referred to in clause 7.3.8(b) if such exercise could reasonably be expected to adversely affect the Lender's rights under this Deed;
- 7.3.9 if an Event of Default is continuing and the Lender notifies the relevant Chargor that this clause 7.3.9 is to apply, any dividends, distributions interest or other monies paid on or derived from the Investments will be received by such Chargor on trust for the Lender and paid into a separate account or otherwise dealt with as directed by the Lender, and such Chargor shall if the Lender so requires exercise all voting and other rights and powers attaching to the Shares as the Lender shall direct;
- 7.3.10 at any time when any Investments are registered in the name of the Lender or its nominee and for so long as there is no Event of Default which is continuing the Lender will (so far as is consistent with the security created by this deed) exercise any applicable voting or other rights and powers in accordance with the directions of such Chargor and account to such Chargor for any dividends, payments or other distributions attributable to such Investments, but upon the occurrence of an Event of Default, for so long as it is continuing, the Lender may exercise or refrain from exercising such voting or other rights and powers as it thinks fit and may retain any such dividends, payments or other distributions, but in any case the Lender will not be under any duty to ensure that any dividend, distributions or other monies payable in respect of those Investments are duly and promptly paid or received by it or its nominee or to verify that the correct amounts are paid or received by it or its nominee or to take any action in connection with the taking up of any (or any offer of any) stocks, shares, rights, monies or other property paid, distributed, accruing or offered at any time by way of interest, dividend, redemption, bonus, rights, preference, option, warrant or otherwise on or in respect of or in substitution for, any of those Investments.

#### 7.4 Deposit of documents

it will promptly at the Lender's request deposit with the Lender (or as the Lender directs):

- 7.4.1 copies of policies of insurance in respect of which the proceeds of any claims are assigned or charged pursuant to this deed; and
- 7.4.2 all such other documents relating to the Secured Assets as the Lender may from time to time reasonably require;

#### **7.5 Retention of documents**

the Lender may retain any document delivered to it pursuant to clause 7.4 (*Deposit of Documents*) or otherwise until the Discharge Date and if, for any reason it ceases to hold any such document before such time, it may by notice to such Chargor require that the relevant document be redelivered to it and such Chargor must promptly comply (or procure compliance) with such notice;

#### **7.6 Power to remedy**

If such Chargor fails to comply with any of the covenants and undertakings set out or referred to in Clauses 7.1 to 7.4 inclusive it will allow (and hereby irrevocably authorises) the Lender and/or such persons as the Lender nominates to take such action (including the making of payments) on behalf of such Chargor as is necessary to ensure that such covenants are complied with;

#### **7.7 Insurances**

it will name the Lender as additional insured on liability insurance policies of each Chargor and as loss payee on all casualty and property insurance policies of each Chargor in each case, as appropriate respecting the equipment, machinery and spares inventory of such Chargor (except in relation to any Aircraft or parts thereof) and provided that any proceeds payable to the Lender as loss payee shall be required to be directly paid to an account of the Chargor or transferred promptly to such account upon receipt unless an Event of Default is continuing in which case, if the Lender so requires and notifies the relevant Chargor, such proceeds can be retained by the Lender and applied towards the Secured Obligations in accordance with this Deed.

### **8. ENFORCEABILITY**

For the purposes of all powers implied by the LPA or any other applicable statute, the Secured Obligations shall be deemed to have become due and payable and this Deed will become immediately enforceable and the powers of the Lender and any Receiver will become exercisable on the date of this Deed, but, as between the Lender, any Receiver or Delegate and each Chargor, the power of sale shall be exercisable only when an Event of Default has occurred and is continuing.

### **9. ENFORCEMENT OF SECURITY**

9.1 At any time while an Event of Default is continuing, the Lender may without further notice:

- 9.1.1 appoint one or more than one Receiver in respect of the Secured Assets or any of them and if more than one Receiver is appointed the Receiver may act jointly and severally or individually; or
- 9.1.2 take possession of the Secured Assets; or
- 9.1.3 in its absolute discretion enforce all or any part of the security created by this Deed in such other lawful manner as it thinks fit.

9.2 The Lender may remove the Receiver and appoint another Receiver and the Lender may also appoint an alternative or additional Receiver.

9.3 The Receiver will, so far as the law permits, be the agent of each Chargor and such Chargor alone will be responsible for the acts or defaults of the Receiver and will be

liable on any contracts or obligations made or entered into by the Receiver. The Lender will not be responsible for any misconduct, negligence or default of the Receiver.

- 9.4 The powers of the Receiver will continue in full force and effect following the liquidation of any Chargor.
- 9.5 The remuneration of the Receiver may be fixed by the Lender but will be payable by the relevant Chargor. The amount of the remuneration will form part of the Secured Obligations.
- 9.6 The Receiver will have the power on behalf and at the cost of each Chargor:
  - 9.6.1 to do or omit to do anything which he considers appropriate in relation to the Secured Assets; and
  - 9.6.2 to exercise all or any of the powers conferred on the Receiver or the Lender under this deed or conferred upon administrative receivers by the Insolvency Act (even if he is not an administrative receiver), or upon receivers by the LPA or any other statutory provision (even if he is not appointed under the LPA or such other statutory provision).
- 9.7 Without prejudice to the general powers set out in clause 9.6 a Receiver will also have the powers and discretions set out in Schedule 10.
- 9.8 If (notwithstanding any representation or warranty to the contrary contained in this Deed) there shall be any security affecting the Secured Assets or any of them which ranks in priority to the security created by this Deed and the holder of such prior security takes any steps to enforce such security, the Lender or any Receiver may, at its option, take a transfer of, or repay the indebtedness secured by, such security.
- 9.9 The Lender may, at any time when an Event of Default is continuing, exercise, to the fullest extent permitted by law, all or any of the powers authorities and discretions conferred on a Receiver by this Deed, whether as attorney of any Chargor or otherwise and whether or not a Receiver has been appointed.
- 9.10 The Lender may, in writing, either in its appointment of a Receiver or by subsequent notice to that Receiver, restrict the right of such Receiver to exercise all or any of the powers conferred on Receivers by this Deed.

## **10. APPLICATION OF PROCEEDS**

### **10.1 Recoveries by Enforcement Parties**

Amounts received or recovered by an Enforcement Party pursuant to this Deed and the proceeds arising from the exercise of the powers of an Enforcement Party will, subject to any claims ranking in priority to the Secured Obligations, be applied by or at the direction of the Lender or the Receiver, as applicable, in or towards discharging or satisfying, in the following order of priority:

- 10.1.1 the costs, charges and expenses of and incidental to the Receiver's appointment and the payment of his remuneration;
- 10.1.2 any costs, charges, expenses and liabilities of or incurred by any Enforcement Party in the exercise of any of its powers including all rents, taxes, rates and outgoings whatever affecting the Secured Assets, all premiums on Insurances properly payable under this deed or any applicable

statute, the cost of executing necessary or proper repairs to the Secured Assets, and the payment of annual sums or other payments, and the interest on all principal sums, having priority to the Secured Obligations:

10.1.3 the Secured Obligations, in accordance with the provisions of the Finance Documents and otherwise in such order as the Lender may determine; and

10.1.4 the claims of those persons entitled to any surplus.

## **10.2 Right of appropriation**

The Lender is entitled to appropriate money and/or assets to Secured Obligations in such manner or order as it thinks fit and any such appropriation shall override any appropriation by any Chargor.

## **11. PROTECTION OF THIRD PARTIES**

### **11.1 No duty to enquire**

A buyer from, tenant or other person dealing with any Enforcement Party will not be concerned to enquire whether any of the powers which it has exercised or purported to exercise has arisen or become exercisable and may assume that it is acting in accordance with this deed.

### **11.2 Receipt conclusive**

The receipt of the Lender or any Receiver shall be an absolute and a conclusive discharge to a purchaser of the Secured Assets and shall relieve him of any obligation to see to the application of any monies paid to or by the direction of the Lender or any Receiver.

## **12. PROTECTION OF LENDER**

### **12.1 Lender's receipts**

The Lender shall not be obliged to account to any Chargor, nor to any other person, for anything other than its own actual receipts which have not been distributed or paid to the person entitled (or who the Lender, acting reasonably, believes to be entitled) in accordance with the requirements of this Deed.

### **12.2 Exclusion of liability**

12.2.1 No Enforcement Party will be liable to any Chargor for any expense, loss, liability or damage incurred by such Chargor arising out of the exercise of its rights or powers or any attempt or failure to exercise those rights or powers, except for any expense, loss, liability or damage arising from its gross negligence, fraud or wilful misconduct.

12.2.2 No Chargor may take any proceedings against any officer, employee or agent of any Enforcement Party in respect of any claim it might have against such Enforcement Party or in respect of any act or omission of any kind by that officer, employee or agent in relation to this Deed.

12.2.3 Any officer, employee or agent of any Enforcement Party may rely on this clause 12 under the Third Parties Act.

### **12.3 Effect of possession**

If the Lender or any Receiver enters into possession of the Secured Assets or any of them, this will not oblige either the Lender or the Receiver to account as mortgagee in possession, and if the Lender enters into possession at any time of the Secured Assets or any of them it may at any time at its discretion go out of such possession.

## **13. POWER OF ATTORNEY**

### **13.1 Grant of power**

Each Chargor irrevocably and by way of security appoints the Lender and each Receiver and any person nominated for the purpose by the Lender or the Receiver (in writing, under hand, signed by an officer of the Lender or by the Receiver) severally to be the attorney of such Chargor (with full power of substitution and delegation) for the purposes set out in clause 13.2 below for so long as an Event of Default is continuing.

### **13.2 Extent of power**

The power of attorney granted in clause 13.1 above allows the Lender, the Receiver or such nominee, in the name of the relevant Chargor, on its behalf and as its act and deed to:

13.2.1 perfect the security given by such Chargor under this Deed; and

13.2.2 execute, seal and deliver (using such Chargor's seal where appropriate) any document (including, for the avoidance of doubt, the Mortgage in accordance with the terms of clause 24.4 of the Facilities Agreement) or do any act or thing which such Chargor has agreed to execute or do under this Deed or which the Lender, the Receiver or such nominee may in their absolute discretion consider appropriate in connection with the exercise of any of the rights, powers, authorities or discretions of the Lender or the Receiver under, or otherwise for the purposes of, this Deed.

### **13.3 Ratification**

Each Chargor covenants with the Lender to ratify and confirm all acts or things made, done or executed by any attorney exercising or purporting to exercise the powers conferred in accordance with this clause 13.

## **14. APPLICATION, VARIATION AND EXTENSION OF STATUTORY PROVISIONS**

### **14.1 Application of statutory covenants**

The covenants set out in sections 2 to 5 of the Law of Property (Miscellaneous Provisions) Act 1994 shall extend to bind a Chargor only if, in any case, the relevant covenant imposes upon such Chargor a burden, liability or obligation that would not otherwise arise under this Deed.

### **14.2 Conditions applicable to power of sale etc.**

14.2.1 For the purposes only of section 101 of the LPA, (but otherwise subject to the provisions of clause 8 (*Enforceability*)), the conditions set out in that section as to when such powers arise do not apply and the Secured Obligations become due and the statutory power of sale and other powers of enforcement arise immediately following the execution of this Deed; and

- 14.2.2 the Lender and any Receiver may exercise the statutory power of sale conferred by the LPA free from the restrictions imposed by section 103 of the LPA, which shall not apply to this Deed.

**14.3 Extension of powers of sale, etc.**

- 14.3.1 The power of sale and the other powers conferred by the LPA or otherwise are extended and varied to authorise the Lender in its absolute discretion to do all or any of the things or exercise all or any of the powers which a Receiver is empowered to do or exercise under this Deed.
- 14.3.2 The Lender and any Receiver shall also have and enjoy all the other powers, privileges, rights and protections conferred by the LPA and the Insolvency Act on mortgagees, receivers or administrative receivers (each as amended and extended by this Deed and whether or not a receiver or administrative receiver has been appointed) but so that if there is any ambiguity or conflict between the powers contained in such statutes and those contained in this Deed, those contained in this Deed shall prevail.

**14.4 Consolidation of mortgages**

The restriction on the consolidation of mortgages in Section 93 of the LPA does not apply to this Deed nor to any security given to the Lender pursuant to this Deed.

**14.5 Powers of leasing, etc - Chargor**

The statutory and other powers of leasing, letting, entering into agreements for leases or lettings and accepting or agreeing to accept surrenders of leases or tenancies shall not be exercisable by any Chargor in relation to the Secured Assets or any part thereof.

**14.6 Powers of leasing, etc - Lender**

The restrictions on the powers of the Lender or the Receiver to grant leases or to accept the surrender of leases in sections 99 and 100 of the LPA do not apply to this Deed.

**14.7 LPA provisions relating to appointment of Receiver**

Section 109(1) of the LPA shall not apply to this Deed.

**14.8 Application of proceeds**

Sections 109(6) and 109(8) of the LPA will not apply to the Lender nor to a Receiver appointed under this Deed.

**15. PROTECTION OF SECURITY**

**15.1 Powers, rights and remedies cumulative**

The powers, rights and remedies provided in this Deed are in addition to (and not instead of) powers, rights and remedies under law.

**15.2 Exercise of powers, rights and remedies**

If an Enforcement Party fails to exercise any power, right or remedy under this Deed or delays its exercise of any power, right or remedy, this does not mean that it waives that power, right or remedy. If an Enforcement Party exercises, or partly exercises, a power,

right or remedy once, this does not mean that it cannot exercise such power right or remedy again, fully or in part.

### **15.3 Discretion**

15.3.1 Subject to the other provisions of this Deed, the Lender may decide:

- (a) whether and, if so, when, how and to what extent (i) to exercise its rights under this Deed and (ii) to exercise any other right it might have in respect of any Chargor (or otherwise); and
- (b) when and how to apply any payments and distributions received for its own account under this Deed, and no Chargor has the right to control or restrict the Lender's exercise of this discretion.

15.3.2 No provision of this Deed will interfere with the Lender's right to arrange its affairs as it may in its absolute discretion decide (nor oblige it to disclose any information relating to its affairs), except as expressly stated.

### **15.4 Power to establish new account**

If the Lender receives notice of a subsequent mortgage or charge relating to the Secured Assets, it will be entitled to close any account and to open a new account in respect of the closed account. If the Lender does not open such new account, it will in any event be treated as if it had done so at the time when it received such notice.

### **15.5 Information**

Each Chargor authorises the holder of any prior or subsequent security to provide to the Lender, and the Lender to receive from such holder, details of the state of account between such holder and such Chargor.

### **15.6 Avoidance of settlements and other matters**

15.6.1 Any payment made by a Chargor, or settlement or discharge between such Chargor and the Lender, is conditional upon no security or payment to the Lender by such Chargor or any other person being avoided or set aside or ordered to be refunded or reduced by virtue of any provision or enactment relating to bankruptcy, insolvency, administration or liquidation for the time being in force and accordingly (but without limiting the Lender's other rights under this Deed) the Lender shall be entitled to recover from such Chargor the value which the Lender has placed upon such security or the amount of any such payment as if such payment, settlement or discharge had not occurred.

15.6.2 If the Lender, acting reasonably, considers that any amount paid by a Chargor in respect of the Secured Obligations is capable of being avoided or ordered to be refunded or reduced for the reasons set out in clause 15.6.1, then for the purposes of this Deed such amount shall not be considered to have been irrevocably paid.

### **15.7 Further advances**

The Lender confirms that it must perform its obligations to the extent arising under the Finance Documents to make further advances. The security constituted by this Deed has been made for securing such further advances.



**15.8 Time Deposits**

If during the Security Period a time deposit matures on any account which any Chargor holds with the Lender and an Event of Default has arisen which is continuing but no amount of Secured Obligations has fallen due and payable such time deposit shall be renewed for such further maturity as the Lender may in its absolute discretion determine.

**15.9 Perpetuity Period**

The perpetuity period applicable to the trusts created by this Deed is 125 years.

**16. COMMUNICATIONS**

- 16.1 Clause 32 (Notices) of the Facilities Agreement shall apply to any notice, consent and other communication in respect of this Deed.

**17. ASSIGNMENT AND TRANSFER**

**17.1 No assignment by Chargor**

No Chargor shall assign, novate or otherwise deal with its rights or obligations under or interests in this Deed, except with the prior written consent of the Lender.

**17.2 Transfer by Lender**

17.2.1 Subject to compliance with the conditions provided for in the Facilities Agreement, the Lender may at any time assign, novate or otherwise deal with any rights or obligations under or interests in this Deed.

17.2.2 Any person to whom the benefit of all such rights has been transferred, subject to compliance with the obligations of the Lender under this Deed, may enforce this Deed in the same way as if it had been a Party instead of the Lender.

**18. GOVERNING LAW AND SERVICE OF PROCESS**

**18.1 Governing law**

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

**18.2 Jurisdiction**

The courts of England shall 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) (a Dispute). Each Party agrees that the courts of England are the most appropriate and convenient courts to settle any Dispute and accordingly neither Party will argue to the contrary. This clause 18.2 is for the benefit of the Enforcement Parties only. As a result, no Enforcement Party will be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, each Enforcement Party may take concurrent proceedings in any number of jurisdictions.

**19. THIS DEED**

**19.1 Consideration**

Each Chargor has entered into this Deed in consideration of the Lender agreeing to provide (or to continue to provide) finance facilities to it on the terms agreed between them in the Finance Documents.

**19.2 Execution of this Deed - counterparts**

If the Parties execute this Deed in separate counterparts, this Deed will take effect as if they had all executed a single copy.

**19.3 Execution of this Deed - formalities**

This Deed is intended to be a deed even if any Party's execution is not in accordance with the formalities required for the execution of deeds.

**19.4 Conflict**

If there is any conflict between the provisions of the Facilities Agreement and the provisions of this Deed, the provisions of the Facilities Agreement shall prevail.

**19.5 Partial invalidity**

19.5.1 If, at any time, any provision of this Deed is or is found to have been illegal, invalid or unenforceable in any respect under the law of any jurisdiction, this does not affect the legality, validity or enforceability of the other provisions of this Deed, nor the legality, validity or enforceability of the affected provision under the law of any other jurisdiction.

19.5.2 If any Party is not bound by this Deed (or any part of it) for any reason, this does not affect the obligations of each other Party under this Deed (or under the relevant part).

**19.6 Other security**

This Deed is in addition to, and does not operate so as in any way to prejudice or affect, or be prejudiced or affected by, any other security or guarantee which the Lender may now or at any time after the date of this Deed hold for or in respect of the Secured Obligations.

This Deed is made and delivered as a deed on the date given on page 1.

## **SCHEDULE 1**

### **The Chargers other than the Borrower**

#### **Humberside International Airport Limited**

Place of Incorporation	:	England and Wales
Registered Office	:	c/o Bristow Helicopters, Redhill Aerodrome, Kings Mill Lane, Redhill, RH1 5JZ
Registered Number	:	2175309

#### **Eastern Airways (UK) Limited**

Place of Incorporation	:	England and Wales
Registered Office	:	c/o Bristow Helicopters, Redhill Aerodrome, Kings Mill Lane, Redhill, RH1 5JZ
Registered Number	:	3468489

#### **Air Kilroe Limited**

Place of Incorporation	:	England and Wales
Registered Office	:	c/o Bristow Helicopters, Redhill Aerodrome, Kings Mill Lane, Redhill, RH1 5JZ
Registered Number	:	43038856

#### **Eastern Airways (Europe) Limited**

Place of Incorporation	:	England and Wales
Registered Office	:	c/o Bristow Helicopters, Redhill Aerodrome, Kings Mill Lane, Redhill, RH1 5JZ
Registered Number	:	3590808

**SCHEDULE 2**

**Mortgage**

2015

Legal mortgage  
relating to  
property known as Humberside Airport

Humberside International Airport Limited <sup>(1)</sup> and  
Santander UK plc <sup>(2)</sup>

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## DATE

## PARTIES

- (1) **Humberside International Airport Limited**, a company incorporated in England and Wales with company number 02175309, whose registered office is at c/o Bristow Helicopters Limited, Redhill Aerodrome, Kingsmill Lane, Redhill RH1 5JZ (Chargor); and
- (2) **Santander UK plc** (Lender).

## BACKGROUND

This deed (this Deed) is executed pursuant to obligations imposed under the Facilities Agreement.

## OPERATIVE PROVISION

## AGREED TERMS

### 1. DEFINITIONS AND INTERPRETATION

- 1.1 In this Deed, each of the following shall, unless otherwise stated, have the following meanings:

<b>Account Bank</b>	Santander UK plc.
<b>Charged Assets</b>	the assets charged by or pursuant to clause 3 of this Deed and includes any part or parts of them.
<b>Discharge Date</b>	the date with effect from which all the Secured Obligations have been unconditionally and irrevocably paid and discharged in full and all relevant commitments cancelled.
<b>Enforcement Party</b>	any of the Lender, a Receiver or a Delegate.
<b>Facilities Agreement</b>	the term and revolving facilities agreement dated on or around the date of this Deed and made between (1) the Borrower (2) other subsidiaries of the Borrower as Subsidiary Guarantors and (3) the Lender as the same may be varied, amended, modified, supplemented or replaced.
<b>Insolvency Act</b>	the Insolvency Act 1986.
<b>Interest</b>	provided in and calculated in accordance with the Facilities Agreement both before and after judgment.
<b>Land Registry</b>	Her Majesty's Land Registry of the Government of the United Kingdom.
<b>Lease</b>	has the meaning given in Part 1 of Schedule 2 (Property Warranties and Undertakings).
<b>LPA</b>	Law of Property Act 1925.
<b>Party</b>	a party to this Deed.
<b>Property</b>	the property owned by the Chargor or in which the Chargor has an interest, particulars of which are set out in Schedule 1 ( <i>Details of the Property</i> ) together with (in every case) any buildings, fixtures, fittings owned by the Chargor and from time to time situated on or forming part of such property, all proceeds of sale deriving from any such

property, the benefit of all covenants given in respect of any such property and any monies paid or payable in respect of such covenants.

**Receiver**

any one or more receivers and managers or (if the Lender so specifies in the relevant appointment) receivers appointed by the Lender pursuant to this Deed in respect of the Chargor or in respect of the Charged Assets or any of them.

**Rental Income**

the aggregate of all amounts paid or payable to or for the account of the Chargor in connection with the letting, licence or grant of other rights of use or occupation of any part of the Property, including each of the following amounts to the extent paid or payable to or for the account of the Chargor in relation to the Property:

- (a) rent, licence fees and equivalent amounts paid or payable;
- (b) any sum received or receivable from any deposit held as security for performance of a tenant's obligations;
- (c) a sum equal to any apportionment of rent allowed in favour of the Chargor;
- (d) any other moneys paid or payable in respect of occupation and/or usage of the Property and any fixture and fitting on that Property including any fixture or fitting on the Property for display or advertisement, on licence or otherwise;
- (e) any sum paid or payable under any policy of insurance in respect of loss of rent or interest on rent;
- (f) any sum paid or payable, or the value of any consideration given, for the grant, surrender, amendment, supplement or extension of any Lease;
- (g) any sum paid or payable in respect of a breach of covenant or dilapidations under any Lease;
- (h) any sum paid or payable by or distribution received or receivable from any guarantor of any occupational tenant under any Lease;
- (i) any Tenant Contributions; and
- (j) any interest paid or payable on, and any damages, compensation or settlement paid or payable in respect of, any sum referred to above less any related fees and expenses incurred (which have not been reimbursed by another person) by the Chargor.

**Secured Obligations**

all indebtedness and all obligations or liabilities of any kind which may now or at any time in the future be due, owing or incurred by each of the Obligors under any of the Finance Documents to the Lender, whatever their nature or basis, in any currency or currencies and however they are described.

**Security Interest**

any mortgage, charge, pledge, lien and any other arrangement or interest (whether by assignment, trust, title retention or otherwise) which has the effect of creating security.



<b>Security Period</b>	the period beginning on the date of this Deed and ending on the Discharge Date.
<b>Tenant Contributions</b>	<p>(a) any amount paid or payable to the Chargor by any tenant under a Lease or any other occupier of the Property:</p> <p>(i) by way of contribution to:</p> <p>(A) ground rent;</p> <p>(B) insurance premia;</p> <p>(C) the cost of an insurance valuation;</p> <p>(D) a service or other charge in respect of the Chargor's costs in connection with any management, repair, maintenance or similar obligation or in providing services to a tenant of, or with respect to, the Property; or</p> <p>(E) a reserve or sinking fund;</p> <p>(ii) by way of VAT; or</p> <p>(b) any other amount from time to time agreed between the Lender and the Chargor in writing.</p>
<b>Third Parties Act</b>	the Contracts (Rights of Third Parties) Act 1999.
<b>VAT</b>	value added tax as provided for in the Value Added Taxes Act 1994 and any other tax of a similar fiscal nature.

## 1.2 Construction

In this Deed:

### 1.2.1

- (a) the word "assets" includes present and future property, revenue, rights and interests of every kind;
- (b) the word "dispose" includes charging, selling, leasing, assigning, or transferring or agreeing to do any of the same, granting an option or similar right, creating a trust or other equitable interest or sharing or parting with possession or occupation;
- (c) the word "guarantee" includes any guarantee or indemnity and any other financial support (including any participation or other assurance against loss and any deposit or payment) in respect of any person's indebtedness;
- (d) the word "indebtedness" includes any obligation for the payment or repayment of money, whatever the nature or basis of the relevant obligation (and whether present or future, actual or contingent);
- (e) the word "law" includes law established by or under statute, constitution, treaty, decree, regulation or judgment, common law and customary law and the word "lawful" and similar words and phrases are to be construed accordingly;

- (f) the word "loan" includes any sum of money lent by the Lender to the Chargor by way of loan or overdraft facilities and any other facility made available or obligation undertaken by the Lender to or for the Chargor;
  - (g) the word "person" includes any individual, company, corporation, firm, government, state or any agency of a state and any association, partnership or trust (in each case, whether or not it has separate legal personality);
  - (h) the word "Property" includes a reference to each separate property of which particulars are set out in Schedule 1 (Details of the Property) and to any part or parts of such property;
  - (i) the word "regulation" includes all guidelines, official directives, regulations, requests and rules (in each case, whether or not having the force of law) of any governmental, inter-governmental or supranational agency, body or department or of any regulatory or other authority or organisation (whether statutory or non-statutory, governmental or non-governmental);
  - (j) the word "security" includes any assignment by way of security, charge, lien, mortgage, pledge or other security interest securing any obligation of any person and any other agreement or arrangement having a similar effect;
  - (k) the word "set-off" includes analogous rights and obligations in other jurisdictions; and
  - (l) the word "tax" includes any tax, duty, impost or levy and any other charge or withholding of a similar nature (including any interest or penalty for late payment or non-payment);
- 1.2.2 except where this Deed expressly states otherwise, each term used in this Deed which is defined in the Facilities Agreement has the same meaning as in the Facilities Agreement, construed in accordance with the Facilities Agreement;
- 1.2.3 where something (or a list of things) is introduced by the word "including", or by the phrase "in particular", or is followed by the phrase "or otherwise", the intention is to state an example (or examples) and not to be exhaustive (and the same applies when other similar words or phrases are used);
- 1.2.4 each reference to the "Chargor", any "Obligor", the "Lender" or any "Party" includes its successors in title, and its permitted assignees or permitted transferees;
- 1.2.5 unless this Deed expressly states otherwise or the context requires otherwise, (a) each reference in this Deed to any provision of any statute or of any subordinate legislation means, at any time, the relevant provision as in force at that time (even if it has been amended or re-enacted since the date of this Deed) and (b) each reference in this Deed to any provision of any statute at any time includes any subordinate legislation made pursuant to or in respect of such provisions as in force at such time (whether made before or after the date of this Deed and whether amended or re-enacted since the date of this Deed);
- 1.2.6 each reference to this Deed (or to any other agreement or deed) means, at any time, this Deed (or as applicable such other agreement or deed) as amended, novated or supplemented, at that time, provided that the relevant amendment, novation or supplement does not breach any term of this Deed or of any Finance Document;
- 1.2.7 each reference to the singular includes the plural and vice versa as the context permits or requires;
- 1.2.8 the index and each heading in this Deed are for convenience only and do not affect the meaning of the words which follow it;

- 1.2.9 each reference to a clause or Schedule is (unless expressly provided to the contrary) to be construed as a reference to the relevant clause of or Schedule to this Deed;
- 1.2.10 wherever this Deed states that the Chargor must not take a particular step without the consent of the Lender, the Lender has discretion whether to give its consent and can impose conditions on any such consent it gives; and
- 1.2.11 an Event of Default is "continuing" if it has not been remedied or waived in writing.

### **1.3 Third Party Rights**

- 1.3.1 A person who is not an Enforcement Party has no right under the Third Parties Act to enforce or enjoy the benefit of any term of this Deed except to the extent that this Deed or any other Finance Document expressly provides for it to do so.
- 1.3.2 The consent of any person who is not a Party is not required to rescind or vary this Deed at any time.
- 1.3.3 This clause 1.3 does not affect any right or remedy of any person which exists, or is available, otherwise than pursuant to the Third Parties Act.

### **1.4 Incorporation of other terms and designation as a Finance Document**

- 1.4.1 The terms of the Facilities Agreement and any other Finance Document or other document under which Secured Obligations arise and of any side letters between the Chargor and the Lender relating thereto are incorporated in this Deed 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.
- 1.4.2 This Deed is a Finance Document.

### **1.5 Construction of Charging Clause**

Each of the Security Interests created by or pursuant to clause 3 (Charging Clause) shall be construed as separate and distinct interests over the relevant assets so that the recharacterisation for any reason of any Security Interest over any one asset shall not affect the nature of the Security Interest created over any other asset.

## **2. COVENANT TO PAY**

The Chargor hereby, as primary obligor and not merely as surety, covenants with the Lender that it will pay, discharge and perform the Secured Obligations on demand and in the manner provided in the Finance Documents.

## **3. CHARGING CLAUSE**

### **3.1 Grant of security**

As a continuing security for the payment, discharge and performance of the Secured Obligations, the Chargor:

#### **3.1.1 Legal mortgage on the Property**

charges to the Lender by way of legal mortgage, the Property;

### **3.1.2 Fixed charge on other interests**

charges to the Lender by way of fixed charge, to the extent that the Property is not for any reason effectively charged by way of legal mortgage pursuant to clause 3.1.1, such Property and all the Chargor's other interests in the Property;

### **3.1.3 Assignment of collateral rights relating to the Property**

assigns to the Lender by way of security the benefit of all covenants, rights, claims, warranties and guarantees relating to the Property including the construction of the Property, its use of or title to the Property, any present or future compensation and damages for the compulsory purchase of, or any blight or disturbance affecting the Property, and the benefit of all easements serving or relating to the Property, subject to reassignment or redemption;

### **3.1.4 Assignment of claims**

assigns to the Lender by way of security its rights and interest in any claim against any provider of any certificate of or report on title or the provider of any other due diligence report (in its capacity as provider of the same) in connection with the acquisition, development, financing or refinancing of the Property;

### **3.1.5 Assignment of Rental Income**

assigns to the Lender by way of security its rights and interest in all present or future Rental Income.

## **3.2 Full title guarantee and implied covenants**

All the security created or given under this Deed is made with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994.

## **3.3 Release**

On the Discharge Date (but subject to clause 16.6 (*Avoidance of settlements and other matters*)) the Lender will at the request and cost of the Chargor execute and do all deeds, acts and things as may be necessary to release the Charged Assets from the security constituted by or pursuant to this Deed.

## **4. NOTICES OF ASSIGNMENT**

- 4.1 The Chargor shall, if required by the Lender, give notice of assignment of the Rental Income in the form set out in Part 1 of Schedule 4 to each tenant of the Property and shall use its reasonable endeavours to ensure that each such tenant executes and delivers to the Lender an acknowledgement of such notice in the form set out in Part 2 of Schedule 4.

- 4.2 The Chargor may have all Rental Income paid directly to it and may exercise all of its rights in relation to those rights assigned to the Lender in accordance with clauses 3.1.3 and 3.1.4 of this Deed unless an Event of Default has occurred and is continuing and the Lender otherwise directs in which case the Rental Income shall be paid and the rights assigned in accordance with clauses 3.1.3 and 3.1.4 exercised as the Lender otherwise directs.

## **4.3 Lender may give notice**

Nothing in this Deed shall prevent the Lender from giving any notice it considers necessary or desirable in relation to the Security created over any Charged Asset.

## **5. LAND REGISTRATION MATTERS**

### **5.1 Land Registry - application for restriction**

5.1.1 The Chargor shall, if requested by the Lender apply to the Land Registry to enter on the register of the Title Number or Title Numbers specified in Schedule 1 (or, where no Title Number is specified in respect of the Property or any part of it, against the Title Number or Title Numbers allocated to the Property or such part by the Land Registry) of:

(a) on the Land Registry form RX1, a restriction in the following terms:

"No disposition of the registered estate by the proprietor of the registered estate or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction is to be registered without a written consent signed by the proprietor for the time being of the charge dated [date of this Deed] in favour of Santander UK plc referred to in the charges register or their conveyancer"; and

(b) Upon receipt of the Land Registry form CH2 duly completed by the Lender, notice of an obligation to make further advances.

5.1.2 The Lender, in its absolute discretion, may make any of the applications referred to in clause 5.1.1 in place of the Chargor. In such a case, the Chargor consents to the entry of the relevant restriction.

### **5.2 Exempt information document**

5.2.1 The Chargor is at its own expense to do whatever the Lender may reasonably require in connection with:

(a) any application by the Lender to have this Deed or any Finance Document designated an exempt information document under Land Registration Rules 2003 rule 136; and

(b) any person's application under Land Registration Rules 2003 rule 137 for disclosure of this Deed or any Finance Document following its designation as an exempt information document.

5.2.2 The Chargor is to notify the Lender in writing:

(a) before making any application to have this Deed or any Finance Document designated an exempt information document under Land Registration Rules 2003 rule 136;

(b) as soon as it receives notice of any person's application under Land Registration Rules 2003 rule 137 for disclosure of this Deed or any Finance Document following its designation as an exempt information document; and

(c) before making any application under Land Registration Rules 2003 rule 138 for removal of any such designation.

### **5.3 Delivery of Deed to Land Registry**

The Chargor submitting this Deed or any counterpart to the Land Registry must on each occasion also submit a certified copy of this Deed and request the return of the original and upon the return of the original it must deliver such original to the Lender.

## **6. NEGATIVE PLEDGE AND DISPOSAL RESTRICTIONS**

### **6.1 Negative pledge**

During the Security Period, the Chargor shall not create, extend or permit to subsist any Security Interest over any of the Charged Assets.

### **6.2 Restrictions on disposals**

During the Security Period, the Chargor shall not sell, transfer or otherwise dispose of its interest (whether legal or beneficial) in the Charged Assets, without the consent of the Lender (not to be unreasonably withheld or delayed in the case of a Lease at any time when an Event of Default is not continuing).

### **6.3 Exceptions**

Clauses 6.1 (*Negative pledge*) and 6.2 (*Restrictions on disposals*) do not apply to:

- 6.3.1 the Security Interests created or required to be created by this Deed or any other Finance Document;
- 6.3.2 any Security Interest or transaction to which the Lender has given its prior written consent;
- 6.3.3 any other Security Interest or transaction which is permitted under the Facilities Agreement;
- 6.3.4 a Lease entered into before the date of this Deed or any replacement or renewals thereof which the Chargor is obliged to grant or effect under their terms;
- 6.3.5 a Lease to which the Lender has given his consent or which is permitted under the Facilities Agreement; or
- 6.3.6 any sale, lease or disposal of any fixture or fittings in the ordinary course of business.

## **7. REPRESENTATIONS AND WARRANTIES**

The Chargor represents and warrants as set out in Part 2 of Schedule 2 (*Property warranties and undertakings*) to the Lender on the date of this Deed and on each subsequent date during the Security Period on which the representations and warranties set out in clause 21 of the Facilities Agreement are repeated.

## **8. UNDERTAKINGS**

The Chargor undertakes to the Lender in the terms of the following provisions of this clause 7, all such undertakings to commence on the date of this Deed and to continue throughout the Security Period:

### **8.1 Maintenance**

it will keep the Charged Assets in a good and substantial state of repair, working order and condition;

### **8.2 Property**

it will comply with the provisions of Part 3 of Schedule 2 (*Property warranties and undertakings*);

### **8.3 Deposit of documents**

the Chargor will promptly at the request of the Lender deposit with the Lender (or as the Lender directs):

- 8.3.1 all deeds and documents of title relating to the Property including official copies of Land Registry entries, counterpart leases, licences, and any other deeds or documents necessary to assist the Lender to enforce the security created by this Deed; and
- 8.3.2 all such other documents relating to the Charged Assets as the Lender may from time to time reasonably require.

### **8.4 Retention of documents**

the Lender may retain any document delivered to it pursuant to clause 8.3 (*Deposit of Documents*) or otherwise until the Discharge Date and if, for any reason it ceases to hold any such document before such time, it may by notice to the Chargor require that the relevant document be redelivered to it and the Chargor must promptly comply (or procure compliance) with such notice;

### **8.5 Power to remedy**

if the Chargor fails to comply with any of the covenants and undertakings set out or referred to in clauses 8.1 to 8.4 inclusive and Part 3 of Schedule 2 (*Property warranties and undertakings*) it will allow (and hereby irrevocably authorises) the Lender and/or such persons as the Lender nominates to take such action (including the making of payments) on behalf of the Chargor as is necessary to ensure that such covenants are complied with; and

## **9. ENFORCEABILITY**

For the purposes of all powers implied by the LPA or any other applicable statute, the Secured Obligations shall be deemed to have become due and payable and this Deed will become immediately enforceable and the powers of the Lender and any Receiver will become exercisable on the date of this Deed, but, as between the Lender, any Receiver or Delegate and each Chargor, the power of sale shall be exercisable only when an Event of Default has occurred and is continuing.

## **10. ENFORCEMENT OF SECURITY**

10.1 At any time while an Event of Default is continuing, the Lender may without further notice:

- 10.1.1 appoint one or more than one Receiver in respect of the Charged Assets or any of them and if more than one Receiver is appointed the Receiver may act jointly and severally or individually; or
- 10.1.2 take possession of the Charged Assets; or
- 10.1.3 in its absolute discretion enforce all or any part of the security created by this Deed in such other lawful manner as it thinks fit.

10.2 The Lender may remove the Receiver and appoint another Receiver and the Lender may also appoint an alternative or additional Receiver.

10.3 The Receiver will, so far as the law permits, be the agent of the Chargor and the Chargor alone will be responsible for the acts or defaults of the Receiver and will be liable on any contracts or obligations made or entered into by the Receiver. The Lender will not be responsible for any misconduct, negligence or default of the Receiver.

10.4 The powers of the Receiver will continue in full force and effect following the liquidation of the Chargor.

- 10.5 The remuneration of the Receiver may be fixed by the Lender but will be payable by the Chargor. The amount of the remuneration will form part of the Secured Obligations.
- 10.6 The Receiver will have the power on behalf and at the cost of the Chargor:
- 10.6.1 to do or omit to do anything which he considers appropriate in relation to the Charged Assets; and
  - 10.6.2 to exercise all or any of the powers conferred on the Receiver or the Lender under this Deed or conferred upon administrative receivers by the Insolvency Act (even if he is not an administrative receiver), or upon receivers by the LPA or any other statutory provision (even if he is not appointed under the LPA or such other statutory provision).
- 10.7 Without prejudice to the general powers set out in clause 10.7, a Receiver will also have the powers and discretions set out in Schedule 3 (*Receiver's specific powers*).
- 10.8 The Lender or any Receiver may sever any fixtures from the Property and sell them apart from the Property without taking possession of the Property and apply the net proceeds of such sale in or towards satisfaction of the Secured Obligations.
- 10.9 If the Lender or the Receiver obtains possession of the Property, the Lender or the Receiver may use and remove, store or sell any chattels on the Property, whether or not forming part of the Charged Assets, without being under any liability to the Chargor other than to account for their net proceeds of the sale. All Expenses and liabilities incurred by the Lender or the Receiver in connection with the removal, storage and sale of such chattels will form part of the Secured Obligations.
- 10.10 If (notwithstanding any representation or warranty to the contrary contained in this Deed) there shall be any security affecting the Charged Assets or any of them which ranks in priority to the security created by this Deed and the holder of such prior security takes any steps to enforce such security, the Lender or any Receiver may, at its option, take a transfer of, or repay the indebtedness secured by, such security.
- 10.11 The Lender may, at any time when an Event of Default is continuing, exercise, to the fullest extent permitted by law, all or any of the powers authorities and discretions conferred on a Receiver by this Deed, whether as attorney of the Chargor or otherwise and whether or not a Receiver has been appointed.
- 10.12 The Lender may, in writing, either in its appointment of a Receiver or by subsequent notice to that Receiver, restrict the right of such Receiver to exercise all or any of the powers conferred on Receivers by this Deed.

## **11. APPLICATION OF PROCEEDS**

### **11.1 Recoveries by Enforcement Parties**

Amounts received or recovered by an Enforcement Party pursuant to this Deed and the proceeds arising from the exercise of the powers of an Enforcement Party will, subject to any claims ranking in priority to the Secured Obligations, be applied by or at the direction of the Lender or the Receiver, as applicable, in or towards discharging or satisfying, in the following order of priority:

- 11.1.1 the costs, charges and expenses of and incidental to the Receiver's appointment and the payment of his remuneration;
- 11.1.2 any costs, charges, expenses and liabilities of or incurred by any Enforcement Party in the exercise of any of its powers including all rents, taxes, rates and outgoings whatever affecting the Charged Assets, all premiums on Insurances properly payable under this Deed or any applicable statute, the cost of executing necessary or proper



repairs to the Charged Assets, and the payment of annual sums or other payments, and the interest on all principal sums, having priority to the Secured Obligations:

11.1.3 the Secured Obligations, in accordance with the provisions of the Finance Documents and otherwise in such order as the Lender may determine; and

11.1.4 the claims of those persons entitled to any surplus.

## **11.2 Right of appropriation**

The Lender is entitled to appropriate money and/or assets to Secured Obligations in such manner or order as it thinks fit and any such appropriation shall override any appropriation by the Chargor.

## **12. PROTECTION OF THIRD PARTIES**

### **12.1 No duty to enquire**

A buyer from, tenant or other person dealing with any Enforcement Party will not be concerned to enquire whether any of the powers which such Enforcement Party has exercised or purported to exercise have arisen or become exercisable and may assume that such Enforcement Party is acting in accordance with this Deed.

### **12.2 Receipt conclusive**

Receipt by the Lender or any Receiver shall be an absolute and a conclusive discharge to a purchaser of the Charged Assets and shall relieve such purchaser of any obligation to see to the application of any monies paid to or by the direction of the Lender or any Receiver.

## **13. PROTECTION OF LENDER**

### **13.1 Lender's receipts**

The Lender's obligation to account (whether to the Chargor or to any other person) shall be limited to the Lender's own actual receipts which the Lender must distribute or pay to the person entitled (or who the Lender, acting reasonably, believes to be entitled) in accordance with the requirements of this Deed.

### **13.2 Exclusion of liability**

13.2.1 No Enforcement Party will be liable to the Chargor for any expense, loss, liability or damage incurred by the Chargor arising out of the exercise of its rights or powers or any attempt or failure to exercise those rights or powers except any expense, loss, liability or damage arising from its gross negligence, fraud or wilful misconduct.

13.2.2 The Chargor may not take any proceedings against any officer, employee or agent of the Lender in respect of any claim it might have against the Lender or in respect of any act or omission of any kind by that officer, employee or agent in relation to this Deed. Any officer, employee or agent of the Lender may rely on this clause 13 under the Third Parties Act.

### **13.3 Effect of possession**

If the Lender or any Receiver enters into possession of the Charged Assets, or any of them, this will not oblige either the Lender or the Receiver to account as mortgagee in possession and if at any time the Lender enters into possession of the Charged Assets, or any of them, it may at any time at its discretion go out of such possession.

## **14. POWER OF ATTORNEY**

### **14.1 Grant of power**

The Chargor irrevocably and by way of security appoints the Lender and each Receiver and any person nominated for the purpose by the Lender or the Receiver (in writing, under hand, signed by an officer of the Lender or by the Receiver) to be the attorney of the Chargor (with full power of substitution and delegation) for the purposes set out in clause 14.2 below, for so long as an Event of Default is continuing.

### **14.2 Extent of power**

The power of attorney granted in clause 14.1 above allows the Lender, the Receiver or such nominee in the name of the Chargor and on its behalf and as its act and deed to:

- 14.2.1 perfect the security given by the Chargor under this Deed; and
- 14.2.2 execute, seal and deliver (using the Chargor's seal where appropriate) any document or do any act or thing which the Chargor may, ought or has agreed to execute or do under this Deed or which the Lender, the Receiver or such nominee may in their absolute discretion consider appropriate in connection with the exercise of any of the rights, powers authorities or discretions of the Lender or the Receiver under, or otherwise for the purposes of, this Deed.

### **14.3 Ratification**

The Chargor covenants with the Lender to ratify and confirm all acts or things made, done or executed by any attorney exercising or purporting to exercise the powers conferred in accordance with this clause 14.

## **15. APPLICATION, VARIATION AND EXTENSION OF STATUTORY PROVISIONS**

### **15.1 Application of statutory covenants**

The covenants set out in sections 2 to 5 of the Law of Property (Miscellaneous Provisions) Act 1994 shall extend to bind the Chargor only if, in any case, the relevant covenant imposes upon the Chargor a burden, liability or obligation that would not otherwise arise under this Deed.

### **15.2 Conditions applicable to power of sale etc.**

- 15.2.1 For the purposes only of section 101 of the LPA, (but otherwise subject to the provisions of clause 9 (*Enforceability*)), the conditions set out in that section as to when such powers arise do not apply and the Secured Obligations become due and the statutory power of sale and other powers of enforcement arise immediately following the execution of this Deed; and
- 15.2.2 the Lender and any Receiver may exercise the statutory power of sale conferred by the LPA free from the restrictions imposed by section 103 of the LPA, which shall not apply to this Deed.

### **15.3 Extension of powers of sale, etc.**

- 15.3.1 The power of sale and the other powers conferred by the LPA or otherwise are extended and varied to authorise the Lender in its absolute discretion to do all or any of the things or exercise all or any of the powers which a Receiver is empowered to do or exercise under this Deed.
- 15.3.2 The Lender and any Receiver shall also have and enjoy all the other powers, privileges, rights and protections conferred by the LPA and the Insolvency Act on mortgagees, receivers or administrative receivers (each as amended and extended by

this Deed and whether or not a receiver or administrative receiver has been appointed) but so that if there is any ambiguity or conflict between the powers contained in such statutes and those contained in this Deed, those contained in this Deed shall prevail.

**15.4 Consolidation of mortgages**

The restriction on the consolidation of mortgages in Section 93 of the LPA does not apply to this Deed nor to any security given to the Lender pursuant to this Deed.

**15.5 Powers of leasing, etc - Chargor**

The statutory and other powers of leasing, letting, entering into agreements for leases or lettings and accepting or agreeing to accept surrenders of leases or tenancies shall not be exercisable by the Chargor in relation to the Charged Assets or any part thereof if so directed by any Enforcement Party.

**15.6 Powers of leasing, etc - Lender**

The restrictions on the powers of the Lender or the Receiver to grant leases or to accept the surrender of leases in sections 99 and 100 of the LPA do not apply to this Deed.

**15.7 LPA provisions relating to appointment of Receiver**

Section 109(1) of the LPA shall not apply to this Deed.

**15.8 Application of proceeds**

Sections 109(6) and 109(8) of the LPA will not apply to the Lender nor to a Receiver appointed under this Deed.

**16. PROTECTION OF SECURITY**

**16.1 Powers, rights and remedies cumulative**

The powers, rights and remedies provided in this Deed are in addition to (and not instead of) powers, rights and remedies under law.

**16.2 Exercise of powers, rights and remedies**

If an Enforcement Party fails to exercise any power, right or remedy under this Deed or delays its exercise of any power, right or remedy, this does not mean that it waives that power, right or remedy. If an Enforcement Party exercises, or partly exercises, a power, right or remedy once, this does not mean that it cannot exercise such power right or remedy again, fully or in part.

**16.3 Discretion**

**16.3.1** Subject to the other provisions of this Deed, the Lender may decide:

- (a) whether and, if so, when, how and to what extent (i) to exercise its rights under this Deed and (ii) to exercise any other right it might have in respect of the Chargor (or otherwise); and
- (b) when and how to apply any payments and distributions received for its own account under this Deed,

and the Chargor has no right to control or restrict the Lender's exercise of this discretion.

- 16.3.2 No provision of this Deed will interfere with the Lender's right to arrange its affairs as it may in its absolute discretion decide (nor oblige it to disclose any information relating to its affairs), except as expressly stated.

**16.4 Power to establish new account**

If the Lender receives notice of a subsequent mortgage or charge relating to the Charged Assets, it will be entitled to close any bank account and to open a new bank account in respect of the closed account. If the Lender does not open such new account, it will be treated as if it had done so at the time when it received such notice.

**16.5 Information**

The Chargor authorises the holder of any prior or subsequent security to provide to the Lender, and the Lender to receive from such holder, details of the state of account between such holder and the Chargor.

**16.6 Avoidance of settlements and other matters**

- 16.6.1 Any payment made by the Chargor, or settlement or discharge between the Chargor and the Lender, is conditional upon no security or payment to the Lender by the Chargor or any other person being avoided or set aside or ordered to be refunded or reduced by virtue of any provision or enactment relating to bankruptcy, insolvency, administration or liquidation for the time being in force and accordingly (but without limiting the Lender's other rights under this Deed) the Lender shall be entitled to recover from the Chargor the value which the Lender has placed upon such security or the amount of any such payment as if such payment, settlement or discharge had not occurred.

- 16.6.2 If the Lender, acting reasonably, considers that any amount paid by the Chargor in respect of the Secured Obligations is capable of being avoided or ordered to be refunded or reduced for the reasons set out in clause 16.6.1, then for the purposes of this Deed such amount shall not be considered to have been irrevocably paid.

**16.7 Further advances**

The Lender must perform its obligations to the extent arising under the Finance Documents to make further advances. The security constituted by this Deed has been made for securing such further advances.

**17. COMMUNICATIONS**

- 17.1 Clause 32 (*Notices*) of the Facilities Agreement shall apply to any notice, consent and other communication in respect of this Deed.

**18. ASSIGNMENT AND TRANSFER**

**18.1 No assignment by Chargor**

The Chargor may not assign, novate or otherwise deal with its rights or obligations under or interests in this Deed, except with the prior written consent of the Lender.

**18.2 Transfer by Lender**

- 18.2.1 Subject to compliance with the conditions provided for in the Facilities Agreement, the Lender may at any time assign, novate or otherwise deal with any rights or obligations under or interests in this Deed.

- 18.2.2 Any person to whom the benefit of all such rights has been transferred, subject to compliance with the obligations of the Lender under this Deed, may enforce this Deed in the same way as if it had been a Party instead of the Lender.

## **19. GOVERNING LAW, JURISDICTION AND SERVICE OF PROCESS**

### **19.1 Governing law**

This Deed and any non-contractual obligations arising out of or in connection with it shall be governed and construed in accordance with English law.

### **19.2 Jurisdiction**

The courts of England shall 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) (a "Dispute"). Each Party agrees that the courts of England are the most appropriate and convenient courts to settle any Dispute and accordingly neither Party will argue to the contrary. This clause 19.2 is for the benefit of the Enforcement Parties only. As a result, no Enforcement Party will be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, each Enforcement Party may take concurrent proceedings in any number of jurisdictions.

## **20. THIS DEED**

### **20.1 Consideration**

The Chargor has entered into this Deed in consideration of the Lender agreeing to provide (or to continue to provide) finance facilities to it on the terms agreed between them.

### **20.2 Execution of this Deed - counterparts**

This Deed may be executed in one or more counterparts. If the Parties execute this deed in separate counterparts, it will take effect as if they had all executed a single copy.

### **20.3 Execution of this Deed - formalities**

This Deed is intended to be a deed even if any Party's execution is not in accordance with the formalities required for the execution of deeds.

### **20.4 Conflict**

If there is any conflict between the provisions of the Finance Documents and the provisions of this Deed, the provisions of the Finance Documents shall prevail.

### **20.5 Partial invalidity**

20.5.1 If, at any time, any provision of this Deed is or is found to have been illegal, invalid or unenforceable in any respect under the law of any jurisdiction, this does not affect the legality, validity or enforceability of the other provisions of this Deed, nor the legality, validity or enforceability of the affected provision under the law of any other jurisdiction.

20.5.2 If any Party is not bound by this Deed (or any part of it) for any reason, this does not affect the obligations of each other Party under this Deed (or under the relevant part).

### **20.6 Other security**

This Deed is in addition to, and does not operate so as in any way to prejudice or affect, or be prejudiced or affected by, any other security or guarantee which the Lender may now or at any time after the date of this Deed hold for or in respect of the Secured Obligations.

This Deed is made and delivered as a deed on the date given on page 1.

## **SCHEDULE 1**

### **Details of the Property**

1. Address of Property: The property known as [ ]

Freehold/Leasehold Estate: [Freehold][Leasehold]

Title Details (where applicable): [title numbers]

County and District (or London Borough):

## **SCHEDULE 2**

### **Property warranties and undertakings**

#### **Part 1**

#### **Definitions applicable to Schedule 2**

**Adverse Property Effect** a material adverse effect on:

- (a) the value or marketability of the Property;
- (b) the ability of the Chargor to use the Property for the purposes for which it is currently used; or
- (c) the validity or enforceability of, or the effectiveness or ranking of the security created or purported to be created by this Deed in relation to the Property or the rights or remedies of the Lender under this Deed;

and so that:

- (i) in this Schedule 2 the words "would have an Adverse Property Effect" are to be construed as meaning "would or might reasonably be expected to have an Adverse Property Effect"; and
- (ii) reference in any part of this Schedule 2 to matters, events or circumstances having an Adverse Property Effect are to be construed as if such matters, events or circumstances were taken together with all other matters, events or circumstances arising under any paragraph of such part of Schedule 2 which would, on such construction, in aggregate have an Adverse Property Effect

**Direction** any notice or order served on or issued to the Chargor by any local or other authority (whether under the Planning Acts or otherwise) in respect of Property

**Lease** any lease, agreement for lease, tenancy, contractual licence or other document which gives a person who is not the Chargor the right to occupy, use or enjoy the Property or any part thereof

**Licensing Acts** the Licensing Act 2003, the Licensing Act 1964 (to the extent not repealed) the Betting Gaming and Lotteries Act 1963, the Gaming Act 1968 and all other legislation in force for the time being relating to the regulation and sale of alcohol, the provision of entertainment and late night refreshment or the regulation of betting, gaming or lotteries or the location or provision of gaming or amusement machines

**Planning Acts** the Town and Country Planning Acts 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 and any order, regulations or permission made or granted under or by virtue of such Acts or any of them



## Part 2

### Property Warranties

[To be updated to the extent applicable on signing to reflect then current position]

#### 1. MATTERS AFFECTING THE PROPERTY

- 1.1 the Chargor is the legal and beneficial owner of the Property for the estate set out in relation to each part of the Property in Schedule 1 (*Details of Property*);
- 1.2 the Property is free from security or third party rights of any kind whatever save for any permitted under clause 6.3;
- 1.3 the Property is free from any tenancies or licences to occupy which would have an Adverse Property Effect, save for Leases entered into before the date of this Deed or any replacements or renewals thereof which the Chargor is obliged to grant or effect under their terms or entered into with the consent of the Lender;
- 1.4 nothing has arisen or been created or is subsisting which would be an overriding interest over the Property which, when taken with all like events, would have an Adverse Property Effect;
- 1.5 there is no dispute regarding boundaries, easements, covenants or other matters relating to any part of the Property or its use which the Chargor believes, or has reasonable grounds to believe, is likely to be adversely determined and, which if so, would have an Adverse Property Effect;
- 1.6 all material covenants binding on the Chargor (whether affecting the freehold or leasehold titles to the Property) have been properly performed and observed and the Chargor has received no notice of any outstanding breach of any material covenant as regards the Property which would have an Adverse Property Effect;
- 1.7 all Authorisations required or desirable for the continued use of the Property for its present purpose have been obtained and have not been (and the Chargor is not aware of any circumstance having arisen whereby they might be) withdrawn;
- 1.8 there is no covenant, restriction, burden, stipulation or outgoing (other than usual business outgoings) affecting the Property which is of an onerous or unusual nature (either generally or in the context of the present use of the Property) or which conflicts with its present use and which would have an Adverse Property Effect;
- 1.9 there subsists no material breach of any Planning Acts or other law, regulation or covenant which would have an Adverse Property Effect;
- 1.10 each part of the Property is served by drainage, water and electricity services, all of which are connected to the mains by media located on, in or under that part of the Property or by media elsewhere, in respect of the use of which the Chargor and those deriving title under it to that part of the Property have a permanent legal easement free from onerous or unusual conditions (either generally or in the context of the present use of such part of the Property) and the passage and provision of those services is uninterrupted and the Chargor knows of no imminent or likely material interruption of such passage or provisions, in each case where failure to be so connected or to have such an easement would have an Adverse Property Effect;
- 1.11 the means of access to and egress from each part of the Property is either direct to roads which have been adopted by the local authority and which are maintainable at public expense or to other roads in respect of the use of which the Chargor and those deriving title under it to such part of the Property have a permanent legal easement free from onerous or unusual conditions (either generally or in the context of the present or intended use by the Chargor of such roads), and such other roads connect directly to roads which have been adopted by the local authority and are maintainable at public expense;

- 1.12 no facilities necessary for the enjoyment and use of the Property and/or the carrying on of the Chargor's business at the Property (including, without limitation, access to and egress from the Property), the lack of which would have an Adverse Property Effect, are enjoyed on terms entitling any person to terminate or curtail its or their use (in the absence of breach by the Chargor of any such terms) or on terms which conflict with or materially restrict its present use; and
- 1.13 the Chargor has not received notice of any adverse claim by any person in respect of the ownership of the Property or any interest in the Property which would have an Adverse Property Effect, nor has any acknowledgement been given to any person in respect of any such claim or interest.

### Part 3

#### Property Undertakings

##### 1. NO CHANGES TO THE PROPERTY

The Chargor will not without the prior written consent of the Lender:

- 1.1 make any application for the grant of planning permission within the meaning of the Planning Acts; nor
- 1.2 demolish all or any part of the Property; nor
- 1.3 destroy or remove from the Property any other of the Charged Assets now or at any time after the date of this Deed located in or on the Property; nor
- 1.4 make any additions or structural or other material alteration to the Property; nor
- 1.5 create or permit to arise any overriding interest, easement or right over the Property; nor
- 1.6 enter into negotiations with any competent agency of local or national government with a view to the compulsory acquisition of the Property nor consent to such acquisition; nor
- 1.7 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 regulatory authority to build roads or carry out other works; nor
- 1.8 change the use of the Property or do or suffer to be done anything in relation to the Property which constitutes development (as that expression is defined in the Town and Country Planning Act 1990),

if, in any case, such action would have an Adverse Property Effect.

##### 2. COMPLY WITH COVENANTS

The Chargor will observe and perform all *other* covenants, agreements, restrictions, stipulations and conditions from time to time affecting its interest in the Property or the mode of user or the enjoyment of it and will promptly pay all present and future tax, rates, assessments and outgoings of whatsoever nature imposed upon or payable in respect of the Property, or by the owner or occupier thereof, unless such amounts are being contested in good faith.

##### 3. COMPLY WITH AUTHORISATIONS AND STATUTES

The Chargor will observe and comply with the terms of all Authorisations relating to the Property, if, in any case, a failure to do so would have an Adverse Property Effect

##### 4. INSPECTION

The Chargor will permit the Lender and/or such person or persons as it nominates at all reasonable times during business hours and on not less than 24 hours' written notice to the Chargor to enter into and upon the Property to view its state and condition and forthwith after service by the Lender of notice of any defect or want of repair without delay promptly remedy such defect or want of repair.

##### 5. DISPOSALS OF FIXTURES

The Chargor will not sever or dispose of any fixtures now or at any time hereafter affixed to the Property otherwise than in the ordinary course of business

## **6. LEASES**

The Chargor will:

- 6.1 not grant any Lease or otherwise part with or share possession of the Property (save for Leases entered into before the date of this Deed or any replacements or renewals thereof which the Chargor is obliged to grant or effect under their terms or entered into with the consent of the Lender, such consent not to be unreasonably withheld or delayed if no Event of Default is continuing);
- 6.2 in the case of a Lease to which the Lender has given its consent:
  - 6.2.1 not exercise any right of re-entry, nor accept the surrender of the whole or any part of the premises comprised in such Lease nor vary the terms of such Lease, without in any such case having first obtained the written consent of the Lender;
  - 6.2.2 not agree to any reduction in, nor capitalisation of, the rent payable under such Lease, nor agree any rent review, nor grant any approval or consent, without in any such case having first obtained the written consent of the Lender;
  - 6.2.3 use all reasonable endeavours to procure the payment by such tenant, lessee, licensee or grantee to whom any Lease has been granted of the rents or other fees or monies reserved by and the observance and performance of the covenants, stipulations and conditions contained in such Lease and itself observe and perform the covenants, stipulations and conditions on the part of the Chargor to be observed and performed under such Lease; and
  - 6.2.4 give prompt notice in writing to the Lender if any tenant, lessee, licensee or grantee under any Lease withholds any rent or other monies falling due or exercise any right of set-off or purport or threaten to do any of the foregoing.

## **7. INSURANCE**

The Chargor will insure and keep insured the Property with a reputable independent insurance company or underwriters:

- 7.1 in the names of the Chargor, with the Lender as named insured and loss payee (provided that any proceeds payable to the Lender as loss payee shall be required to be directly paid to an account of the Chargor or transferred promptly to such account upon receipt unless an Event of Default is continuing in which case, if the Lender so requires and notifies the Chargor, such proceeds can be retained by the Lender and applied towards the Secured Obligations in accordance with this Deed;
- 7.2 on the basis that the relevant policies of insurance contain an endorsement (in form and substance reasonably satisfactory to the Lender) naming the Lender as named insured and loss payee in respect of all claims arising under such policies;
- 7.3 against loss or damage by fire, explosion, storm, flood, lightning, earthquake, impact, aircraft and articles dropped from aircraft, riot, civil commotion, malicious damage, bursting or over-flowing pipes or tanks, oil leakage, subsidence, landslip and heave, public liability and liability under the Defective Premises Act 1972, terrorism to the fullest extent available on the insurance market from time to time, (and in the time of war, against war risks and any statutory insurance scheme which may be applicable to the Property) and such other risks and contingencies as the Lender from time to time reasonably requires;
- 7.4 in a value equal to the full cost of reinstatement from time to time including proper provision for cost inflation over any period that might be required for planning and negotiation and the reconstruction period plus the cost of demolition and debris removal and architects', surveyors' and all other professional fees and the cost of complying with local authority and other statutory requirements;

- 7.5 upon terms to include a clause acceptable to the Lender which provide that no breach of any of the terms of the relevant policies of insurance by the Chargor or any tenant of any part of the Property will, as regards the Lender, invalidate such policies;
- 7.6 upon terms that the relevant insurance company or underwriters confirm in favour of the Lender that the insurance cover will not be altered or cancelled without prior reference to the Lender; and
- 7.7 otherwise in such form and upon such terms as the Lender agrees (such agreement not to be unreasonably withheld or delayed).

#### **8. APPLICATION OF INSURANCE PROCEEDS**

The Chargor will apply the proceeds of insurance arising from damage to, or destruction of, the Property in repairing or reinstating it unless such damage has resulted in a total loss in which case as the Lender otherwise directs.

#### **9. DIRECTIONS**

Within seven days after receipt by the Chargor of any Direction served on or issued to it by any local or other authority (whether under the Planning Acts or otherwise) in respect of the Property the Chargor will:

- 9.1 give full particulars of the Direction to the Lender and, if so requested by the Lender, produce the Direction or a copy of it to the Lender;
- 9.2 advise the Lender from time to time of the steps taken or proposed to be taken by the Chargor to comply with the terms of the Direction;
- 9.3 without delay (unless otherwise directed by the Lender) take all reasonable or necessary steps to comply with the Direction;
- 9.4 at the request of the Lender (but at the cost of the Chargor) make or join with the Lender in making such objections or representations against or in respect of any proposal contained in the Direction as the Lender deems appropriate in order to protect the Lender's security interest in the Property; and
- 9.5 apply any compensation received as a result of the implementation of the Direction in the reduction of the Secured Obligations or (at the option of the Lender, if an Event of Default is continuing) deposit the same with the Lender upon such terms as to set-off, assignment and/or charge or otherwise as the Lender requires.

#### **10. LICENSED PREMISES**

If at any time during the Security Period the Chargor (or any officer or employee of the Chargor) holds any licence or registration certificate or other Authorisation under the Licensing Acts allowing intoxicating liquors to be sold, or the provision of entertainment or late night refreshments or betting or gaming facilities from or the location of gaming or amusement machines on the Property, the Chargor agrees with the Lender:

- 10.1 to procure that there shall be obtained, renewed and maintained the proper licence, certificate of registration or other Authorisation and, if requested by the Lender, to produce such licence, certificate or other Authorisation to the Lender;
- 10.2 not to do or omit or allow anything to be done which may prejudice the continued existence or renewal of such licence, certificate or other Authorisation;
- 10.3 as soon as the Chargor becomes aware of anything which is likely to affect the continued existence of such licence, certificate or other Authorisation or result in the conditions to such licence or certificate being varied, to advise the Lender in writing;

- 10.4 so far as it is usual for the Chargor to do so, to insure and to keep such licence, certificate or Authorisation insured against loss, termination or non-renewal and the provisions of paragraphs 7 and 8 of this part of Schedule 2 apply to such insurance as if they were now repeated; and
- 10.5 at any time when an Event of Default is continuing, the Chargor will upon the request of any Enforcement Party do anything or sign any documents which such Enforcement Party may require, and which can lawfully be done or signed by the Chargor, to assist in the transfer of such licence, certificate or other Authorisation to any other person.

## **11. OTHER BUSINESS AUTHORISATIONS**

If at any time during the Security Period the Chargor (or any officer or employee of the Chargor) holds any licence, consent or other Authorisation necessary to carry out any operation or business upon the Property, the Chargor agrees with the Lender:

- 11.1 to procure that there shall be obtained, renewed and maintained the proper licence, certificate of registration or other Authorisation in a form acceptable to the Lender and, if requested by the Lender, to produce such licence, certificate or other Authorisation to the Lender;
- 11.2 not to do or omit or allow anything to be done which may prejudice the continued existence or renewal of such licence, certificate or other Authorisation;
- 11.3 as soon as the Chargor becomes aware of anything which is likely to affect the continued existence of such licence, certificate or other Authorisation or result in the conditions to such licence or certificate being varied, to advise the Lender in writing;
- 11.4 so far as it is usual for the Chargor to do so, to insure and to keep such licence, certificate or Authorisation insured against loss, termination or non-renewal and the provisions of paragraphs 7 and 8 of this part of Schedule 2 apply to such insurance as if they were now repeated; and
- 11.5 at any time after this Deed has become enforceable, the Chargor will upon the request of any Enforcement Party do anything or sign any documents which such Enforcement Party may require to assist in the transfer of such licence, certificate or other Authorisation to any other person.

### **SCHEDULE 3**

#### **Receiver's specific powers**

The Receiver will have full power and authority:

**1. POSSESSION**

- 1.1 to enter upon, take possession of and generally operate and manage the Charged Assets;
- 1.2 to collect and get in all rents, fees, charges or other income of the Charged Assets;

**2. SALE AND DISPOSAL**

without restriction, to sell, charge, grant, vary the terms or accept surrenders of, leases or tenancies of, licences to occupy, or options or franchises over the Charged Assets or otherwise deal with and dispose of the Charged Assets or any property acquired in exercise of its powers under this Deed;

**3. LEASES**

to exercise on behalf of the Chargor and without the consent of or notice to the Chargor in relation to the Charged Assets all the powers conferred on a landlord or a tenant by any legislation from time to time in force in any relevant jurisdiction relating to leasehold property, landlord and tenant, rents, housing or agriculture in respect of the Property;

**4. BORROWING**

for the purpose of exercising any of the rights, powers, authorities and discretions conferred on the Receiver by or pursuant to this Deed and/or for defraying any losses or expenses which may be incurred by him in their exercise, to raise or borrow any money from the Lender or others or to incur any other liability on such terms, whether secured or unsecured, as he may think fit, and whether to rank in priority to this security or not;

**5. LEGAL ACTIONS AND COMPROMISES**

- 5.1 in the name of the Chargor, to bring, prosecute, enforce, defend and discontinue all such actions, suits and proceedings, in relation to the Charged Assets as in any case he thinks fit;
- 5.2 to settle, adjust, refer to arbitration or expert determination, compromise and arrange any claims, accounts, disputes, questions and demands with or by any person or body who is or claims to be a creditor of the Chargor and relating in any way to the Charged Assets;

**6. RECEIPTS**

to give valid receipts for all moneys and execute all assurances and things which may be proper or desirable for realising the Charged Assets;

**7. WORKS AND MAINTENANCE**

to obtain Authorisations for and to carry out on the Property any new works or complete any unfinished works of development, building, reconstruction, maintenance, repair, renewal, improvement, furnishing or equipment, in each case in relation to the Charged Assets;

**8. CONTRACTS**

to enter into, vary, cancel or waive any of the provisions of any contracts in relation to the Charged Assets which the Receiver shall in any case think expedient in the interests of the Chargor or the Lender;

**9. SUPPLIES**

to purchase materials, tools, equipment, goods or supplies in relation to the Charged Assets on such terms and at such price as the Receiver in the Receiver's absolute determination thinks fit;

**10. INSURANCES AND BONDS**

to insure the Charged Assets, any assets acquired by the Receiver in exercise of his powers, under this Deed and effect indemnity insurance or other similar insurance in relation to the Charged Assets, in every case in such amounts, against such risks and with such offices as the Receiver thinks fit, and obtain bonds and give indemnities and security to any bondsmen;

**11. SEVERANCE RIGHTS**

to sever any of the Chargor's fixed plant, machinery or other fixtures and store, sell or otherwise deal with them separately from the Property to which they may be annexed;

**12. CHATTELS**

to remove, store, sell or otherwise deal with any chattels owned by the Chargor located at the Property;

**13. REDEEM SECURITY**

to redeem any prior security in relation to the Charged Assets (or procure the transfer of such security to himself) and settle and pass the accounts of the person entitled to the prior security so that any accounts so settled and passed shall (subject to any manifest error) be conclusive and binding on the Chargor and the money so paid shall be deemed to be an expense properly incurred by the Receiver;

**14. GENERAL**

either in the name of the Chargor or in the name of the Receiver to execute documents and do all other acts or things in relation to the Charged Assets which the Receiver may consider to be incidental or conducive to any of the Receiver's powers or to the realisation or use of the Charged Assets.



## SCHEDULE 4

### Part 1

#### Notice of Assignment to Tenant

To: [ ]

[Date]

Dear Sirs

We refer to a lease dated [ ] (the "Lease") between us and you in respect of [ ] (the "Demised Property").

We give you notice by a legal charge dated [ ] entered into between us and [ ] (the "Lender"), we have assigned to the Lender all our rights and interest in all amounts now or at any time in the future payable to us under or in connection with the Lease including but not limited to each of the following amounts payable to us under or in connection with the Lease:

1. rent, licence fees and equivalent amounts paid or payable;
2. any sum received or receivable from any deposit held as security for performance of your obligations;
3. a sum equal to any apportionment of rent allowed our favour;
4. any other moneys paid or payable in respect of occupation and/or usage of the Demised Property and any fixture and fitting on the Demised Property including any fixture or fitting on the Demised Property for display or advertisement, on licence or otherwise;
5. any sum paid or payable, or the value of any consideration given, for the grant, surrender, amendment, supplement or extension of the Lease;
6. any sum paid or payable in respect of a breach of covenant or dilapidations under the Lease;
7. any sum paid or payable by or distribution received or receivable from any guarantor of your obligations under the Lease;
8. any amount paid or payable to us by you by way of contribution to ground rent, insurance premia, the cost of an insurance valuation, a service or other charge in respect of our costs in connection with any management, repair, maintenance or similar obligation or in providing services to a tenant of, or with respect to, the Demised Property or a reserve or sinking fund or by way of VAT; and
9. any interest paid or payable on, and any damages, compensation or settlement paid or payable in respect of, any sum referred to above,

(together the "Rental Income").

We irrevocably instruct and authorise you notwithstanding any previous instructions which we may have given to you to the contrary to continue to pay all Rental Income to the Chargors' account at [ ] (Account No. [ ]) under reference [ ] or to such other account and/or bank as may from time to time be notified to you by the Lender all moneys forming part of the Rental Income and otherwise to act in accordance with the instructions of the Lender in connection with the Rental Income.

This notice and any non-contractual obligations arising out of or in connection with this notice are governed by the law of England.

Would you please acknowledge receipt of this notice and your acceptance of the instructions and authorisations contained in it by signing the attached form of acknowledgement and returning it to the Lender at [ ]

Yours faithfully

[ ]

Part 2

Acknowledgement

To: [ ]

[Date]

Dear Sirs

We acknowledge receipt of a notice (a copy of which is attached) dated [ ] and addressed to us by [ ] (the "Chargor"). Expressions defined in such notice

have the same meanings in this acknowledgement.

We acknowledge and confirm that:

1. we will pay the Rental Income to the Chargor or to such account and/or bank as the Lender may from time to time notify to us;
2. we have not, as at the date of this letter, received any notice that any third party has or will have any right or interest in or has made or will be making any claim or demand or taking any action against the Rental Income.

This acknowledgement and any non-contractual obligations arising out of or in connection with this acknowledgement are governed by the laws of England [and in connection with any proceedings with respect to this acknowledgement and any such non-contractual obligations we submit to the jurisdiction of the Courts of England for your exclusive benefit].

Yours faithfully,

[ ]

Executed as a Deed by **Humberside International  
Airport Limited** acting by, a director, in the  
presence of:

.....  
Director

Signature (Witness) .....

Print Name .....

Address .....

.....  
Occupation .....

Executed as a Deed by **Santander UK plc** acting  
by,

.....  
Title

in the presence of:

Signature (Witness) .....

Print Name .....

Address .....

.....  
Occupation .....

**SCHEDULE 3****Shares**

<b>Name of owning Chargor</b>	<b>Name of Subsidiary</b>	<b>Company No.</b>	<b>No. and Class of Shares (and where held by nominees name of nominees)</b>
Eastern Airways International Limited	Eastern Airways Share Plan Limited	6451578	6 Ordinary Shares of £1.00 each
Eastern Airways International Limited	Humberside International Airport Limited	2175309	3,577,293 Ordinary Shares of £1.00 each 3,577,293 Deferred Shares of £1.00
Humberside International Airport Limited	Steadycontrast Limited	3715496	1 Ordinary Share of £1.00
Eastern Airways (Europe) Limited	Eastern Airways (UK) Limited	3468489	501,000 Ordinary Shares of £1.00 each
Eastern Airways (Europe) Limited	Air Kilroe Limited	3038856	10,000 Ordinary Shares of £1.00 each 190,000 Preference Shares of £1.00 each

## SCHEDULE 4

### Notices

#### Part 1

Notice by way of assignment

TO: [name and address of insurer]

Re: The policies of insurance referred to in the Schedule below (the Policies)

We, [Chargor] (the Chargor), hereby give you notice that, by a Security Agreement dated [date] (the Security Agreement) and made by the Chargor in favour of [Lender] (the Lender), the Chargor has assigned to the Lender, as first priority assignee the Insurance Proceeds as defined below, except for any Insurance Proceeds in relation to any real estate or Aircraft or parts thereof, as security for certain obligations now or hereafter owed by the Chargor to the Lender.

In this notice:

**Insurance Proceeds** means the cash proceeds of any insurance claim actually received by any Chargor, except for Excluded Insurance Proceeds after deducting any reasonable expenses incurred in relation to the relevant claim and payable by such Chargor to any person which is not a member of the Group together with the benefit of all bonuses, profits, returns of premium and other benefits of whatever nature arising by virtue of any Chargor's ownership of any Insurances and all interest on any of the foregoing.

**"Excluded Insurance Proceeds"** means any proceeds of an insurance claim (i) not exceeding £1,000,000 or (ii) which the Chargor notifies the Lender are, or are to be, applied:

- (a) to meet a third party claim; or
- (b) to cover operating losses in respect of which the relevant insurance claim was made; or
- (c) in the replacement, reinstatement and/or repair of the assets or otherwise in amelioration of the loss in respect of which the relevant insurance claim was made,

in each case as soon as possible (but in any event within 90 days, or such longer period as the Lender may agree (acting reasonably)) after receipt;

**"Group"** means Eastern Airways International Limited and its subsidiaries.

We hereby irrevocably and unconditionally authorise you:

1. to note the Lender's interest as first assignee [and sole loss payee] of the Insurance Proceeds except for any Insurance Proceeds in relation to any real estate or Aircraft or parts thereof;

Please sign and return the enclosed copy of this notice to the Lender (with a copy to the Chargor) by way of acknowledgement of this notice and confirmation that you agree:

- 1.1 to the terms set out in this notice and to act in accordance with its provisions;
- 1.2 to disclose to us without any reference to or further authority from the Chargor such information relating to the Policies as we may at any time reasonably request;
- 1.3 not to cancel or decline renewal of any of the Policies without giving us 30 days prior written notice; and
- 1.4 not to cancel the Policies, nor allow the Policies to lapse, at the request of the Chargor, without first obtaining our consent.

For and on behalf of: *[Chargor]*

By:

**THE SCHEDULE**

**THE POLICIES**

	Policy number	Name and address of insurer	Name and address of broker	Brief description of assets insured	*Date of expiry of policy
1					
2					
3					
4					
5					

Dated *[date]*

**[to be endorsed on copy notice]**

To: *[name and address of Lender]* (as referred to in a Security Agreement dated *[date]* granted to you by the Chargor)

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

We hereby acknowledge receipt of the above notice and confirm our agreement to the matters set out in paragraphs A to D (inclusive) above.

Signed .....

for and on behalf of *name of insurer*

Dated: *[date]*



## SCHEDULE 5

### Form of notice to bank operating secured account

To: [name and address of account bank] (the Account Bank)

Dated: [date]

Dear Sirs,

Re: Account No: [insert account number] (the Account)

Account Branch [insert branch name and address]

Account Holder: [name of Chargor] (the Chargor)

We hereby notify you by this notice (this Notice) that by a security agreement dated [date] (the Security Agreement) made by the Chargor in favour of [Lender] (the Lender) the Chargor has charged to the Lender, all its right, title and interest in the monies from time to time standing to the credit of the Account [and of any other accounts from time to time maintained with you by the Chargor] (the Charged Account[s]) and to all interest (if any) accruing on the Charged Account[s].

We hereby irrevocably and unconditionally authorise and instruct you to:

1. hold all monies from time to time standing to the credit of the Charged Account[s] to the order of the Lender and accordingly to pay all or any part of those monies to the Lender (or as it may direct) promptly following receipt of written instructions from the Lender to that effect;
2. disclose to the Lender such information relating to the Chargor and the Charged Account[s] as the Lender may from time to time request you to provide;
3. comply with the terms of any written notice or instruction relating to the Charged Accounts received by you from the Lender.
4. We also advise you that:
  - 4.1 The Account Bank will not permit the withdrawal or other disposition of any funds in the Charged Account[s] except as expressly provided in this Notice.
  - 4.2 Until such time as the Lender delivers a Notice of Exclusive Control (in form substantially the same as attached hereto as Schedule A and incorporated herein by reference) to the Account Bank, the Account Bank shall comply with instructions directing the withdrawal, payment, transfer or other disposition of funds in the Charged Account[s] (the Disposition Instructions) originated by the Chargor which the Chargor is entitled to give concerning the Charged Account[s]. A Notice of Exclusive Control is a written notice from the Lender to the Account Bank that the Lender is thereby exercising exclusive control over the Charged Account[s] and the funds therein. Lender may, at any time if an Event of Default (as defined in the Security Agreement) has occurred and is continuing, deliver to the Account Bank a Notice of Exclusive Control.
  - 4.3 Within a reasonable time after the Account Bank receives a Notice of Exclusive Control in accordance with this paragraph 4, but in all events no later than three (3) Business Days after such receipt, and until the Lender has rescinded or withdrawn such Notice of Exclusive Control: (i) the Account Bank will comply solely with instructions originated by

Lender with respect to the Charged Account[s] and any and all funds therein, including, without limitation, any withdrawals from the Charged Account[s] or any other disposition thereof, without further consent by the Chargor and (ii) the Account Bank will cease, without further consent of the Chargor, complying with instructions concerning the Charged Account[s] or funds on deposit therein originated by the Chargor or the representative of the Chargor.

- 4.4 The provisions of this Notice may only be revoked or varied with the prior written consent of the Lender and the Chargor.

Please sign and return the enclosed copy of this Notice to the Lender (with a copy to the Chargor) by way of your confirmation that:

- 4.4.1 you agree to act in accordance with the provisions of this Notice; and
- 4.4.2 you have not received notice that the Chargor has assigned its rights to the monies standing to the credit of the Charged Account[s] or otherwise granted any security or other interest over those monies in favour of any third party.

By counter-signing this Notice the Lender confirms that the Chargor may make withdrawals from the Charged Account[s] until such time as the Lender shall notify you (with a copy to the Chargor) in writing that such permission is withdrawn by delivery of a Notice of Exclusive Control. Such permission may be withdrawn or modified by the Lender in its absolute discretion at any time.

The provisions of this Notice are governed by English law.

Yours faithfully

for and on behalf of [Chargor]

Countersigned by

for and on behalf of

.....

[Lender]

To: [name and address of Lender]

Copy to: [name and address of Chargor]

We hereby acknowledge receipt of the above Notice and confirm the matters set out in Clauses 1, 2, 3 and 4 above.

for and on behalf of

[name and address of Account Bank]

Dated: [date]

**SCHEDULE A**

**Notice of Exclusive Control**

[Letterhead of Lender]

[Date]

[Account Bank]

Title/Office

Address

**Re: Charged Account Number(s): \_\_\_\_\_ Notice of Exclusive Control**

Dear Sirs

We refer to a Security Agreement dated [date] (the **Security Agreement**) made by the Chargor in favour of Santander UK plc (the **Lender**) pursuant to which the Chargor has charged to the Lender, all its right, title and interest in the monies from time to time standing to the credit of the above-described deposit account[s] (the **Charged Account[s]**) and to all interest (if any) accruing on the Charged Account[s].

In accordance with the Security Agreement, we hereby give you notice of our exercise of exclusive control over the Charged Account[s], and we hereby instruct you to transfer collected and available funds to our account as follows:

Bank Name:

Address:

IBAN/SWIFT Routing:

Account No:

Reference:

Yours faithfully

Santander UK plc

By:

Name:

Title:

## **SCHEDULE 6**

### **Form of Deed of Accession**

**THIS DEED OF ACCESSION** dated *[date]* (this Deed) is made between:

- (1) *[name of acceding company]* a company incorporated in England and Wales with company number *[number]* / *[alternative corporate description, as appropriate]* of *[address]* (the **New Chargor**);
- (2) *[name of Company]* a company incorporated in England and Wales with company number *[number]* / *[alternative corporate description, as appropriate]* of *[address]* for itself and as agent for and on behalf of each of the other Chargors named in the Security Agreement referred to below, (the **Borrower**); and
- (3) *[name of Lender]* a company incorporated in England and Wales with company number *[number]* *[alternative corporate description, as appropriate]* of *[address]* (the **Lender**)

### **BACKGROUND**

- (A) The Borrower entered into a Security Agreement dated *[date]* (as supplemented and amended by Deeds of Accession or otherwise from time to time, the **Security Agreement**) made between amongst others the Borrower, each of the other companies named therein as Chargors, and the Lender..
- (B) The New Chargor has at the request of the Borrower and in consideration of the Lender making or continuing to make facilities available to the Borrower or any other member of the Group determined to enter into this Deed and thereby become a Chargor under the Security Agreement.

### **OPERATIVE PROVISIONS:**

#### **5. DEFINITIONS**

Terms defined and construed (whether directly or by reference) in the Security Agreement shall have the same meaning and construction in this Deed.

#### **6. ACKNOWLEDGEMENT**

The New Chargor acknowledges that:

- 6.1 it has given due consideration to the terms and conditions of the Finance Documents (including the Security Agreement) and has satisfied itself that there are reasonable grounds for believing that by executing this Deed the New Chargor will derive commercial benefit; and
- 6.2 that it enters into this Deed in good faith and for the purposes of its business.

#### **7. AGREEMENT**

The New Chargor hereby agrees to accede and become a party to and to be bound by the terms of the Security Agreement as a Chargor with immediate effect.

**8. EFFECT OF ACCESSION**

The Security Agreement shall henceforth be read and construed for all purposes as if the New Chargor had been an original party thereto in the capacity of Chargor (but so that the security created consequent on such accession shall be created on the date of this Deed).

**9. REPRESENTATIONS, WARRANTIES ETC**

The New Chargor hereby gives and agrees and undertakes to be bound by all the representations, warranties, covenants, undertakings, indemnities and agreements in the Security Agreement which are expressed to be given by or binding on a Chargor.

**10. GRANT OF SECURITY**

**10.1 Full title guarantee**

All the security created or given by the New Chargor, whether under this Deed or by the Security Agreement is given and made with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994.

**10.2 Implied Covenants**

The covenants set out in sections 2 to 5 of the Law of Property (Miscellaneous Provisions) Act 1994 shall extend to bind the New Chargor only if, in any case, the relevant covenant imposes upon the New Chargor a burden, liability or obligation that would not otherwise arise under this Deed or the Security Agreement.

**10.3 General provisions**

All the security created or given by the New Chargor, whether under this Deed or by the Security Agreement is granted in favour of the Lender as a continuing security for the payment, discharge and performance of the Secured Obligations.

**10.4 Security over specified assets**

The New Chargor now grants to the Lender in relation to its assets and undertaking the same mortgages, charges, assignments and other security as are set out in clause 3 (*Charging clause*) of the Security Agreement, to the intent that its mortgages, charges, assignments and other security shall be effective and binding upon it and its assets and undertaking and shall not in any way be avoided, discharged or released or otherwise adversely affected by any ineffectiveness or invalidity of the Security Agreement or of any other party's execution of the Security Agreement or any other Deed of Accession, or by any avoidance, invalidity, discharge or release of any guarantee, assignment or charge contained in the Security Agreement or in any other Deed of Accession.

**10.5 Specific security**

Without limiting the generality of clause 6.4 (*Security over specified assets*) or of the Security Agreement, the New Chargor confirms that for the purposes of the first fixed charge over the Investments (if any) now belonging to it set out at clause 3.1.3 of the Security Agreement such charge shall extend to those Shares listed in Schedule 3 to this Deed together with all Distribution Rights from time to time accruing thereto or thereon.

**11. AGREEMENT AND CONSENT BY CHARGORS**

The Borrower for itself and as agent for and on behalf of all other Chargors under the Security Agreement, hereby agrees and consents to all matters provided for in this Deed.

**12. CONSTRUCTION**

The Security Agreement shall continue in full force and effect but amended with effect from the date of this Deed in the manner and to the extent provided in this Deed; and the Security Agreement and this Deed shall henceforth be read as one and so that references in the Security Agreement to "this Deed", "herein" and similar phrases shall be deemed to include this Deed.

**13. GOVERNING LAW**

This Deed and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in all respects in accordance with English law.

This Deed of Accession is made and delivered as a Deed on the date given on Page 1.

[INSERT SCHEDULES AS APPROPRIATE]

[insert execution provisions as appropriate]

## **SCHEDULE 7**

### **Receiver's specific powers**

The Receiver will have full power and authority:

#### **1. POSSESSION**

- 1.1 to enter upon, take possession of the Secured Assets; and
- 1.2 to collect and get in all rents, fees, charges or other income of the Secured Assets;

#### **2. CARRY ON BUSINESS**

Generally to manage the Secured Assets or any part of it as he may think fit;

#### **3. SALE AND DISPOSAL**

Without restriction, to sell, charge, grant, vary the terms or accept surrenders of, leases or tenancies of, licences to occupy, or options or franchises over the Secured Assets or otherwise deal with and dispose of the Secured Assets or any property acquired in exercise of its powers under this deed;

#### **4. BORROWING**

For the purpose of exercising any of the rights, powers, authorities and discretions conferred on the Receiver by or pursuant to this deed and/or for defraying any losses or expenses which may be incurred by him in their exercise, to raise or borrow moneys from the Lender or others or incur any other liability on such terms, whether secured or unsecured, as he may think fit, and whether to rank in priority to this security or not;

#### **5. LEGAL ACTIONS AND COMPROMISES**

- 5.1 in the name of the relevant Chargor, to bring, prosecute, enforce, defend and discontinue all such actions, suits and proceedings, in relation to the Secured Assets as in any case he shall think fit;
- 5.2 to settle, adjust, refer to arbitration or expert determination, compromise and arrange any claims, accounts, disputes, questions and demands with or by any person or body who is or claims to be a creditor of the relevant Chargor and relating in any way to the Secured Assets;

#### **6. RECEIPTS**

To give valid receipts for all moneys and execute all assurances and things which may be proper or desirable for realising the Secured Assets;

#### **7. CONTRACTS**

To enter into, vary, cancel or waive any of the provisions of any contracts in relation to the Secured Assets which he shall in any case think expedient in the interests of the relevant Chargor or the Lender;

**8. SUPPLIES**

To purchase materials, tools, equipment, goods or supplies in relation to the Secured Assets on such terms and at such price as the Receiver in the Receiver's absolute determination thinks fit;

**9. INSURANCES AND BONDS**

To insure the Secured Assets, any assets acquired by the Receiver in exercise of his powers under this Deed, and effect indemnity insurance or other similar insurance in relation to the Secured Assets, in every case in such amounts, against such risks and with such offices as the Receiver shall think fit, and obtain bonds and give indemnities and security to any bondsmen;

**10. VOTING RIGHTS**

To exercise all voting and other rights attaching to the Investments and all other stocks, shares and securities owned by the relevant Chargor and comprised in the Secured Assets in such manner as he may think fit;

**11. CALLS**

To make, or require the directors of the relevant Chargor to make, calls conditionally or unconditionally on the members of such Chargor in respect of uncalled capital; and take action to enforce payment of unpaid calls;

**12. REDEEM SECURITY**

To redeem any prior security in relation to the Secured Assets (or procure the transfer of such security to an Enforcement Party) and settle and pass the accounts of the person entitled to the prior security so that any accounts so settled and passed shall (subject to any manifest error) be conclusive and binding on the relevant Chargor and the money so paid shall be deemed to be an expense properly incurred by the Receiver;

**13. GENERAL**

Either in the name of the relevant Chargor or in the name of the Receiver to execute documents and do all other acts or things in relation to the Secured Assets which the Receiver may consider to be incidental or conducive to any of the Receiver's powers or to the realisation or use of the Secured Assets.



Executed as a Deed by Eastern Airways  
International Limited acting by a director in  
the presence of:-

)  
)  
)



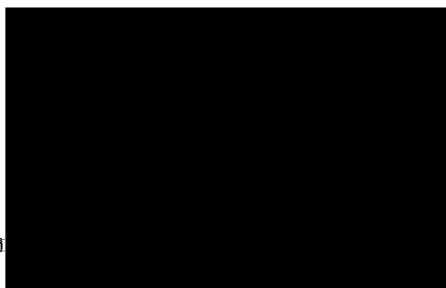
JAMES HOWELL-RICHARDSON



Witness signature

Witness' name: ANDREY BARCEVAT

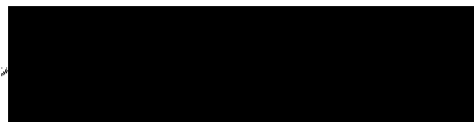
Witness' address:



Witness' occupation

Executed as a Deed by Eastern Airways (UK)  
Limited acting by a director in the presence  
of:-

)  
)  
)



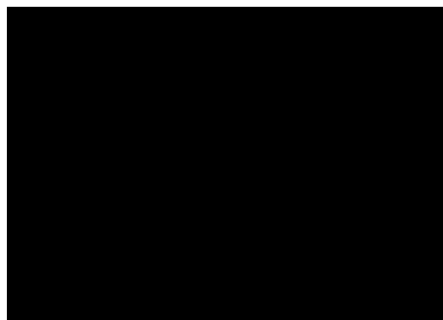
JAMES HOWELL-RICHARDSON



Witness signature

Witness' name: ANDREY BARCEVAT

Witness' address:



Witness' occupation:

Executed as a Deed by Humberside  
International Airport Limited acting by a  
director in the presence of:-

)  
)  
)

[Redacted]

JAMES HOWELL-RICHARDSON

[Redacted]

Witness signature

Witness' name:

ANDRÉS BARCENAS

Witness' address:

[Redacted]

Witness' occupation:

Executed as a Deed by Air Kilroe Limited  
acting by a director in the presence of:-

)  
)  
)

[Redacted]

JAMES HOWELL-RICHARDSON

[Redacted]

Witness signature

Witness' name:

ANDRÉS BARCENAS

Witness' address:

[Redacted]

Witness' occupation:

Executed as a Deed by Eastern Airways  
(Europe) Limited acting by a director in the  
presence of:-

)  
)  
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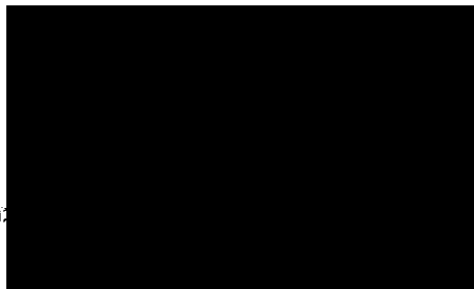
JAMES ADWELL-RICHARDSON



Witness signature

Witness' name: ANDREI BARGENAI

Witness' address:



Witness' occupation:

Signed as a Deed for and on behalf of  
Santander UK plc in the presence of:

)  
)

Witness signature

Witness' name:

Witness' address:

Witness' occupation: