

Declaration by the directors of a holding company in relation to assistance for the acquisition of shares

155(6)b

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3795352

* SIMON STORAGE LIMITED (the "Company")

y/Weø See schedule 1 attached

Post room



A04
COMPANIES HOUSE

0684
25/01/03

The assistance is for the purpose of [that acquisition] ~~reducing or discharging a liability incurred for the purpose of the acquisition~~ (note 1)

Please do not write in this margin

Please complete legibly, preferably in black type, or bold block lettering

The number and class of the shares acquired or to be acquired is: the entire issued share capital of the Company, being 55,219 ordinary shares of £1 each.

The assistance is to be given to: (note 2) Siena Investments Limited (company no. 4559942) whose registered office is at Carmelite, 50 Victoria Embankment, Blackfriars, London EC4Y 0DX.

The assistance will take the form of:

See schedule 2 attached.

The person who ~~has acquired~~ [will acquire][†] the shares is:

Siena Investments Limited (company no. 4559942) whose registered office is at Carmelite, 50 Victoria Embankment, Blackfriars, London EC4Y 0DX.

[†] delete as appropriate

The principal terms on which the assistance will be given are:

See schedule 3 attached.

The amount (if any) by which the net assets of the company which is giving the assistance will be reduced by giving it is Nil.

The amount of cash to be transferred to the person assisted is £ Nil.

The value of any asset to be transferred to the person assisted is £ Nil.

Please do not
write in this
margin

The date on which the assistance is to be given is within 8 weeks of the date hereof

Please complete
legibly, preferably
in black type, or
bold block lettering

☒ We have formed the opinion, as regards this company's initial situation immediately following the date on which the assistance is proposed to be given, that there will be no ground on which it could then be found to be unable to pay its debts. (note 3)

(a) ☒ We have formed the opinion that this company will be able to pay its debts as they fall due during the year immediately following that date]* (note 3)

* delete either (a) or
(b) as appropriate

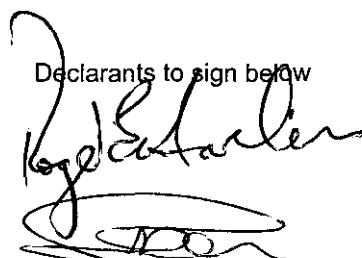
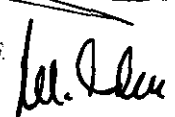
(b) ~~It is intended to commence the winding up of this company within 12 months of that date and we have formed the opinion that this company will be able to pay its debts in full within 12 months of the commencement of the winding up~~* (note 3)

And ☒ we make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Statutory Declarations Act 1835.

Declared at

Carmelite, 50 Victoria Embankment
Backfins, London EC4V 0DX

Declarants to sign below

Day Month Year
on

1	3	0	1	2	0	0	3
---	---	---	---	---	---	---	---

before me

A. J. Brink

DENTON WILDE SAPTE
FIVE CHANCERY LANE
CLIFFORD'S INN

A Commissioner for Oaths or Notary Public
the Peace or a Solicitor having the powers conferred on
a Commissioner for Oaths.

LONDON EC4A 1BU
TEL 020 7242 1212

NOTES

- 1 For the meaning of "a person incurring a liability" and "reducing or discharging a liability" see section 152(3) of the Companies Act 1985.
- 2 Insert full name(s) and address(es) of the person(s) to whom assistance is to be given; if a recipient is a company the registered office address should be shown.
- 3 Contingent and prospective liabilities of the company are to be taken into account - see section 156(3) of the Companies Act 1985.
- 4 The auditors report required by section 156(4) of the Companies Act 1985 must be annexed to this form.
- 5 The address for companies registered in England and Wales or Wales is:-

The Registrar of Companies
Companies House
Crown Way
Cardiff
CF14 3UZ

or, for companies registered in Scotland:-

The Registrar of Companies
Companies House
37 Castle Terrace
Edinburgh
EH1 2EB

SIMON STORAGE LIMITED

**SCHEDULE 1
(to Form 155(6)b)**

The Directors

1. Roger Hartless
2. Peter Rendell
3. Richard Sammons

This is schedule 1 referred to in the Form 155(6)b declared by the directors of Simon Storage Limited on *13th January* 2003.

SIMON STORAGE LIMITED
(the "Company")
Company No: 3795352

SCHEDULE 2
(to Form 155(6)b)

The Form of the Financial Assistance

1. Definitions

If not otherwise defined in these Schedules 2 and 3, the following expressions have the following meanings:

"Acquisition" means the acquisition of the Company;

"Advances" has the meaning ascribed to it in either the Facilities Agreement or the Intra-Group Loan Agreement, as the context may require;

"Agent" means The Bank of New York, London Branch;

"Arranger" means Bear Stearns International Limited;

"Borrower" or "Parent" means Siena Investments Limited;

"Charged Property" means the property referred to in clause 4 (Fixed and Floating Charges) of the Composite Guarantee and Debenture and all other property of whatsoever nature from time to time charged by or pursuant to the Composite Guarantee and Debenture;

"Charging Companies" means the Borrower (1), the Company (2), Simon Management (3) and each other Subsidiary of the Company (other than the Dormant Subsidiaries) (each a **"Charging Company"**);

"Company" means Simon Storage Limited;

"Composite Guarantee and Debenture" means a composite guarantee and debenture made or to be made between:

(a) the Charging Companies (incorporated in England and Wales); and

(b) The Bank of New York, London Branch as security trustee;

"COSM" means Chemicals & Oil Storage Management Limited, a company organised under the laws of England and Wales under number 00891872;

"Dormant Subsidiaries" means Simon Grangemouth Limited, Irish Bulk Liquid Transport Limited and Ivy Investments Limited.

"Event of Default" means any of the events specified in clause 21.1 (Events of Default) of the Facilities Agreement;

"Expiry Date" means 31 January 2004;

"Facilities" and "Facility" means the facilities to be provided under the terms of the Facilities Agreement;

"Facilities Agreement" means a facilities agreement dated 18 December 2002 and made between the Borrower, the Agent, the Security Trustee, the Arranger and the Initial Lender;

"Fees Letters" means:

- (a) the letter from the Arranger to the Borrower dated 18 December 2002 setting out the details of certain fees payable by the Borrower in connection with the Facilities and referred to in clause 22 (Fees) of the Facilities Agreement; and
- (b) the letter from the Agent and the Security Trustee to the Borrower dated 18 December 2002 setting out the details of certain fees payable by the Borrower in connection with the Facilities referred to in clause 22 (Fees) of the Facilities Agreement;

"Finance Parties" means the Agent, the Arranger, the Security Trustee, the Lenders and the Hedging Counterparties; and **"Finance Party"** means any one of them;

"Finance Documents" means the Facilities Agreement, the Fees Letters, the Security Documents, any Transfer Certificate, any Hedging Arrangements and any other document between any Group Company and any Lender expressed to be supplemental thereto and any other document which is designated a **"Finance Document"** in writing signed by the Agent, the Arranger and the Borrower;

"Group" means the Borrower and its Subsidiaries (including Simon Management) from time to time (other than any new company formed pursuant to clause 19.8(s) of the Facilities Agreement); and **"Group Company"** and **"member of the Group"** means any of them;

"Hedging Arrangements" means any interest rate swap, currency swap, forward foreign exchange transaction, cap, floor, collar or option transaction or any other treasury transaction or any combination thereof, or any other transaction entered into to protect against or benefit from fluctuations in any rate or price, and all interest rate management arrangements in respect of the Facilities and the Securitisation Facility entered into accordance with the Hedging Strategy Letter;

"Hedging Counterparty" means The Royal Bank of Scotland Plc and any such other party (with the Arranger's consent) that enters into any Hedging Arrangement with the Borrower and/or Company;

"Hedging Strategy Letter" means the agreed form letter from the Borrower to the Arranger relating to hedging;

"Initial Lender" means Bear Stearns Corporate Lending Inc;

"Insolvency Event" means, in respect of a Charging Company or the Parent, the presentation of a petition to, or the making of an order by, any court of competent jurisdiction for, or the passing of an effective resolution for, its liquidation, winding-up or dissolution or the levying of any distress or execution on or which affects any of its property or assets or the appointment of an administrator, administrative receiver or other receiver, trustee or similar officer of that Charging Company (or, as the case may be, the Parent) or any part of that Charging Company's (or as the case may be, the Parent's) assets or the commencement of negotiations or a proposed voluntary

arrangement by that Charging Company (or, as the case may be, the Parent) with its creditors.

"Intellectual Property" means all patents and patent applications, trade and service marks and trade and service mark applications (and all goodwill associated with such applications), all brand and trade names, all copyrights and rights in the nature of copyright (including rights in computer software), all design rights, all registered designs and applications for registered designs, all trade secrets, know-how, rights in relation to databases and domain names and all other intellectual property rights owned by members of the Group throughout the world or the interests of any member of the Group in any of the foregoing, and all rights under any agreements entered into by or for the benefit of any member of the Group relating to the use or exploitation of any such rights;

"Intra-Group Borrower" means each Charging Company excluding the Parent;

"Intra-Group Loan Agreement" means a loan agreement dated on or about the date hereof made between each Charging Company;

"Irish Obligor" means Irish Bulk Liquid Storage Limited, a company organised under the laws of Eire with registered number E0052019;

"Irish Security" means:

- (a) the guarantee and debenture, executed or to be executed by the Irish Obligor; and
- (b) the share pledge agreement executed or to be executed by COSM in respect of COSM's shareholding in the Irish Obligor,

and, in each case, in the agreed form and in favour of the Security Trustee for the benefit of the Security Beneficiaries;

"Lender" means each of:

- (a) the Initial Lender; and
- (b) any bank, financial institution, fund or institution that invests in loans and becomes a Transferee pursuant to a Transfer Certificate (provided that any bank, financial institution, fund and institution that invests in loans which transfers all of its Loans and Commitments pursuant to one or more Transfer Certificates shall cease to be a **"Lender"**);

"Material Contracts" means the material contracts and agreements entered into by the Company as set out in Schedule 9 of the Facilities Agreement;

"Mortgaged Properties" means all the freehold and leasehold interests in the Real Property described in Schedule 2 (*Property Details*) of the Composite Guarantee and Debenture;

"Patron L.P. I" means Patron Capital L.P. I, a limited partnership organised under the laws of England and Wales under number LP7498 and managed by its general partner Patron Capital G.P. Limited, an international business company organised under the laws of the British Virgin Islands under number 435829 having its registered office at Trident Chambers, Wickhams Cay, Road Town, Tortola, British Virgin Islands;

"Patron Guarantee" means the limited guarantee, in the agreed form, executed or to be executed by Patron Capital L.P. I and Patron Capital G.P. Limited in favour of the Security Trustee for the benefit of the Security Beneficiaries;

"Permitted Security Interest" has the meaning ascribed to it in the Facilities Agreement;

"Real Property" means all of those plots, pieces or parcels of land wherever situated now owned, leased or hereafter acquired or leased by any Group Company (the **"Land"**), together with the legal right, title and interest of such Group Company, if any, in and to the streets, the land lying in the bed of any streets, roads or avenues, opened or proposed, in front of, the air space and development rights pertaining to the Land and the right to use such air space and development rights, all rights of way, privileges, liberties, tenements, hereditaments, servitudes, wayleaves and appurtenances belonging or in any way appertaining thereto, all fixtures, all easements now or hereafter benefiting the Land and all royalties and rights appertaining to the use and enjoyment of the Land, including all alley, vault, drainage, mineral, water, oil and gas rights, together with all of the buildings and other improvements now or hereafter erected on the Land, and any fixtures appurtenant thereto;

"Receivables" means all present and future book debts, rentals (including, without limitation the Rental Income), royalties, fees, VAT and all other amounts recoverable or receivable by any Charging Company from other persons due or owing to such Charging Company and the benefit of all rights relating thereto including, without limitation, negotiable instruments, reservations of property rights, rights of tracing and unpaid vendor's liens and similar associated rights;

"Receiver" means any receiver or receiver and manager or administrative receiver appointed by the Security Trustee under or by virtue of the Composite Guarantee and Debenture whether alone or jointly with any other person and includes any substitute for any of them appointed from time to time;

"Rental Income" means each amount payable to or for the benefit or account of any Group Company in connection with the letting and/or licensing of all or any part of any Mortgaged Property, including:

- (a) rent (and any amount equivalent to rent) payable whether it is variable or not and however or whenever it is described, reserved or made payable;
- (b) any increase of rent payable by virtue of an offer falling within the proviso of section 3(1) of the Landlord and Tenant Act 1927 which is implemented by the parties;
- (c) any rent payable by virtue of a determination made by the Court under section 24(A) of the Landlord and Tenant Act 1954;
- (d) sums received (in accordance with the relevant deposit forfeiture arrangements) from any deposit (to the extent that the relevant Group Company is entitled to it) held as security for performance of any tenant's obligations;
- (e) any other moneys payable in respect of occupation and/or usage of a Mortgaged Property and every fixture and fitting in or on it;
- (f) any damages, compensation, settlement or expenses for or representing loss of rent or interest on it and any profits awarded or agreed to be payable as a result of any proceedings for the same;

- (g) any interest payable on any sum referred to above and any damages, compensation or settlement payable in respect of the same;
- (h) any mesne profits awarded in lieu of rent or paid as a result of any proceedings taken or claim made for the same;
- (i) any monies payable under any policy of insurance in respect of loss of rent or interest thereon;
- (j) any sum payable or the value of any consideration to be given by or on behalf of a tenant for the surrender or variation of any occupational lease or occupancy agreement; and
- (k) any sum payable by any guarantor of any tenant under any occupational lease in respect of any items in paragraphs (a) through (j) (inclusive) above,

but excluding those amounts (if any) (together with any VAT or similar taxes) due to any Group Company from any tenants under an occupational lease or other occupiers by way of contribution to insurance premiums or service charges or a sinking fund or reserve fund, or deposits paid by tenants under an occupational lease as security for payment of that tenant's obligations under that occupational lease and any value added tax or similar taxes payable on any of the items listed in (a) through (k) (inclusive) above;

"Secured Obligations" means all present and future indebtedness, obligations and liabilities (whether actual or contingent and whether owed jointly or severally or in any other capacity whatsoever) of the Borrower, any Group Company or Siena Holdings Limited to the Finance Parties under any Finance Document whether solely or jointly with any other person, whether as principal or surety and whether the Finance Parties shall have been an original party to the relevant transaction and in whatever currency denominated, including all liabilities from time to time assumed or incurred by any of the Finance Parties at the request of any Group Company in connection with foreign exchange transactions, acceptances, discounting or otherwise under guarantees, bonds, indemnities, documentary or other credits or any instruments whatsoever and including interest discount commission and other lawful charges or reasonable expenses which any Finance Party may charge or incur in respect of any of the above or any facilities or accommodation or service provided by any Finance Party and calculated to the date of payment (after as well as before any Event of Default or judgment) at the rates and on the terms from time to time applicable under the relevant documents except for any obligation which if it were so included would result in the Composite Guarantee and Debenture contravening section 151 of the Act;

"Securitisation Facility" means the securitisation facility to be made available to the Company or a Subsidiary of the Company for the purpose of executing a whole business securitisation pursuant to the Securitisation Mandate Letter (or any other securitisation mandate letter delivered in replacement or substitution of the Securitisation Mandate Letter) in form and substance satisfactory to the Arranger (acting reasonably);

"Securitisation Mandate Letter" means the letter from the Arranger to (and duly countersigned by) the Borrower dated on or before the date of the Facilities Agreement, addressing, among other matters the establishing of and borrowing under the Securitisation Facility;

"Security Accounts" means any bank account of, and in the name of, a Charging Company;

"Security Accession Deed" means an accession deed to the Composite Guarantee and Debenture substantially in the form set out in the Schedules thereto;

"Security Beneficiaries" means the Agent, the Lenders, the Security Trustee, each Hedging Counterparty and any other holder of the Secured Obligations;

"Security Documents" means each Composite Guarantee and Debenture executed by a Group Company, each Security Accession Deed, the Irish Security, the Patron Guarantee and any other documents entered into from time to time by any Group Company for the benefit of the Security Beneficiaries or any of them to secure the obligations owed to some or all of the Lenders by any Group Company under or in connection with the Finance Documents;

"Security Trustee" means The Bank of New York, London Branch;

"Simon Management" means Simon Management Limited;

"Subsidiary" means a subsidiary within the meaning of Section 736 of the Companies Act 1985;

"Termination Date" means, in relation to a Charging Company or the Parent, the earlier of:

- (a) the Expiry Date; and
- (b) the occurrence of an Insolvency Event in relation to the relevant Charging Company or, as the case may be, the Parent;

"Transfer Certificate" means a certificate substantially in the form set out in Schedule 4 (Form of Transfer Certificate of the Facilities Agreement) the Facilities Agreement signed by a Lender and a Transferee whereby such Lender seeks to procure the transfer to such Transferee of all or a part of such Lender's rights, benefits and obligations under the Facilities Agreement, and such Transferee undertakes to perform the obligations it will assume as a result of delivery of such certificate to the Agent; and

"Transferee" means a bank, affiliate of a Lender, financial institution, fund or institution that invests in loans to which a Lender seeks to transfer all or part of such Lender's rights, benefits and obligations under the Facilities Agreement.

2. The Form of Financial Assistance

- 2.1 Pursuant to the Facilities Agreement which will provide the Borrower with finance to acquire the Company, Simon Management is required to enter into the Financial Assistance Documents (as defined below).
- 2.2 The entry by Simon Management into the Intra-Group Loan Agreement with other Charging Companies and the Parent pursuant to which certain loans are to be made by it to other Charging Companies and other Charging Companies and the Parent are to make loans to it.
- 2.3 The financial assistance to be provided by Simon Management (the **"Financial Assistance"**) will take the following form:

- (a) Simon Management granting a Composite Guarantee and Debenture as a Charging Company as a deed; and
- (b) Simon Management being a party to the Intra-group Loan Agreement.

(The documents referred to in paragraph 2.3 being referred to as the "**Financial Assistance Documents**"); and

- 2.4 Simon Management assuming liabilities and obligations under each Financial Assistance Document in accordance with and subject to the terms of each such document.

This is Schedule 2 referred to in the Form 155(6)b as declared by the directors of Simon Storage Limited on *13th January* 2003.

SIMON STORAGE LIMITED

SCHEDULE 3 (to Form 155(6)b)

The Principal Terms of Financial Assistance

1. General

- 1.1 The principal terms of each of the Financial Assistance Documents (Form of Financial Assistance) are summarised and separately described below in relation to each individual Financial Assistance Document.
- 1.2 Clause and other document references as used in each part of the schedule are to clause and other references in the particular Financial Assistance Document to which that particular part of the schedule relates.

2. The Composite Guarantee and Debenture

- 2.1 The Composite Guarantee and Debenture will be granted in favour of The Bank of New York, London Branch as Security Trustee for the Security Beneficiaries whereby Simon Management will jointly and severally as principal obligor, together with each other Charging Company:

- (a) guarantee and indemnify the performance of the Secured Obligations; and
- (b) secure all obligations covenanted to be discharged by Simon Management under clause 3 (*Covenant to Pay*) of the Composite Guarantee and Debenture (referred to in paragraph 2.4 below);
- (c) agrees to pay to the Security Trustee (on a full indemnity basis) certain costs, expenses, liabilities and losses incurred;
- (d) indemnifies the Security Trustee in respect of certain costs, expenses, liabilities as losses incurred.

- 2.2 The principal terms of the Composite Guarantee and Debenture are as follows:

2.3 *Guarantee Provisions*

Each of the Charging Companies irrevocably and unconditionally guarantees to the Security Trustee to pay to the Security Trustee on demand the Secured Obligations (except any Secured Obligations in respect of which such Charging Company is already primarily liable) to the extent that they are due and payable.

2.4 *Covenant to Pay*

- (a) Each of the Charging Companies covenants with the Security Trustee that when the Secured Obligations or any part of them are due for payment or on such earlier date as the security becomes enforceable and the Security Trustee determines to enforce the same it shall on demand pay the Secured

Obligations (or as the case may be that part of the Secured Obligations then due to be paid and remaining unpaid) to the Security Trustee.

- (b) Each of the Charging Companies covenants that it shall within three Business Days of demand by the Security Trustee (accompanied by a certificate setting out the amount due, pay to the Security Trustee all costs and expenses incurred by the Security Trustee pursuant to Clause 23 (Costs and Expenses) and Clause 24 (Stamp Duty) of the Facilities Agreement which have been demanded from the Borrower but have not been paid.
- (c) Any demand for payment shall be valid and effective notwithstanding that the demand may contain an incomplete statement of the Secured Obligations.

2.5 *Fixed and Floating Charges*

- (a) With full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994 (subject to any Permitted Security Interest) and as a continuing security for the payment or discharge of all the Secured Obligations and all its other obligations under the Composite Guarantee and Debenture:
 - (i) Each of the Charging Companies charges to the Security Trustee to the fullest extent that it may lawfully do so, by way of first legal mortgage:
 - (A) all its freehold and leasehold interest in the Properties title to which is registered at HM Land Registry described in Part I (*Details of Registered Land*) of Schedule 2 (*Property Details*) of the Composite Guarantee and Debenture together with all buildings, fixtures (excluding, in the case of leasehold property, landlord's fixtures but including other trade fixtures and excluding, in the case of freehold property and leasehold property which is let to a third party, any tenant's and trade fixtures and fittings of such third party) and its fixed plant and machinery at any time thereon;
 - (B) all other freehold and leasehold interests in the Properties now vested in it but title to which is not registered at HM Land Registry described in Part II (*Details of Unregistered Land*) of Schedule 2 (*Property Details*) of the Composite Guarantee and Debenture together with all buildings, fixtures (excluding in the case of leasehold property landlord's fixtures but including other trade fixtures and excluding in the case of freehold property and leasehold property which is let or let to a third party, any tenant's and trade fixtures and fittings of such third party) and its fixed plant and machinery at any time thereon; and
 - (C) any proceeds of sale or compensation received by it in respect of all or any part of the properties charged.
 - (ii) Each of the Charging Companies charges to the Security Trustee by way of first fixed charge:
 - (A) all present and future freehold and leasehold property of such Charging Company not otherwise charged by way of legal charge pursuant to Clauses 4.1(a)(i) or 4.1(a)(ii) (Fixed and Floating Charges) of the Composite Guarantee and Debenture together with all buildings, fixtures (excluding, in the case of

leasehold property, landlord's fixtures but including trade fixtures and excluding, in the case of freehold property and leasehold property which is let to a third party, any tenant's and trade fixtures and fittings of such third party) and its fixed plant and machinery at any time thereon;

- (B) all estates and interests not before effectively charged now or hereafter belonging to such Charging Company in or over land wheresoever situate or the proceeds of any sale of land and all licences now or hereafter held by such Charging Company to enter upon or use land and the benefit of all other agreements relating to land to which such Charging Company is or may become a party or otherwise entitled and all trade and tenants' fixtures, plant and machinery owned by such Charging Company now or hereafter annexed to all freehold and leasehold property its estate or interest in which stands charged under the Composite Guarantee and Debenture;
- (C) all its present and future interests in all stocks, shares (including but not limited to shares in any subsidiary), debentures, loan capital, right to subscribe for, convert other securities into or otherwise acquire any stocks, shares, debentures or loan capital of any other body corporate now or at any time hereafter belonging to such Charging Company, together with all dividends (unless such dividends are or are to be paid in satisfaction of any of the Secured Obligations), interest and other income and all other rights of whatsoever kind deriving from or incidental to any of the foregoing;
- (D) the goodwill of such Charging Company and its uncalled capital now or at any time hereafter in existence and future calls (whether made by the directors of such Charging Company or by a Receiver or a liquidator);
- (E) all its Intellectual Property;
- (F) all plant, vehicles and machinery now or at any time hereafter belonging to such Charging Company (excluding however plant and machinery for the time being forming part of its stock in trade or work in progress);
- (G) all chattels now or at any time hereafter hired, leased or rented by such Charging Company to any other person together in each case subject to and with the benefit of the related hiring, leasing or rental contract and any guarantee, indemnity or other security for the performance of the obligations of any person under or in respect of such contract;
- (H) to the extent that the terms of the relevant contract do not prohibit the creation of security over such contract, all its Receivables, proceeds of collection of its Receivables together with any credit balance on each of its present and future Security Accounts with any bank, financial institution or other person in any jurisdiction and all rights thereto, and the indebtedness represented by those accounts; and

- (I) the benefit of all contracts, licences, consents and authorisations (statutory or otherwise) ("Contracts") (other than the Material Contracts) held in connection with its business or the acquisition of an interest in or the use of any Charged Property including without limitation the occupational leases relating to any real property owned by the Charging Company, any insurance (including, for the avoidance of doubt, all cover notes) and the Hedging Arrangements and the right to recover and receive all compensation which may be payable to it in respect of them; and
- (J) the benefit of all Material Contracts to which it is a party.
- (iii) Each of the Charging Companies charges to the Security Trustee by way of first floating charge all its undertaking and all its property and assets whatsoever and wheresoever situated both present and future, including without limitation any property or assets from time to time or for the time being not effectively charged by way of fixed charge under or pursuant to the Composite Guarantee and Debenture.
- (iv) Each of the Charging Companies assigns (to the extent not prohibited in the relevant agreement) to the Security Trustee by way of continuing security in accordance with the Law of Property (Miscellaneous Provisions) Act 1994 (subject to any Permitted Security Interests) all its rights under all contracts and policies of insurance (including, for the avoidance of doubt, all cover notes) taken out by or on behalf of such Charging Company or (to the extent of its interest) in which the such Charging Company has an interest (including, without limitation, all monies, the proceeds of all claims, awards, judgements and returns of premium in respect of them).
- (b) The security from time to time constituted by or pursuant to the Composite Guarantee and Debenture shall:
 - (i) be in addition to and shall be independent of every bill, note, guarantee, mortgage or other security which the Security Trustee may at any time hold for any of the Secured Obligations and it is declared that no prior security held by the Security Trustee over the Charged Property or any part thereof shall merge into the security created by or pursuant to the Composite Guarantee and Debenture; and
 - (ii) remain in full force and effect as a continuing security until the earlier of:
 - (A) the date on which the Secured Obligations have been discharged in full; and
 - (B) the security constituted by the Composite Guarantee and Debenture having been released.

2.6 *Crystallisation of Floating Charge*

- (a) The Security Trustee may by notice in writing to any of the Charging Companies convert the floating charge created pursuant to Clause 4.1(c) of the Composite Guarantee and Debenture (referred to in paragraph 2.5(a)(iii) above) with immediate effect into a fixed charge as regards all or any of such

Charging Company assets charged under Clause 4.1(c) (*Fixed and Floating Charges*) of the Composite Guarantee and Debenture (referred to in paragraph 2.5(a)(iii) above) and specified in the notice if:

- (i) an Event of Default is continuing; or
 - (ii) the Security Trustee (acting on the reasonable instructions of the Arranger) considers those assets to be in danger of being seized, or sold under any form of distress, attachment, execution or other legal process.
- (b) The floating charge created pursuant to Clause 4.1(c) (*Fixed and Floating Charges*) of the Composite Guarantee and Debenture (referred to in paragraph 2.5(a)(iii) above) shall (in addition to the circumstances in which the same will occur under general law) automatically be converted into a fixed charge in relation to the assets of such Charging Company:
- (i) on the convening of any meeting of the members of that Charging Company to consider a resolution to voluntarily wind up that Charging Company (or not to wind such Charging Company up); or
 - (ii) on the appointment of an administrator to that Charging Company;
 - (iii) upon the presentation of a petition to compulsorily wind that Charging Company up; or
 - (iv) if such Charging Company fails to comply with its obligations under clause 6 (*Negative Pledge and Further Security*) of the Composite Guarantee and Debenture; *provided however*, that with regard to this paragraph the floating charge shall be converted into a fixed charge in respect only of the assets of such Charging Company which have been encumbered.
- (c) Service by the Security Trustee of a notice pursuant to clause 5.1 (*Crystallisation of Floating Charge*) of the Composite Guarantee and Debenture (referred to in paragraph 2.6(a) above) in relation to any class of assets of any Charging Company shall not be construed as a waiver or abandonment of the Security Trustee's rights to serve similar notices in respect of any other class of assets of such or any other Charging Company or of any other of the rights of the Security Trustee under the Composite Guarantee and Debenture.

2.7 The Debenture includes a covenant for further assurances.

2.8 Each of the Charging Companies covenants that, during the continuance of the security constituted in the Composite Guarantee and Debenture, it shall indemnify the Security Trustee (and as a separate covenant any Receiver appointed by them) against all existing and future rents, taxes, duties, fees, renewal fees, charges, assessments, impositions and outgoings whatsoever (whether imposed by deed or statute or otherwise and whether the nature of capital or revenue and even though of a wholly novel character) which now or at any time during the continuance of the security constituted by or pursuant to the Composite Guarantee and Debenture are paid by the Security Trustee in respect of the Charged Property or any part of it. The Composite Guarantee and Debenture shall be a security for the reimbursement to the Security Trustee of such monies together with interest as set out above.

2.9 *Expenses*

Each of the Charging Companies agrees to pay to the Security Trustee within 3 Business Days of demand by the Security Trustee, (on a full indemnity basis) all reasonable costs, charges, expenses and other sums incurred by the Security Trustee or by or through any Receiver, attorney, delegate, substitute or agent of any of the Charging Companies, or the Security Trustee for any of the purposes referred to in the Composite Guarantee and Debenture relating to the security over the Charged Property including (without prejudice to the generality of the foregoing):

- (a) all liabilities resulting from any delay in paying any stamp duty, value added tax or other similar taxes imposed on the Charged Property or in connection with any of the transactions contemplated by the Composite Guarantee and Debenture and all liabilities resulting from any delay in paying any such taxes;
- (b) the remuneration of any such Receiver, attorney, delegate, substitute or agents of any of the Charging Companies and of any other servants or agents employed by the Security Trustee for any purposes connected with the enforcement or attempted enforcement of the Composite Guarantee and Debenture or the protection preservation realisation or attempted protection or preservation of the Charged Property; and
- (c) all costs, charges and expenses (whether in respect of litigation or not) and incurred in the protection, realisation or enforcement of the Composite Guarantee and Debenture or the collection and recovery of any monies from time to time arising under such security (or any security collateral or supplemental thereto) or in insuring, inspecting, maintaining, completing, managing, letting, realising or exercising any other power, authority or discretion in relation to the Charged Property or any part thereof incurred under the Composite Guarantee and Debenture,

to the extent that and subject as provided in the Composite Guarantee and Debenture the Security Trustee shall be afforded a full and unlimited indemnity in respect thereof.

2.10 *Avoidance of Payments*

- (a) No assurance, security or payment which may be avoided under any law relating to bankruptcy, insolvency or winding-up (including Sections 238, 239, 244 or 245 of the Insolvency Act 1986), and no release, settlement, discharge or arrangement given or made by the Security Trustee on the faith of any such assurance, security or payment, shall prejudice or affect the right of the Security Trustee to enforce the security and/or guarantees created by or pursuant to the Composite Guarantee and Debenture to the full extent of the Secured Obligations as if such assurance, security, payment, release, settlement, discharge or arrangement (as the case may be) had never been granted, given or made.
- (b) Any settlement or discharge between any of the Charging Companies and the Security Trustee shall be conditional upon no security or payment to the Security Trustee by any of the Charging Companies 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 or liquidation for the time being in force and accordingly (but without limiting the other rights of the Security Trustee in the Composite Guarantee and Debenture), the Security Trustee shall be entitled to recover from each of the Charging Companies the

amount of any such payment as if such settlement or discharge had not occurred.

- (c) Subject to Clause 26.2 of the Composite Guarantee and Debenture, upon all the Secured Obligations having been paid or discharged in full and the Security Trustee having ceased to have any further obligations under any Security Documents whether actual or contingent to make any credit or accommodation to any of the Charging Companies, the Security Trustee will, at the request and cost of such Charging Company, immediately execute, reassign and/or do all such deeds, acts and things as may be reasonably necessary to release the Charged Property from the security created by or pursuant to the Composite Guarantee and Debenture.
- (d) Any release, settlement, discharge or arrangement shall as between the Security Trustee and any of the Charging Companies and each of them be deemed to have been given or made upon the express condition that it shall become and be wholly void and of no effect if the assurance, security or payment on the faith of which it was made or given shall at any time thereafter be avoided under any of the statutory provisions mentioned in Clause 26.1 of the Composite Guarantee and Debenture to the intent and so that the Security Trustee shall become and be entitled at any time after any such avoidance to exercise all or any of the rights in the security created by or pursuant to the Composite Guarantee and Debenture expressly conferred upon the Security Trustee and all or any other rights which by virtue and as a consequence of the security created by or pursuant to the Composite Guarantee and Debenture the Security Trustee would have been entitled to exercise but for such release, settlement, discharge or arrangement.
- (e) Each of the Charging Companies agrees that the security created by or pursuant to the Composite Guarantee and Debenture shall be deemed to have been and to have remained held by the Security Trustee as and by way of security for the payment to the Security Trustee of all or any sums which shall or may become due and owing to the Security Trustee from and by any of the Charging Companies either under and by virtue of the terms and conditions of the security created by or pursuant to the Composite Guarantee and Debenture in the event of and upon or after any avoidance of any assurance, security or payment under the said Sections of the Insolvency Act 1986 or any of such sections or under or as a consequence of any Order (if any) made under Sections 238 and/or 239 of the Insolvency Act 1986.

3. Intra-Group Loan Agreement

Intra-Group Loan Agreement

3.1 The principal terms of the Intra-Group Loan Agreement are as follows:

The Facilities

- (a) Each Charging Company grants to each Intra-Group Borrower a revolving credit facility of up to such amount as agreed between the parties from time to time upon the terms, and subject to the conditions, of the Intra-Group Loan Agreement.

- (b) Each Charging Company (other than the Parent) grants to the Parent a revolving credit facility (up to a maximum aggregate of £100,000,000) upon the terms, and subject to the conditions, of the Intra-Group Loan Agreement.
- (c) Amounts may be drawn under each Facility by way of Advances, any of which may be repaid and reborrowed subject to the terms set out in the Intra-Group Loan Agreement.

3.2 *Purpose and Application of Facilities*

- (a) Each Charging Company may only utilise Advances drawn under the Intra-Group Loan Agreement in accordance with clause 4.2 of the Intra-Group Loan Agreement. The Parent may only utilise Advances drawn under the Intra-Group Loan Agreement in accordance with clause 4.3 of the Intra-Group Loan Agreement.
- (b) Each Charging Company may utilise Advances drawn under the Intra-Group Loan Agreement:
 - (i) for its general commercial purposes; and
 - (ii) for its general working capital requirements (including the refinancing of any indebtedness owed to third parties from time to time).
- (c) The Parent may apply any Advances drawn under the Intra-Group Loan Agreement:
 - (i) for its general corporate purposes; and
 - (ii) to meet its obligations to pay interest, principal, costs, fees, expenses, charges and any other sums from time to time falling due in connection with the Finance Documents; and
 - (iii) to pay costs and expenses incurred by it directly or indirectly in connection with the Acquisition and the acquisition by the Borrower of 49.99% of the issued share capital of COSM; and
 - (iv) to pay any other liability incurred directly or otherwise in connection with the Finance Documents or the transactions contemplated thereby.
- (d) Subject to the terms of the Intra-Group Loan Agreement, and in particular clause 3 of the Intra-Group Loan Agreement, Advances may be drawn by a Charging Company and/or the Parent at any time during the period commencing on the date of the Intra-Group Loan Agreement and ending on the Termination Date.

3.3 *Nature of Lender Obligations*

- (a) A Charging Company will only be obliged to make an Advance to the extent that:
 - (i) such Advance is permitted to be made by the terms of the Finance Documents;
 - (ii) the aggregate amount of cash funds freely available to the Charging Company exceeds the amount of such proposed Advance on the

proposed date on which the relevant Intra-Group Borrower or, as the case may be, the Parent has requested an Advance be made to it (and, for these purposes, the aggregate amount of cash funds freely available to the Parent (in its capacity as a Charging Company) shall only be such amounts as are not required (in the Parent's opinion) to comply with its obligations under the Finance Documents;

- (iii) the Intra-Group Borrower requires the proposed Advance for one of the purposes specified in clause 4.2 of The Intra-Group Loan Agreement or, as the case may be, the Parent requires the proposed Advance for any of the purposes set out in clause 4.3 of The Intra-Group Loan Agreement;
- (iv) the approval of, or the making of, the Advance does not give rise to any offence by any person under the Companies Act 1985 or the Insolvency Act 1986 and is not otherwise illegal;
- (v) in the case of an Advance to be made pursuant to the revolving credit facility referred to in clause 3.1 of the Intra Group Loan Agreement, the relevant Charging Company and the Intra Group Borrower have agreed the amount of the revolving credit facility (the "**Available Amount**") and such Advance is an amount which does not cause the Available Amount to be exceeded; and
- (vi) no Insolvency Event has occurred in respect of the relevant Intra-Group Borrower or, as the case may be, the Parent and the making of such Advance would not cause the relevant Charging Company to become insolvent,

provided that a Charging Company shall cease to have an obligation to make any Advance to an Intra-Group Borrower under the Intra-Group Loan Agreement from such time if such Intra-Group Borrower ceases to be a subsidiary of the Parent.

This is Schedule 3 referred to in the Form 155(6)b as declared by the directors of Simon Storage Limited on 13th January 2003.

Signed A. Bryant
Solicitor

13 January 2003

**Auditors' report to the directors of Simon Storage Limited (the "Company")
pursuant to section 156(4) of the Companies Act 1985**

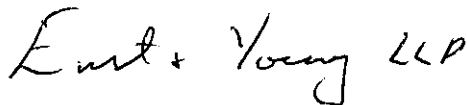
We have examined the attached statutory declaration of the directors of the Company dated 13 January 2003 in connection with the proposal that the Company's subsidiary Simon Management Limited should give financial assistance for the purpose of the purchase of the whole of the issued share capital of the Company.

Basis of opinion

We have enquired into the state of the Company's affairs in order to review the bases for the statutory declaration.

Opinion

We are not aware of anything to indicate that the opinion expressed by the directors in their declaration as to any of the matters mentioned in section 156(2) of the Companies Act 1985 is unreasonable in all the circumstances.



Ernst & Young LLP
Registered Auditor
London