



**Registration of a Charge**

Company name: **Ascot Racecourse Limited**

Company number: **04320977**



X5GTR0TM

Received for Electronic Filing: **03/10/2016**

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**Details of Charge**

Date of creation: **30/09/2016**

Charge code: **0432 0977 0002**

Persons entitled: **BARCLAYS BANK PLC AS SECURITY TRUSTEE FOR THE SECURED PARTIES**

Brief description: **NOT APPLICABLE**

**Contains fixed charge(s).**

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

**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:

**ADDLESHAW GODDARD LLP**



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

Company number: 4320977

Charge code: 0432 0977 0002

The Registrar of Companies for England and Wales hereby certifies that a charge dated 30th September 2016 and created by Ascot Racecourse Limited was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 3rd October 2016 .

Given at Companies House, Cardiff on 4th October 2016

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



**Companies House**



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES



Dated 30 September 2016

**ASCOT AUTHORITY (HOLDINGS) LIMITED**  
as Company

**THE PERSONS LISTED IN PART 1 OF SCHEDULE 1**  
as Guarantors

**BARCLAYS BANK PLC**  
As Security Trustee

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**DEBENTURE**

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This Debenture is made on ..... 30 September ..... 2016

## Between

- (1) **Ascot Authority (Holdings) Limited** (registered in England with number 04274507) (Company);
- (2) **The Persons** listed in schedule 1 (The Guarantors) (together with the Company, the **Original Chargors**); and
- (3) **Barclays Bank PLC** as security trustee for the Secured Parties (**Security Trustee** which term shall include any person appointed as security trustee or as an additional trustee in accordance with the terms of the Facility Agreement).

## It is agreed

### 1 Definitions and interpretation

#### 1.1 Definitions

In this Deed:

**Account** has the meaning given to it in clause 3.3(i) (First fixed charges)

**Additional Chargor** means a company which creates Security over its assets in favour of the Security Trustee by executing a Security Deed of Accession

**AERL Occupational Lease** means any lease granted by AERL to a third party occupier (which is not an Obligor) of the Property

**Blocked account** means the Mandatory Prepayment Account

**Charged Property** means, in respect of any Chargor, all of its assets and undertaking the subject of any Security created by, under or supplemental to, this Deed in favour of the Security Trustee

**Chargor** means an Original Chargor or an Additional Chargor

**Chattels** has the meaning given to it in clause 3.3(d) (First fixed charges)

**Debts** has the meaning given to it in clause 3.3(g) (First fixed charges)

**Designated Nominee** means a nominee

- (a) approved in writing by the Crown Estate Commissioners (acting on behalf of Her Majesty pursuant to the Crown Estates Act 1961), in accordance with the Direct Agreement and
- (b) a company whose function is the holding of shares generally (and not holding shares in any Guarantor alone) as the nominee for the Security Trustee,

the Security Trustee will procure that the entire issued share capital of a Designated Nominee is and will remain held by the Security Trustee which will continue to control that Designated Nominee (and for this purpose "control" means the power to direct the management and

policies of the Designated Nominee, whether through the ownership of voting capital, by contract or otherwise).

**Embedded Provision** means, in the case of Ascot Racecourse Limited, Ascot Racecourse Estates Limited and Ascot Racecourse Estates (Property Developments) Limited, article 61.2 of the articles of association of each such Guarantor, and, in the case of the Company, article 61.9 of its articles of association

**Excluded Leasehold Property** the AERL Underlease

**Excluded Shares** means ARL's shares in Attheraces Limited

**Facility Agreement** means the facility agreement originally dated 9 February 2005 and made between Ascot Authority (Holdings) Limited as company, the persons listed therein as guarantors, Barclays Bank PLC and AIB Group (UK) P.L.C. as mandated lead arrangers, AIB Group (UK) P.L.C. as agent and Barclays Bank PLC as security trustee as the same has been amended and amended and restated from time to time most recently on or about the date of this Deed under which the Lenders agree to make available to the Borrower a term loan and a revolving credit facility

**Fixtures** means in respect of any Secured Property, all fixtures and fittings (including trade fixtures and fittings) and fixed plant and machinery now or at any time after the date of this Deed on that Secured Property

**Floating Charge Assets** means all the assets and undertaking from time to time subject to the floating charge created under clause 3.4 (Floating charge)

**Insurance Policies** means, in respect of a Chargor, all policies of insurance present and future in which it has an interest

**Investments** means any shares, stocks, debenture security, securities, bonds and investments of any type (other than the Subsidiary Shares) whatever, including but not limited to, negotiable instruments, certificates of deposit, eligible debt securities, interests in collective investment schemes, or other investments referred to in section 22 of, and as defined in Part II of Schedule 2 to, the Financial Services and Markets Act 2000 and Part III of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001, whether certificated or uncertificated, physical or dematerialised, registered or unregistered, held by the relevant Chargor or by a trustee or clearance system or nominee

**Party** means a party to this Deed

**Permitted Arrangement** means the grant of the Racecourse Licence and any subsequent transfer of it in accordance with the terms of the Racecourse Licence and the Direct Agreement, licensing Intellectual property to the holder for the time being of the Racecourse Licence for such time as it holds the same and the registration of the Security Trustee or its Designated Nominee as the holder of any Shares in any Guarantor.

**Planning Acts** means 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, the Planning and Compulsory Purchase Act 2004 and any regulations or subordinate legislation made under any of the foregoing and any other statute or regulation governing or controlling the use or development of land and buildings

**Premises** means any building on a Secured Property

**Property** has the meaning given to it in the Facility Agreement

**Receiver** means any receiver, manager or administrative receiver appointed by the Security Trustee in respect of any Chargor or any of the Charged Property

**Related Rights** means, in respect of any Investment or Subsidiary Share:

- (a) all monies paid or payable in respect of that Investment or Subsidiary Share (whether as income, capital or otherwise)
- (b) all shares, investments or other assets derived from that Investment or Subsidiary Share and
- (c) all rights derived from or incidental to that Investment or Subsidiary Share

**Relevant Agreement** means:

- (a) each Lease Document
- (b) the AREL Underlease
- (c) any document evidencing subordinated debt
- (d) any document evidencing an intra-Group loan
- (e) each Commercial Contract
- (f) the Direct Agreement
- (g) each Hedging Agreement
- (h) the Racecourse License and
- (i) each other agreement designated as a Relevant Agreement by the Security Trustee and the Company in writing

**Relevant Policies** means all Insurance Policies (other than policies in respect of third party liability) together with all monies payable in respect of those policies

**Restricted Asset** means:

- (a) the Excluded Leasehold Property
- (b) Intellectual Property relating to or associated with the name "Royal Ascot" and/or the name "Ascot Races"
- (c) the Shares in each Guarantor held by the Company

**Secured Obligations** means, in respect of any Chargor, all monies and liabilities now or after the date of this Deed due, owing or incurred by that Chargor to the Finance Parties (or any of them):

- (a) under the Finance Documents (or any of them); and



(b) under and in connection with the terms of any Work-Out Funding

in any manner and in any currency or currencies and whether present or future, actual or contingent, whether incurred solely or jointly with any other person and whether as principal or surety, together with all interest accruing on such monies and liabilities and all costs, charges and expenses incurred by any Finance Party under any Finance Document, except for any obligation which, if it were included here, would constitute unlawful financial assistance, or its equivalent in any other jurisdiction

**Secured Property** means at any time the Properties and all other freehold, leasehold or commonhold property which is subject to any Security created by, under or supplemental to this Deed

**Security Deed of Accession** means a deed in the form set out in schedule 7 (Form of Security Deed of Accession) by which a person will become a party to this Deed as a Chargor

**Security Period** means the period beginning on the date of this Deed and ending on the date on which the Secured Obligations have been irrevocably and unconditionally satisfied in full and all facilities made available by the Finance Parties (or any of them) under the Finance Documents (or any of them) have been cancelled

**Subsidiary Shares** means, in respect of a Chargor, all shares present and future held by it in its Subsidiaries (including those listed in schedule 2 (Subsidiary Shares)) other than the Excluded Shares

**Work-Out Funding** has the meaning given to it in the Direct Agreement

**Work-Out Period** has the meaning given to it in the Direct Agreement

## 1.2 Interpretation

Unless otherwise defined in this Deed, a term defined in the Facility Agreement has the same meaning when used in this Deed or any notices, acknowledgements or other documents issued under or in connection with this Deed.

(a) In this Deed the term **dispose** includes any sale, lease, licence, transfer or loan.

(b) Clause 1.2 (Construction) of the Facility Agreement is incorporated in this Deed as if set out here in full but so that each reference in that clause to **this Agreement** shall be read as a reference to this Deed.

## 1.3 Third party rights

(a) Unless expressly provided to the contrary in any Finance Document, a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any term of this Deed or any other Finance Document issued or entered into under or in connection with it but this does not affect any right or remedy of a third party which exists or is available apart from the Contracts (Rights of Third Parties) Act 1999.

(b) Unless expressly provided to the contrary in any Finance Document the consent of any person who is not a Party is not required to rescind or vary this Deed or any other Finance Document entered into under or in connection with it.

## 1.4 Administration

- (a) Any reference in this Deed, or any other Finance Document entered into under or in connection with it, to the making of an administration order shall be treated as including a reference to the appointment of an administrator under paragraph 14 (by the holder of a qualifying floating charge in respect of a Chargor's assets) or 22 (by a Chargor or the directors of a Chargor) of Schedule B1 to the Insolvency Act 1986 or any steps taken toward such order or appointment.
- (b) Any reference in this Deed or any other Finance Document entered into under or in connection with it, to making an application for an administration order by petition shall be treated as including a reference to making an administration application to the court under Schedule B1 to the Insolvency Act 1986, appointing an administrator under paragraph 14 or 22 of that Schedule, or giving notice under paragraph 15 or 26 of that Schedule of intention to appoint an administrator or any steps taken towards such application or notice.

### **1.5 Incorporated terms**

The terms of the Finance Documents and of any side letters relating to the Finance Documents and the Secured Obligations are incorporated into this Deed to the extent required for any purported disposition of any Charged Property contained in this Deed to be a valid disposition in accordance with section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.

## **2 Covenant to pay**

Each Chargor covenants with the Security Trustee as security trustee for the Secured Parties, to pay and discharge the Secured Obligations when they become due for payment and discharge in accordance with the terms of the Finance Documents.

## **3 Charging provisions**

### **3.1 General**

All Security created by a Chargor under clauses 3.2 to 3.4 inclusive is:

- (a) a continuing security for the payment and discharge of the Secured Obligations;
- (b) granted with full title guarantee (with all covenants implied herein pursuant to the Law of Property (Miscellaneous Provisions) Act 1994 being subject to and qualified by reference to the Legal Reservations and any Permitted Encumbrance);
- (c) granted in respect of all the right, title and interest (if any), present and future, of that Chargor in and to the relevant Charged Property; and
- (d) granted in favour of the Security Trustee as security trustee for the Secured Parties.

### **3.2 Assignments**

- (d) Each Chargor assigns:
  - (i) the Relevant Agreements to which it is a party; and
  - (ii) the Relevant Policies to which it is a party.

- (e) Each Chargor shall remain liable to perform all its obligations under the Relevant Agreements and the Relevant Policies to which it is a party.
- (f) Notwithstanding the other terms of this clause 3.2, prior to the occurrence of an Event of Default which is continuing, each Chargor may, subject to the other terms of the Finance Documents, continue to exercise all and any of its rights under and in connection with the Relevant Agreements.

### 3.3 First fixed charges

Each Chargor charges by way of fixed charge:

- (a) all interests and estates in any freehold, leasehold or commonhold property other than any Excluded Leasehold Property now or subsequently owned by it and, in each case, the Premises and Fixtures on each such property, other than any Excluded Leasehold Property;
- (b) the proceeds of sale of its Secured Property and all licences to enter on or use any Secured Property;
- (c) the benefit of all other agreements, instruments and rights relating to its Secured Property;
- (d) all plant, machinery, vehicles, computers, office and other equipment, all furniture, furnishings, equipment and tools and any removals or replacement of them, (together **Chattels**) present and future and the benefit of all contracts, licences, warranties, maintenance contracts relating to them and any renewals and replacements of them in each case, subject to any restrictions on charging;
- (e) the Subsidiary Shares together with all Related Rights;
- (f) the Investments together with all Related Rights;
- (g) all book and other debts due to the relevant Chargor and their proceeds (both collected and uncollected) (together **Debts**) and all rights, guarantees, security or other collateral in respect of the Debts (or any of them) and the benefit of any judgment or order to pay a sum of money and all rights to enforce the Debts (or any of them);
- (h) all monies from time to time standing to the credit of the Mandatory Prepayment Account;
- (i) all monies from time to time standing to the credit of each account held by the relevant Chargor with any bank, building society, financial institution or other person other than any Blocked Account (each an **Account**);
- (j) all its Intellectual Property;
- (k) all its goodwill and uncalled capital;
- (l) the benefit of all Authorisations held or utilised by it in connection with its business or the use of any of its assets and the right to recover and receive compensation payable in respect of any of them; and

- (m) to the extent that any assignment in clause 3.2 is ineffective as an assignment, the assets referred to in that clause.

### **3.4 Floating charge**

Each Chargor charges (subject to any Permitted Encumbrance) by way of first floating charge all its assets and undertaking wherever located both present and future other than any assets effectively charged by way of fixed charge or assigned under 3.2 or 3.3.

### **3.5 Qualifying floating charge**

This Deed contains a qualifying floating charge and paragraph 14 of Schedule B1 to the Insolvency Act 1986 applies to the floating charge created by or under this Deed.

### **3.6 Conversion of floating charge to a fixed charge**

The Security Trustee may at any time by notice in writing to any Chargor convert the floating charge created under clause 3.4 into a fixed charge as regards any Floating Charge Asset as it shall specify in the notice if:

- (a) an Event of Default is continuing; or
- (b) in the opinion of the Security Trustee (acting reasonably) that Floating Charge Asset is in danger of being seized or any legal process or execution is being enforced against that Floating Charge Asset.

### **3.7 Automatic conversion of floating charge to a fixed charge**

If (unless permitted in writing by the Security Trustee or expressly permitted under the terms of any Finance Document):

- (a) a Chargor creates or attempts to create any Security over any of its Floating Charge Assets;
- (b) any person levies or attempts to levy any distress, attachment, execution or other legal process against any Floating Charge Asset; or
- (c) any corporate action, legal proceedings or other procedures or steps are taken for the winding up, dissolution, administration or reorganisation of any Chargor,

the floating charge created by this Deed will automatically and immediately without notice be converted into a fixed charge over the relevant assets or, in the circumstances described in clause 3.7(c), over all of the Floating Charge Assets.

### **3.8 Small company moratorium**

Where a Chargor is an eligible company within the meaning of paragraphs 2 to 4 (inclusive) of Schedule A1 to the Insolvency Act 1986, then the obtaining of a moratorium, including any preliminary decision, or investigation in terms of paragraph 43 of Schedule A1 to the Insolvency Act 1986 shall not cause the floating charge created by this Deed to crystallise into a fixed charge, nor cause restrictions which would not otherwise apply to be imposed on the disposal of its property and assets by that Chargor.

## **4 Continuing security**

- 4.1 The Security constituted by this Deed shall be continuing security and shall remain in full force and effect regardless of any intermediate payment or discharge by any Chargor or any other person of the whole or any part of the Secured Obligations.

#### 4.2 **Recourse**

The Security constituted by this Deed:

- (a) is in addition to any other Security which any Finance Party may hold at any time for the Secured Obligations (or any of them); and
- (b) may be enforced without first having recourse to any other rights of any Finance Party.

### 5 **Negative pledge**

- 5.1 Subject to clause 5.3, no Chargor shall during the Security Period, create or permit to subsist any Security over any of its assets.

- 5.2 Subject to clause 5.3, no Chargor shall, during the Security Period:

- (a) sell, transfer or otherwise dispose of any of its assets on terms whereby they are or may be leased to or re-acquired by a Chargor or any other member of the Group;
- (b) sell, transfer or otherwise dispose of any of its receivables on recourse terms;
- (c) enter into any arrangement 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
- (d) enter into any other preferential arrangement having a similar effect,

in circumstances where the arrangement or transaction is entered into primarily as a method of raising Financial Indebtedness or of financing the acquisition of an asset.

- 5.3 Clauses 5.1 and 5.2 do not apply to any Security or arrangement which is a Permitted Encumbrance.

### 6 **Restrictions on disposals**

- 6.1 Subject to clause 6.2, no Chargor shall, during the Security Period, enter into a single transaction or a series of transactions (whether related or not) and whether voluntary or involuntary to sell, lease, transfer or otherwise dispose of any Charged Property.

- 6.2 Clause 6.1 does not apply to any disposal permitted in accordance with the Facility Agreement.

### 7 **Further assurance**

- 7.1 Subject to clause 13 (Restricted Asset Protection), each Chargor shall promptly do all such acts and execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Security Trustee may reasonably specify (and in such form as the Security Trustee may reasonably require) in favour of the Security Trustee or its nominee(s):

- (a) to create, perfect, protect and maintain the Security created or intended to be created under or evidenced by this Deed or for the exercise of any rights, powers and remedies of the Security Trustee or the Finance Parties provided by or pursuant to this Deed or by law;
  - (b) to confer on the Security Trustee or confer on the Finance Parties Security over any property and assets of that Chargor located in any jurisdiction equivalent or similar to the Security intended to be conferred by or pursuant to this Deed; and/or
  - (c) (if an Event of Default is continuing) to facilitate the realisation of the assets which are, or are intended to be, the subject of the Security created by or under this Deed.
- 7.2 Subject to clause 13 (Restricted Asset Protection), each Chargor shall take all such action as is available to it (including making all filings and registrations) as may be necessary for the purpose of the creation, perfection, protection or maintenance of any Security conferred or intended to be conferred on the Security Trustee or the Finance Parties by or pursuant to this Deed.
- 7.3 Any document required to be executed by a Chargor under this clause 7 will be prepared at the cost of that Chargor, such cost to be reasonably incurred.
- 7.4 The Lenders are, subject to the terms of the Facility Agreement, under an obligation to make further advances to the Borrowers and this security has been made for securing such further advances.

## **8 Notices of assignments and charges**

### **8.1 Relevant Agreements**

- (a) Each Chargor which is party to a Relevant Agreement shall give notice substantially in the form specified in part 1 (Form of notice of assignment) of schedule 3 to the other parties to each Relevant Agreement (other than a tenant under an AERL Occupational Lease) that the Chargor has assigned to the Security Trustee all its right, title and interest in that Relevant Agreement.
- (b) The relevant Chargor shall give the notices referred to in clause 8.1(a):
  - (i) in the case of each Relevant Agreement (other than a tenant under an AERL Occupational Lease and any Commercial Contract) in existence as at the date of this Deed, on the date of this Deed;
  - (ii) in the case of each material Commercial Contract in existence as at the date of this Deed, on the date of this Deed; and
  - (iii) in the case of each Relevant Agreement (other than a tenant under an AERL Occupational Lease) coming into existence or being designated as such after the date of this Deed, on the later of 3 Business Days from that agreement coming into existence or being designated a Relevant Agreement.
- (c) The relevant Chargor shall use reasonable endeavours to procure that the recipient of each such notice acknowledges that notice in substantially the form specified in part 2 (Form of acknowledgement) of schedule 3.

## 8.2 Insurance Policies

- (a) Each Chargor which is an insured party under a Relevant Policy shall give notice substantially in the form specified in part 1 (Form of notice of assignment) of schedule 4 to each insurer under each Relevant Policy that the Chargor has assigned to the Security Trustee all its right, title and interest in that Relevant Policy.
- (b) The relevant Chargor shall give the notices referred to in clause 8.2(a):
  - (i) in the case of each Relevant Policy subsisting at the date of this Deed, on the date of this Deed; and
  - (ii) in the case of each Relevant Policy coming into existence after the date of this Deed, within 3 Business Days of that Relevant Policy being put on risk.
- (c) The relevant Chargor shall use reasonable endeavours to procure that the recipient of each such notice acknowledges that notice in substantially the form specified in part 2 (Form of acknowledgement) of schedule 4.
- (d) If the Security Trustee receives prior to the occurrence of a Default which is continuing, any sum in respect of a Relevant Policy which represents Excluded Insurance Proceeds because the relevant Chargor is required or otherwise intends to apply such sum towards a purpose specified in the definition of Excluded Insurance Proceeds in clause 8.2 (Insurance and Hedging Prepayment Proceeds and Excess Cashflow) of the Facility Agreement, the Security Trustee shall, as soon as reasonably practicable following a written request from the relevant Chargor transfer such sum to that Chargor and, at the cost of the relevant Chargor, take any other action reasonably requested by the Chargor in order to allow that Chargor to apply such sum in accordance with the terms of the Facility Agreement.

## 8.3 Blocked Accounts

- (a) Each Chargor holding a Blocked Account shall give notice substantially in the form specified in part 1 (Form of notice of charge) of schedule 5 to the financial institution at which such Blocked Account is held that the Chargor has created a fixed charge over the balance standing to the credit of that Blocked Account.
- (b) The relevant Chargor shall give the notices referred to in clause 8.3(a):
  - (i) in the case of a Blocked Account held by that Chargor at the date of this Deed, on the date of this Deed; and
  - (ii) in the case of a Blocked Account opened after the date of this Deed, on that Blocked Account being opened.
- (c) The relevant Chargor shall use reasonable endeavours to procure that the recipient of each such notice acknowledges that notice in substantially the form specified in part 2 (Form of acknowledgement) of schedule 5 within 5 Business Days of that notice being given.

## 8.4 Charge over accounts

- (a) Each Chargor holding an Account shall give notice substantially in the form specified in part 1 (Form of notice of charge) of schedule 6 to the financial institution at which

such Account is held that the Chargor has created a fixed charge over the balance standing to the credit of that Account.

- (b) The relevant Chargor will give the notices referred to in clause 8.4(a):
  - (i) in the case of an Account held by that Chargor at the date of this Deed, on the date of this Deed; and
  - (ii) in the case of an Account opened after the date of this Deed, on that Account being opened.
- (c) The relevant Chargor shall use reasonable endeavours to procure that the recipient of each such notice acknowledges that notice substantially in the form specified in part 2 (Form of acknowledgement) of schedule 6 within 5 Business Days of that notice being given.

## **8.5 Operation of Accounts**

- (a) Prior to the occurrence of an Event of Default which is continuing, the Chargors shall be entitled to receive, withdraw or otherwise transfer any credit balance from time to time on any Account (subject to and in accordance with the terms of the Finance Documents).
- (b) After the occurrence of an Event of Default which is continuing, the Chargors shall not be entitled to receive, withdraw or otherwise transfer any credit balance from time to time on any Account except with the prior consent of the Security Agent.
- (c) For the avoidance of doubt, the Chargors shall not be entitled to receive, withdraw, or otherwise transfer any credit balance from time to time on any Blocked Account other than in accordance with the Finance Documents.

## **8.6 Register of Trade Marks**

Each Chargor as registered proprietor hereby appoints the Security Trustee as its agent to apply for the particulars of this Deed and the interest of the Finance Parties in the Intellectual Property and any other or future trade marks or trade mark applications registered or to be registered in the United Kingdom in the name of that Chargor, to be made on the Register of Trade Marks under section 25(1) of the Trade Marks Act 1994. Each Chargor hereby agrees to execute all documents and forms required to enable such particulars to be entered on the Register of Trade Marks.

## **9 Undertakings**

Each Chargor undertakes to the Security Trustee in accordance with this clause 9. The undertakings in this clause 9 shall remain in force during the Security Period.

### **9.1 Real property**

It will permit the Security Trustee and such person or persons as the Security Trustee shall nominate at all reasonable times and on reasonable notice to enter on any part of its Secured Property.

### **9.2 Leases**

- (a) **Lease and covenant compliance**



It shall:

- (i) not make any election or take any other action so as to alter the treatment of any Occupational Lease for the purposes of value added tax;
- (ii) immediately notify the Security Trustee of any notice received by it under section 146 of the Law of Property Act 1925 or any proceedings commenced or steps taken against it for the forfeiture of any lease under which it holds an interest in a Secured Property.

(b) **Landlord's consent**

If under the terms of any lease under which it holds an interest in any Secured Property, the Chargor is not permitted to charge its interest in such Secured Property without the consent of the landlord;

- (i) it undertakes promptly to make an application for landlord's consent to the creation of the fixed charge contained in clause 3.3 (First fixed charges) and any charge to be created under clause 7 (Further assurance), shall use all reasonable endeavours to obtain such consent as soon as possible and shall keep the Security Trustee informed of the progress of its negotiations with such landlord;
- (ii) subject to clause 9.2(b)(iii):
  - (A) no breach of the Facility Agreement nor any other representation in the Finance Documents shall occur by virtue of the Chargor's failure to have obtained such landlord's consent; and
  - (B) if the landlord indicates in writing that it proposes to commence, or commences an action of forfeiture of the relevant lease, the Security Trustee shall release from such fixed charge, the relevant Chargor's interest in the lease;
- (iii) clause 9.2(b)(ii) shall only apply where the relevant Chargor has complied with its obligations under clause 9.2(b)(i), but the landlord has not given the consent requested of it;
- (iv) upon receipt by the Security Trustee of evidence in writing of the consent of the landlord to the creation and existence of the fixed charge over the Chargor's interest in such lease, clause 9.2(b)(ii) shall cease to apply in respect of the relevant Secured Property.

**9.3 Chattels**

It will keep all Chattels comprised in its Charged Property in good and substantial repair and in good working order and condition.

**9.4 Subsidiary Shares and Investments**

- (a) On the later of:
  - (i) the date of this Deed; and

- (ii) as soon as reasonably practicable following the date of acquisition of those Subsidiary Shares, Investments or Related Rights (in particular, taking into account any requirement to submit any transfer documents to HM Revenue and Customs for stamping),

it shall, subject to clause 13 (Restricted Asset Protection):

- (A) deliver to the Security Trustee all certificates of title and other documents of title or evidence of ownership in respect of its Subsidiary Shares or Investments and the Related Rights; and
  - (B) deliver to the Security Trustee such transfer documents (with the transferee left blank) or any other documents as the Security Trustee acting reasonably may require or otherwise request in respect of those Subsidiary Shares, Investments and Related Rights.
- (b) Until any steps are taken to enforce the Security created by or under this Deed, it shall be entitled to receive and retain all dividends, distributions and other monies receivable in respect of its Subsidiary Shares, Investments and Related Rights.
- (c) Subject to clause 13 (Restricted Asset Protection), it shall be entitled to exercise its voting and other rights in respect of its Subsidiary Shares, Investments and Related Rights provided that it shall not do so in a manner which is likely to be prejudicial to the interests of the Finance Parties.
- (d) Subject to clause 13 (Restricted Asset Protection), it shall make all payments which may become due and payable in respect of any of its Subsidiary Shares, Investments and Related Rights. If it fails to make any such payments, the Security Trustee may but shall not be obliged to make such payment on behalf of the relevant Chargor. Any sums so paid by the Security Trustee shall be repayable by the relevant Chargor to the Security Trustee on demand and pending such repayment shall constitute part of the Secured Obligations.
- (e) It shall remain liable to observe and perform all of the conditions and obligations assumed by it in respect of its Subsidiary Shares, Investments and Related Rights and the Security Trustee shall not be required to perform or fulfil any obligation of any Chargor in respect of any Subsidiary Shares, Investments or Related Rights.
- (f) It shall comply with any notice served on it under CA 2006 or pursuant to the articles of association or any other constitutional document of any relevant entity in respect of or in connection with the Subsidiary Shares, Investments or Related Rights and will promptly provide to the Security Trustee a copy of that notice.
- (g) It shall ensure that none of its Subsidiary Shares are converted into uncertificated form without the prior written consent of the Security Trustee.
- (h) Subject to clause 13 (Restricted Asset Protection), as soon as reasonably practicable on conversion of any of its Subsidiary Shares, Investment or Related Rights from a certificated to an uncertificated form, and on the acquisition by it of any Subsidiary Shares, Investments or Related Rights in an uncertificated form, it shall give such instructions or directions and take such other steps and enter into such documentation as the Security Trustee may require in order to protect or preserve the Security intended to be created by this Deed.

## 9.5 Insurance

- (g) It shall comply with clause 24.23 (Insurances) of the Facility Agreement.
- (h) If a Chargor shall be in default of effecting or maintaining insurances or in producing any such policy or receipt to the Security Trustee on demand, the Security Trustee may take out or renew such insurances in any sum which the Security Trustee may reasonably think necessary and all reasonable monies expended and reasonable costs incurred by the Security Trustee under this provision shall be for the account of any such Chargor.

## 9.6 Book and other debts

It shall not set off, postpone or release any of the Debts or do or omit to do anything which may delay or prejudice the full recovery of all Debts without the prior written consent of the Security Trustee.

## 9.7 General

It shall not do or cause or permit to be done anything which will or is reasonably likely to in any way materially depreciate, jeopardise or otherwise prejudice the value to the Finance Parties of the Security created by or under this Deed provided that this clause 9.7 shall not operate to prevent any action which is otherwise permitted under the Facility Agreement.

## 10 Power to remedy

- 10.1 If a Chargor fails to comply with any of the undertakings set out in clause 9 (Undertakings), it shall allow and irrevocably authorises the Security Trustee and/or such persons as it shall nominate to take such action on behalf of that Chargor as shall be necessary to ensure that it complies with those undertakings.
- 10.2 If any Chargor fails to perform any obligation or other covenant affecting the Secured Property or other Charged Property, each Chargor shall permit the Security Trustee or its agents and contractors:
  - (a) to enter on the Secured Property;
  - (b) to comply with or object to any notice served on any Chargor relating to the Secured Property or other Charged Property; and
  - (c) to take any action the Security Trustee may reasonably consider expedient to prevent or remedy any breach of any such term or to comply with or object to any such notice.
- 1.2 Each Chargor shall within 3 Business Days of demand indemnify the Security Trustee against any cost, loss or liability incurred by it in taking any of the steps referred to in this clause 10.

## 11 Security power of attorney

Subject to clause 13 (Restricted Asset Protection), each Chargor, by way of security, irrevocably and severally appoints the Security Trustee, each Receiver and any of their delegates or sub-delegates to be its attorney to take any action which the Chargor is obliged to take under this Deed and which the relevant Chargor has been requested by the Security Trustee to do but has failed to do within 5 Business Days following such request. Each Chargor ratifies and confirms whatever any attorney does or purports to do pursuant to its appointment under this clause 11.

## **12 Enforcement of security**

### **12.1 When security is enforceable**

On the occurrence of any Event of Default which is continuing, the Security created by and under this Deed is immediately enforceable.

### **12.2 Acts of enforcement**

The Security Trustee may, at its absolute discretion, at any time after the Security created by or under this Deed is enforceable, subject to clause 13 (Restricted Asset Protection):

- (a) enforce all or any part of the Security created by or under this Deed in any manner it sees fit;
- (b) exercise its rights and powers conferred upon mortgagees by the Law of Property Act 1925, as varied and extended by this Deed, and rights and powers conferred on a Receiver by this Deed, whether or not it has taken possession or appointed a Receiver to any of the Charged Property;
- (c) appoint a Receiver to all or any part of the Charged Property;
- (d) appoint an administrator in respect of any Chargor and take any steps to do so;
- (e) exercise its power of sale under section 101 of the Law of Property Act 1925 (as amended by this Deed); or
- (f) if permitted by law, appoint an administrative receiver in respect of any Chargor.

### **12.3 Right of appropriation**

To the extent that the Security created by this Deed constitutes a "security financial collateral arrangement" and the Charged Property constitute "financial collateral" for the purpose of the Financial Collateral Arrangements (No 2) Regulations 2003 (**Regulations**), the Security Trustee shall have the right on giving prior notice to the relevant Chargor, at any time after the Security becomes enforceable, to appropriate all or any part of the Charged Property in or towards discharge of the Secured Obligations. The parties agree that the value of the appropriated Charged Property shall be, in the case of cash, the amount of cash appropriated and, in the case of Subsidiary Shares and Investments, determined by the Security Trustee by reference to any available publicly available market price in the absence of which by such other means as the Security Trustee (acting reasonably) may select including, without limitation, an independent valuation. For the purpose of Regulation 18(1) of the Regulations, each Chargor agrees that any such determination by the Security Trustee will constitute a valuation "in a commercially reasonable manner".

### **12.4 Statutory powers – general**

Subject to clause 13 (Restricted Asset Protection);

- (a) for the purposes of all powers implied by statute, the Secured Obligations are deemed to have become due and payable on the date of this Deed.
- (b) section 103 of the Law of Property Act 1925 and section 93 of the Law of Property Act 1925 do not apply to the Security constituted by or under this Deed.

- (c) the statutory powers of leasing conferred on the Security Trustee are extended so that, without the need to comply with any provision of section 99 or section 100 of the Law of Property Act 1925, the Security Trustee is empowered to lease and make agreements for lease at a premium or otherwise, accept surrenders of leases and grant options or vary or reduce any sum payable under any leases or tenancy agreements as it may think fit.
- (d) each Receiver and the Security Trustee is entitled to all the rights, powers, privileges and immunities conferred by the Law of Property Act 1925 and the Insolvency Act 1986 on mortgagees and Receivers when such Receivers have been duly appointed under the relevant Act.

## 12.5 Contingencies

If the Security Trustee enforces the Security constituted by or under this Deed at a time when no amounts are due to any Finance Party under the Finance Documents but at a time when amounts may or will become so due, the Security Trustee (or the Receiver) may pay the proceeds of any recoveries effected by it into an interest bearing suspense account.

## 12.6 Mortgagee in possession - no liability

Neither the Security Trustee nor any Receiver will be liable, by reason of entering into possession of a Secured Property, to account as mortgagee in possession or for any loss on realisation or for any default or omission for which a mortgagee in possession might otherwise be liable.

## 12.7 Redemption of prior mortgages

At any time after the Security created by or under this Deed has become enforceable, the Security Trustee may, at the sole cost of the Chargors (payable to the Security Trustee on demand):

- (a) redeem any prior form of Security over any Charged Property; and/or
- (b) procure the transfer of that Security to itself; and/or
- (c) settle and pass the accounts of any prior mortgagee, chargee or encumbrancer which once so settled and passed shall be conclusive and binding on the Chargors.

## 12.8 Subsidiary Shares and Investments – during a Work-Out Period and following an Event of Default

- (a) If a Work-Out Period or an Event of Default is continuing, each Chargor shall on request by the Security Trustee, subject to clause 13 (Restricted Asset Protection):
  - (i) deliver to the Security Trustee such pre-stamped stock transfer forms or other transfer documents as the Security Trustee may require to enable the Security Trustee or its nominee or nominees to be registered as the owner of, and to obtain legal and beneficial title to, the Subsidiary Shares, the Investments and/or Related Rights referred to in such request;
  - (ii) provide to the Security Trustee certified copies of all resolutions and authorisations approving the execution of such transfer forms and registration of such transfers as the Security Trustee may reasonably require;

- (iii) procure that each such transfer is promptly registered by the relevant company or other entity;
  - (iv) procure that, promptly on their issue, all share certificates or other documents of title in the appropriate form, in respect of the relevant Subsidiary Shares, Investments and/or Related Rights, are delivered to the Security Trustee in each case showing the registered holder as the Security Trustee or its nominee or nominees (as applicable); and
  - (v) exercise all voting rights in respect of its Subsidiary Shares, Investments and Related Rights only in accordance with the instructions of the Security Trustee.
- (b) At any time while a Work-Out Period or an Event of Default is continuing, the Security Trustee may complete any transfer documents held by it in respect of the Subsidiary Shares, the Investments and/or the Related Rights in favour of itself or such other person or nominee as it shall select.
  - (c) At any time after the Security created by or under this Deed has become enforceable the Security Trustee and its nominee or nominees may sell all or any of the Subsidiary Shares, Investments or Related Rights of the Chargors (or any of them) in any manner permitted by law and on such terms as the Security Trustee shall in its absolute discretion determine.
  - (d) If any Chargor receives any dividends, distributions or other monies in respect of its Subsidiary Shares, Investments and Related Rights at a time when the Security Trustee has made a request under clause 12.8(a) or taken any steps to enforce the Security created by or under this Deed under clause 12.2, the relevant Chargor shall immediately pay such sums received directly to the Security Trustee for application in accordance with clause 16 (Application of monies) and shall hold all such sums on (trust for the Security Trustee pending payment of them to such account as the Security Trustee shall direct.

### **13 Restricted Asset Protection**

#### **13.1 Disposition of Restricted Assets**

- (a) The Security Trustee will not and will procure (including, without limitation, by incorporating appropriate limitations in the terms of any appointment of any Receiver and a provision requiring such Receiver to advise any person or persons dealing with him in respect of any Restricted Asset of the limitations in such appointment) that any Receiver appointed by it, does not transfer, sell, assign, discount, factor, charge or otherwise dispose of any interest in a Restricted Asset the subject of Security constituted by this Debenture or knowingly allow or procure the issue of further Shares or securities by any Obligor provided that notwithstanding the foregoing, the Security Trustee and/or any Receiver (save, in respect of a Receiver, which shall not become the holder of any Shares in any Guarantor) shall be entitled to effect any Permitted Arrangement.
- (b) If an administrator of an Obligor is appointed, the Security Trustee (at the cost of the Obligors), to the extent legally possible, will not fund, procure, encourage or consent to such administrator doing any of the matters which a Receiver is prevented from doing under Clause 1.2(a)

### 13.2 Further Security

The Security Trustee undertakes that if any other Security is obtained from any Obligor or entity which is controlled directly or indirectly by the Trustees as Security for the Secured Obligations or any of them, such Security will contain provisions on substantially the same terms as this Clause 13.

### 13.3 Shares

The Security Trustee undertakes that it will not and will procure (including, without limitation, by incorporating relevant limitations in any appointment of any Receiver) that any Receiver appointed by it and any Designated Nominee will not amend the Embedded Provision.

### 13.4 Undertaking

The Security Trustee will procure that (a) on his appointment a Receiver appointed by it and/or (b) on becoming the holder of any Shares in any Obligor (as a Permitted Arrangement), the Designated Nominee enters into a deed in favour of The Crown Estate Commissioners (acting on behalf of Her Majesty pursuant to the Crown Estates Act 1961) undertaking to act, in relation to the Restricted Assets in accordance with this Clause 13 (Restricted Asset Protection) and to comply with clause 26 (Releases) to the same extent as if it were named therein as the Security Trustee.

## 14 Receiver

### 14.1 Appointment of Receiver

- (a)
  - (i) At any time after any Security created by or under this Deed is enforceable, the Security Trustee may appoint a Receiver to all or any part of the Charged Property in accordance with clause 12.2(c) (Acts of enforcement).
  - (ii) At any time, if so requested in writing by any Chargor, without further notice, the Security Trustee may appoint a Receiver to all or any part of the Charged Property as if the Security Trustee had become entitled under the Law of Property Act 1925 to exercise the power of sale conferred under the Law of Property Act 1925.
- (b) Any Receiver appointed under this Deed shall be the agent of the relevant Chargor and that Chargor shall be solely responsible for his acts or defaults and for his remuneration and liable on any contracts or engagements made or entered into by him and in no circumstances whatsoever shall the Security Trustee be in any way responsible for any misconduct, negligence or default of the Receiver.
- (c) Where a Chargor is an eligible company within the meaning of paragraphs 2 to 4 (inclusive) of Schedule A1 to the Insolvency Act 1986:
  - (i) obtaining a moratorium; or
  - (ii) anything done with a view to obtaining a moratorium including any preliminary decision or investigation in terms of paragraph 43 of Schedule A1 to the Insolvency Act 1986,

shall not be grounds for appointment of a Receiver.

## 14.2 Removal

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

## 14.3 Powers of Receiver

### (a) General

Subject to clause 13 (Restricted Asset Protection);

- (i) in addition to those conferred by the Law of Property Act 1925 on any Receiver appointed under that Act, each Receiver has, and is entitled to exercise, all of the rights, powers and discretions set out in this clause 14.3.
- (ii) if there is more than one Receiver holding office at the same time, unless the document appointing him states otherwise, each Receiver may exercise all of the powers conferred on a Receiver under this Deed or under the Insolvency Act 1986 individually and to the exclusion of any other Receivers.
- (iii) a Receiver of a Chargor has all the rights, powers and discretions of an administrative receiver under the Insolvency Act 1986.
- (iv) a Receiver may, in the name of any Chargor:
  - (A) do all other acts and things which he may consider expedient for realising any Charged Property; and
  - (B) exercise in relation to any Charged Property all the powers, authorities and things which he would be capable of exercising if he were its absolute beneficial owner.

### (b) Borrow money

A Receiver may raise and borrow money (either unsecured or on the security of any Charged Property, either in priority to the security constituted by this Deed or otherwise) on any terms and for whatever purpose which he thinks fit. No person lending that money need enquire as to the propriety or purpose of the exercise of that power or to check the application of any money so raised or borrowed.

### (c) Carry on business

A Receiver may carry on the business of any relevant Chargor as he thinks fit and, for the avoidance of doubt, a Receiver may apply for such Authorisations as he considers in his absolute discretion appropriate.

### (d) Compromise

A Receiver may settle, adjust, refer to arbitration, compromise and arrange any claims, accounts, disputes, questions and demands with or by any person who is or claims to be a creditor of any relevant Chargor or relating in any way to any Charged Property.



**(e) Delegation**

A Receiver may delegate his powers in accordance with clause 15 (Delegation).

**(f) Employees**

For the purposes of this Deed, a Receiver as he thinks appropriate, on behalf of the relevant Chargor or for itself as Receiver, may:

- (i) appoint and discharge managers, officers, agents, accountants, servants, workmen and others upon such terms as to remuneration or otherwise as he may think proper; and
- (ii) discharge any such persons appointed by the relevant Chargor.

**(g) Leases**

A Receiver may let any Charged Property for any term and at any rent (with or without a premium) which he thinks proper and may accept a surrender of any lease or tenancy of any Charged Property on any terms which he thinks fit (including the payment of money to a lessee or tenant on a surrender).

**(h) Legal actions**

A Receiver may bring, prosecute, enforce, defend and abandon all actions, suits and proceedings or submit to arbitration or any form of alternative dispute resolution in the name of the relevant Chargor in relation to any Charged Property as he considers expedient.

**(i) Possession**

A Receiver may take immediate possession of, get in and collect any Charged Property.

**(j) Protection of assets**

A Receiver may, in each case as he may think fit:

- (i) make and effect all repairs and insurances and do all other acts which the relevant Chargor might do in the ordinary conduct of its business be they for the protection or for the improvement of the Charged Property;
- (ii) commence and/or complete any building operations on the Secured Property or other Charged Property; and
- (iii) apply for and maintain any planning permission, building regulation approval or any other permission, consent or licence.

**(k) Receipts**

A Receiver may give valid receipts for all monies and execute all assurances and things which may be expedient for realising any Charged Property.

**(l) Sale of assets**

A Receiver may sell, exchange, convert into monies and realise any Charged Property by public auction or private contract in any manner and on any terms which he thinks proper. The consideration for any such transaction may consist of cash, debenture or other obligations, shares, stock or other valuable consideration and any such consideration may be payable in a lump sum or by instalments spread over such period as he thinks fit. Fixtures and any plant and machinery annexed to any part of the Secured Property may be severed and sold separately from the property containing them without the consent of the relevant Chargor.

**(m) Subsidiaries**

A Receiver may form a Subsidiary of the relevant Chargor and transfer to that Subsidiary any Charged Property.

**(n) Deal with Charged Property**

A Receiver may, without restriction sell, let or lease, or concur in selling, letting or leasing, or vary the terms of, determine, surrender or accept surrenders of, leases or tenancies of, or grant options and licences over or otherwise dispose of or deal with, all or any part of the Charged Property without being responsible for loss or damage, and so that any such sale, lease or disposition may be made for cash payable by instalments, loan stock or other debt obligations or for shares or securities of another company or other valuable consideration. The Receiver may form and promote, or concur in forming and promoting, a company or companies to purchase, lease, licence or otherwise acquire interests in all or any of the Charged Property or otherwise, arrange for such companies to trade or cease to trade and to purchase, lease, license or otherwise acquire all or any of the Charged Property on such terms and conditions whether or not including payment by instalments secured or unsecured as he may think fit.

**(o) Voting rights**

A Receiver may exercise all voting and other rights attaching to the Investments, Subsidiary Shares, Related Rights, and stocks, shares and other securities owned by that Chargor and comprised in the Charged Property in such manner as he may think fit.

**(p) Security**

A Receiver may redeem any prior Security 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 that Chargor and the money so paid shall be deemed to be an expense properly incurred by the Receiver.

**(q) Acquire land**

The Receiver may purchase or acquire any land and purchase, acquire or grant any interest in or right over land.

**(r) Development**

A Receiver may implement or continue the development of (and obtain all consents required in connection therewith) and/or complete any buildings or structures on, any

real property comprised in the Secured Property and do all acts and things incidental to the Secured Property.

(s) **Landlord's obligations**

A Receiver may on behalf of a Chargor and without consent of or notice to that Chargor exercise all the powers conferred on a landlord or a tenant by the Landlord and Tenants Acts, the Rents Acts and Housing Acts or any other legislation from time to time in force in any relevant jurisdiction relating to rents or agriculture in respect of any part of the Secured Property.

(t) **Uncalled capital**

A Receiver may make calls conditionally or unconditionally on the members of any relevant Chargor in respect of uncalled capital.

(u) **Incidental matters**

A Receiver may do all other acts and things including without limitation, signing and executing all documents and deeds as may be considered by the Receiver to be incidental or conducive to any of the matters or powers listed here or granted by law or otherwise incidental or conducive to the preservation, improvement or realisation of the Charged Property and to use the name of the relevant Chargor for all the purposes set out in this clause 13.

**14.4 Remuneration**

The Security Trustee may from time to time fix the remuneration of any Receiver appointed by it.

**15 Delegation**

15.1 Subject to clause 13 (Restricted Asset Protection), the Security Trustee and any Receiver may delegate by power of attorney or in any other manner all or any of the powers, authorities and discretions which are for the time being exercisable by the Security Trustee and the Receiver (as appropriate) under this Deed to any person or persons as it shall think fit. Any such delegation may be made upon such terms and conditions (including the power to sub-delegate) as the Security Trustee and Receiver (as appropriate) may think fit.

15.2 Subject to clause 13 (Restricted Asset Protection), the Security Trustee and any Receiver will not be liable or responsible to any Chargor or any other person for any losses, liabilities or expenses arising from any act, default, omission or misconduct on the part of any delegate.

**16 Application of monies**

16.1 Sections 109(6) and (8) (Appointment, powers, remuneration and duties of receiver) of the Law of Property Act 1925 shall not apply to a Receiver appointed under this Deed.

16.2 All monies received by the Security Trustee or any Receiver under this Deed shall be applied in accordance with paragraph 4 of schedule 11 to the Facility Agreement.

16.3 The Security Trustee and any Receiver may place any money received, recovered or realised pursuant to this Deed in an interest bearing suspense account and it may retain the same for such period as it considers expedient without having any obligation to apply the same or any part of it in or towards discharge of the Secured Obligations.

**17 Remedies and waivers**

- 17.1 No failure to exercise, nor any delay in exercising, on the part of the Security Trustee or any Receiver, any right or remedy under this Deed shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Deed are cumulative and not exclusive of any rights or remedies provided by law.
- 17.2 A waiver given or consent granted by the Security Trustee under this Deed will be effective only if given in writing and then only in the instance and for the purpose for which it is given.

**18 Protection of third parties**

- 18.1 Subject to clause 13 (Restricted Asset Protection), no person (including a purchaser) dealing with the Security Trustee or a Receiver or its or his agents has an obligation to enquire of the Security Trustee, Receiver or others:
- (a) whether the Secured Obligations have become payable;
  - (b) whether any power purported to be exercised has become exercisable;
  - (c) whether any Secured Obligations or other monies remain outstanding;
  - (d) how any monies paid to the Security Trustee or to the Receiver shall be applied; or
  - (e) the status, propriety or validity of the acts of the Receiver or Security Trustee.
- 18.2 Subject to clause 13 (Restricted Asset Protection), the receipt of the Security Trustee or any Receiver shall be an absolute and a conclusive discharge to a purchaser and shall relieve him of any obligation to see to the application of any monies paid to or by the direction of the Security Trustee or any Receiver.
- 18.3 In clauses 18.1 and 18.2, **purchaser** includes any person acquiring, for money or monies worth, any lease of, or Security over, or any other interest or right whatsoever in relation to, the Charged Property or any of them.

**19 Additional security**

The Security created by or under this Deed is in addition to and is not in any way prejudiced by any guarantee or security now or subsequently held by any Finance Party.

**20 Settlements conditional**

- 20.1 If the Security Trustee (acting reasonably) believes that any amount paid by a Chargor or any other person in respect of the Secured Obligations is capable of being avoided or set aside for any reason, then for the purposes of this Deed, such amount shall not be considered to have been paid.
- 20.2 Any settlement, discharge or release between a Chargor and any Finance Party shall be conditional upon no Security or payment to or for that Finance Party by that Chargor or any other person being avoided or set aside or ordered to be refunded or reduced by virtue of any law relating to bankruptcy, insolvency or liquidation or otherwise.

**21 Subsequent Security**

If the Security Trustee or any Finance Party receives notice of any other subsequent Security or other interest affecting all or any of the Charged Property it may open a new account or accounts for the relevant Chargor in its books. If it does not do so then, unless it gives express written notice to the contrary to the relevant Chargor, as from the time of receipt of such notice by the Security Trustee, all payments made by that Chargor to the Security Trustee or to any other Finance Party shall be treated as having been credited to a new account of that Chargor and not as having been applied in reduction of the Secured Obligations.

## **22 Set-off**

A Finance Party may, set off any matured obligation due from a Chargor under the Finance Documents (to the extent beneficially owned by that Finance Party) against any matured obligation owed by that Finance Party to that Chargor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Finance Party may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

## **23 Notices**

Any communication under this Deed or any other Security or Finance Document created by or under this Deed, shall be made and given in accordance with the terms of clause 35 (Notices) of the Facility Agreement.

## **24 Invalidity**

Clause 37 (Partial invalidity) of the Facility Agreement shall apply to this Deed as if set out here in full but so that references to the Finance Documents shall be construed as references to this Deed and any Security created by or under it.

## **25 Assignment**

Each Finance Party may assign or otherwise transfer all or any part of its rights under this Deed or any Security created by or under it in accordance with the terms of the Finance Documents.

## **26 Releases**

Upon the expiry of the Security Period, the Security Trustee shall, at the request and cost of the Chargors, take whatever action is necessary to release and reassign to each relevant Chargor:

- (a) its rights arising under this Deed;
- (b) the Charged Property from the Security created by and under this Deed,

and return all documents or deeds of title delivered to it under this Deed.

## **27 Currency clauses**

- 27.1 Clause 33.8 (Currency of account) of the Facility Agreement shall apply to this Deed as if set out here in full but so that references to the Finance Documents shall be construed as references to this Deed and any Security created by or under it and references to the Obligors shall be construed as references to the Chargors.

- 27.2 If a payment is made to the Security Trustee under this Deed in a currency (**Payment Currency**) other than the currency in which it is expressed to be payable (**Contractual Currency**), the Security Trustee may convert that payment into the Contractual Currency at the rate at which it (acting reasonably and in good faith) is able to purchase the Contractual Currency with the Payment Currency on or around the date of receipt of the payment and to the extent that the converted amount of the payment falls short of the amount due and payable the Chargors will remain liable for such shortfall.

## **28 Certificates and determinations**

Clause 36.2 (Certificates and determinations) of the Facility Agreement shall apply to this Deed as if set out here in full but so that references to the Finance Documents shall be construed as references to this Deed and any Security created by or under it.

## **29 Counterparts**

This Deed or any Finance Document entered into under or in connection with this Deed may be executed in any number of counterparts, and by each party on separate counterparts. Each counterpart is an original, but all counterparts shall together constitute one and the same instrument. Delivery of a counterpart of this Deed or any such Finance Document entered into under or in connection with this Deed by e-mail attachment or telecopy shall be an effective mode of delivery.

## **30 Governing law**

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

## **31 Enforcement**

### **1.3 Jurisdiction of English courts**

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute relating to the existence, validity or termination of this Deed or any non-contractual obligation arising out of or in connection with this Deed) (**Dispute**).
- (b) The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.
- (c) This clause 31 is for the benefit of the Security Trustee. As a result, the Security Trustee shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Security Trustee may take concurrent proceedings in any number of jurisdictions.

**This Deed** has been entered into as a deed on the date given at the beginning of this Deed.

**Schedule 1****The Guarantors**

<b>Name</b>	<b>Registered number</b>
Ascot Racecourse Limited ( <b>ARL</b> )	04320977
Ascot Racecourse Estates Limited ( <b>AREL</b> )	04320979
Ascot Racecourse Estates (Property Developments) Limited	04320972

**Schedule 2****Subsidiary Shares**

<b>Chargor</b>	<b>Name and registered number of Subsidiary</b>	<b>Number and class of shares</b>
Company	ARL	100,000 Ordinary shares
Company	AREL	100 Ordinary shares
Company	Ascot Racecourse Estates (Property Developments) Limited	1 Ordinary share



### Schedule 3

#### Relevant Agreements

##### Part 1 - Form of notice of assignment

To: ♦

Dated: ♦

Dear Sirs

#### **The agreement described in the attached schedule (Agreement)**

We hereby notify you that we have assigned to ♦ (**Security Trustee**) as security trustee for itself and certain financial institutions all our right, title and interest in and to the Agreement.

We hereby irrevocably and unconditionally authorise and instruct you [upon receipt of a notice from the Security Trustee]:

- 1 without notice or reference to, or further authority from us and without enquiring as to the justification or the validity of those instructions, to comply only with any instructions from time to time received by you from the Security Trustee relating to the Agreement and any rights under or in connection with the Agreement; and
- 2 to pay all sums payable by you under the Agreement directly to the Security Trustee at:

Bank: ♦

Account number: ♦

Sort code: ♦

or such other account as the Security Trustee may specify from time to time.

Please sign and return the acknowledgement attached to one enclosed copy of this notice to the Security Trustee and the other copy to us.

The provisions of this notice (and any non-contractual obligations arising out of or in connection with it) are governed by English law.

Yours faithfully

.....  
for and on behalf of

♦ **Limited**

**Schedule**

<b>Date</b>	<b>Parties</b>	<b>Description</b>
◆	◆	◆

[Attach form of acknowledgment]

**Part 2 - Form of acknowledgement**

To: Barclays Bank PLC  
[address]

To: [name of Chargor] (**Chargor**)  
[address]

Dated: ♦

We acknowledge receipt of the notice of assignment (**Notice**) of which the above is a duplicate. Terms defined in the Notice shall have the same meaning when used in this acknowledgement. We confirm that:

- (a) there has been no amendment, waiver or release of any rights or interests in the Agreement since the date of the Agreement;
- (b) we will not agree to any amendment, waiver or release of any provision of the Agreement without the prior written consent of the Security Trustee;
- (c) we shall act in accordance with the Notice;
- (d) as at the date of this acknowledgement we have not received any notice of assignment or charge of the Chargor's interest in the Agreement in favour of any other person;
- (e) as at the date of this acknowledgement, we are not aware of any breach by the Chargor of the terms of the Agreement; and
- (f) we do not have and have not claimed or exercised any right or claim against the Chargor or exercised or attempted to exercise any right of set-off, counterclaim or other right relating to the Agreement.

The provisions of this acknowledgement (and any non-contractual obligations arising out of or in connection with it) are governed by English law.

For and on behalf of

♦

**Schedule 4****Relevant Policies****Part 1 - Form of notice of assignment**

To: [insurer]

Dated: ♦

Dear Sirs

**The insurance policies described in the attached schedule (Relevant Policies)**

We hereby notify you that we have assigned to ♦ (**Security Trustee**) as security trustee for itself and certain financial institutions all our right, title and interest in and to the Relevant Policies.

We hereby irrevocably and unconditionally authorise and instruct you [upon receipt of a notice from the Security Trustee]:

- 1 without notice or reference to or further authority from us and without enquiring as to the justification or the validity of those instructions, to comply only with any instructions from time to time received by you from the Security Trustee relating to the Relevant Policies (or any of them); and
- 2 to pay all sums payable by you under the Relevant Policies (or any of them) directly to the Security Trustee at:

Bank: ♦  
 Account number: ♦  
 Sort code: ♦

or such other account as the Security Trustee may specify from time to time.

Please sign and return the acknowledgement attached to one enclosed copy of this notice to the Security Trustee and the other copy to us.

The provisions of this notice (and any non-contractual obligations arising out of or in connection with it) are governed by English law.

Yours faithfully

.....  
 for and on behalf of  
 ♦ **Limited**

**Schedule**

Date of policy	Insured	Policy type	Policy number
♦	♦	♦	♦

[Attach form of acknowledgment]

**Part 2 - Form of acknowledgement**

To: Barclays Bank PLC  
[address]

To: [name of Chargor] (**Chargor**)  
[address]

Dated: ♦

We acknowledge receipt of the notice of assignment (**Notice**) of which the above is a duplicate. Terms defined in the Notice shall have the same meaning when used in this acknowledgement. We confirm that:

- (a) there has been no amendment, waiver or release of any rights or interests in any Relevant Policy since the date of such policy;
- (b) we have noted the Security Trustee's interest as mortgagee and first loss payee on each Relevant Policy;
- (c) we will not agree to any amendment, waiver or release of any provision of any Relevant Policy without the prior written consent of the Security Trustee;
- (d) we shall act in accordance with the Notice;
- (e) as at the date of this acknowledgement we have not received any notice of assignment or charge of the Chargor's interest in any Relevant Policy or the proceeds of any Relevant Policy in favour of any other person; and
- (f) we do not have and have not claimed or exercised any right or claim against the Chargor or exercised or attempted to exercise any right of set-off, counterclaim or other right relating to any Relevant Policy.

The provisions of this acknowledgement (and any non-contractual obligations arising out of or in connection with it) are governed by English law.

For and on behalf of  
[insurance company]

**Schedule 5****Blocked Accounts****Part 1 - Form of notice of charge**

To: [insert name and address of account holding institution]

Dated: ♦

Dear Sirs

**Account number:** ♦ (Blocked Account)

**Sort code:** ♦

**Account holder:** ♦ Limited

We hereby notify you that we have charged by way of first fixed charge to ♦ (**Security Trustee**) as security trustee for itself and certain financial institutions all our right, title and interest in and to the monies from time to time standing to the credit of the Blocked Account.

We hereby irrevocably and unconditionally authorise and instruct you:

- 1 to hold all monies from time to time standing to the credit of the Blocked Account to the order of the Security Trustee and accordingly to pay all or any part of those monies to the Security Trustee (or as it may direct) promptly following receipt of written instructions from the Security Trustee to that effect; and
- 2 to disclose to the Security Trustee such information relating to us and the Blocked Account as the Security Trustee may from time to time request you to provide.

We also advise you that:

- (a) we may not withdraw any monies from the Blocked Account without first having obtained the prior written consent of the Security Trustee; and
- (b) the provisions of this notice may only be revoked or varied with the prior written consent of the Security Trustee.

Please sign and return the acknowledgement attached to one enclosed copy of this notice to the Security Trustee and the other copy to us.

The provisions of this notice (and any non-contractual obligations arising out of or in connection with it) are governed by English law.

Yours faithfully

.....  
for and on behalf of  
♦ Limited

[Attach form of acknowledgment]

## Part 2 - Form of acknowledgement

To: Barclays Bank PLC  
[address]

To: [name of Chargor] (**Chargor**)  
[address]

Dated: ♦

We acknowledge receipt of the notice of charge (**Notice**) of which the above is a duplicate. Terms defined in the Notice shall have the same meaning when used in this acknowledgement.

We confirm that:

- (a) we shall act in accordance with the Notice;
- (b) as at the date of this acknowledgement we have not received any notice of assignment or charge over the Chargor's interest in the Blocked Account in favour of any other person; and
- (c) we will not exercise any right of combination of accounts, set-off or lien over any monies standing to the credit of the Blocked Account.

The provisions of this acknowledgement (and any non-contractual obligations arising out of or in connection with it) are governed by English law.

For and on behalf of  
[account holding institution]



**Schedule 6****Accounts****Part 1 - Form of notice of charge**

To: *[insert name and address of account holding institution]*

**Account number:**       ♦                               **(Account)**  
**Sort code:**             ♦  
**Account holder:**       ♦ **Limited**

We hereby notify you that we have charged by way of first fixed charge to ♦ **(Security Trustee)** as security trustee for itself and certain financial institutions all our right, title and interest in and to the monies from time to time standing to the credit of the Account.

We hereby irrevocably and unconditionally authorise and instruct you:

- 1       to hold all monies from time to time standing to the credit of the Account to the order of the Security Trustee and accordingly to pay all or any part of those monies to the Security Trustee (or as it may direct) promptly following receipt of written instructions from the Security Trustee to that effect; and
- 2       to disclose to the Security Trustee such information relating to us and the Account as the Security Trustee may from time to time request you to provide.

By countersigning this notice, the Security Trustee authorises you to permit us to withdraw and otherwise deal with funds standing to the credit of the Account until:

- (a)     you receive a notice in writing to the contrary from the Security Trustee;
- (b)     a petition is presented for a winding up order in respect of us or an application is made for an administration order in respect of us,

(whichever occurs first).

Please sign and return the acknowledgement attached to one enclosed copy of this notice to the Security Trustee and the other copy to us.

The provisions of this notice (and any non-contractual obligations arising out of or in connection with it) are governed by English law.

Yours faithfully

.....  
 for and on behalf of ♦ Limited

Countersigned for and on behalf of  
 the Security Trustee:

.....

*[Attach form of acknowledgment]*

## Part 2 - Form of acknowledgement

To: Barclays Bank PLC  
[address]

To: [name of Chargor] (**Chargor**)  
[address]

Dated: ♦

We acknowledge receipt of the notice of charge (**Notice**) of which the above is a duplicate. Terms defined in the Notice shall have the same meaning when used in this acknowledgement.

We confirm that:

- (a) we shall act in accordance with the Notice;
- (b) as at the date of this acknowledgement we have not received any notice of assignment or charge or other security over the Chargor's interest in the Account in favour of any other person; and
- (c) we will not exercise any right of combination of accounts, set-off or lien over any monies standing to the credit of the Account.

The provisions of this acknowledgement (and any non-contractual obligations arising out of or in connection with it) are governed by English law.

For and on behalf of  
[account holding institution]

## Schedule 7

### Form of Security Deed of Accession

This Deed is made on ♦

#### Between

- (1) **Ascot Authority (Holdings) Limited** (registered in England with number 04274507) (**Company**);
- (2) ♦ (registered in England with number ♦ (**Acceding Chargor**); and
- (3) **Barclays Bank PLC** as security trustee for the Secured Parties (**Security Trustee**).

#### Whereas

This Deed is supplemental to a debenture dated ♦ 2016 between, inter alia, the Original Chargors and the Security Trustee (**Debenture**).

#### It is agreed

### 1 Definitions and interpretation

#### 1.1 Definitions

- (a) Save to the extent otherwise defined in this Deed, terms defined in the Debenture have the same meaning when used in this Deed.
- (b) In this Deed, **Subsidiary Shares** means all shares present and future held by the Acceding Chargor or its Subsidiaries including those listed in schedule 2 (Subsidiary Shares) to this Deed.

#### 1.2 Interpretation

Clauses 1.2 (Interpretation), 1.3 (Third party rights), 1.4 (Administration) and 1.5 (Incorporated terms) of the Debenture are incorporated in this Deed as if they were set out in full in this Deed, but so that references in those clauses to **this Deed** shall be construed as references to this Security Deed of Accession.

### 2 Accession of Acceding Chargor

#### 2.1 Accession

The Acceding Chargor agrees to be a Chargor for the purposes of the Debenture with immediate effect and agrees to be bound by all of the terms of the Debenture as if it had originally been a party to it.

#### 2.2 Covenant to pay

The Acceding Chargor covenants with the Security Trustee as security trustee for the Secured Parties that it will pay and discharge the Secured Obligations when they become due for payment and discharge in accordance with the terms of the Finance Documents.

#### 2.3 Charging provisions

All security created by a Chargor under clauses 2.4 to 2.6 inclusive is:

- (a) a continuing security for the payment and discharge of the Secured Obligations;
- (b) granted with full title guarantee;
- (c) granted in respect of all the right, title and interest (if any), present and future of the Acceding Chargor in and to the relevant Charged Property; and
- (d) in favour of the Security Trustee as security trustee for the Secured Parties.

## 2.4 Assignments

- (a) The Acceding Chargor assigns:
  - (i) the agreements described in schedule 4 (Relevant Agreements) to this Deed; and
  - (ii) its Relevant Policies.
- (b) The Acceding Chargor shall remain liable to perform all its obligations under the Relevant Agreements, and the Relevant Policies.
- (c) [Notwithstanding the other terms of this clause 2.4, prior to the occurrence of a[n Event of] Default which is continuing, each Chargor may, subject to the other terms of the Finance Documents, continue to exercise all and any of its rights under and in connection with the Relevant Agreement.]

## 2.5 First fixed charges

The Acceding Chargor charges by way of first fixed charge:

- (a) all interests and estate in any freehold, leasehold or commonhold property now or subsequently owned by it and in each case, the Premises and Fixtures on each such property;
- (b) the proceeds of sale of its Secured Property and all licences to enter on or use any Secured Property;
- (c) the benefit of all other agreements, instruments and rights relating to its Secured Property;
- (d) all plant, machinery, vehicles, computers, office and other equipment, all furniture, furnishings, equipment and tools and any removals or replacement of them, (together **Chattels**) present and future and the benefit of all contracts, licences, warranties, maintenance contracts relating to them and any renewals and replacements of them;
- (e) the Subsidiary Shares together with all Related Rights;
- (f) the Investments together with all Related Rights;
- (g) all book and other debts due to the Acceding Chargor and their proceeds (both collected and uncollected) (together **Debts**) and all rights, guarantees, security or other collateral in respect of the Debts or any of them) and the benefit of any

judgment or order to pay a sum of money and all rights to enforce the Debts (or any of them);

- (h) all monies from time to time standing to the credit of each Blocked Account;
- (i) all monies from time to time standing to the credit of each account held by the Acceding Chargor with any bank, building society, financial institution or other person other than any Blocked Account (each an **Account**);
- (j) all its Intellectual Property;
- (k) all its goodwill and uncalled capital;
- (l) the benefit of all Authorisations held or utilised by it in connection with its business or the use of any of its assets and the right to recover and receive compensation payable in respect of any of them;
- (m) to the extent that any assignment in clause 2.4 is ineffective as an assignment, the assets referred to in that clause.

## **2.6 Floating charge**

The Acceding Chargor charges by way of first floating charge all its assets and undertaking wherever located both present and future other than any assets effectively charged by way of legal mortgage or fixed charge or assigned under clauses 2.4 or 2.5.

## **2.7 Qualifying floating charge**

This Deed contains a qualifying floating charge and paragraph 14 of Schedule B1 to the Insolvency Act 1986 applies to the floating charge created by or under this Deed.

## **3 Consent of existing charging companies**

The Chargors agree to the terms of this Deed and agree that its execution will in no way prejudice or affect any Security granted by any of them by or under the Debenture.

## **4 Security power of attorney**

Subject to clause 13 (Restricted Asset Protection) of the Debenture, the Acceding Chargor, by way of security, irrevocably and severally appoints the Security Trustee, each Receiver and any of their delegates or sub-delegates to be its attorney to take any action which the Acceding Chargor is obliged to take under this Deed or the Debenture. The Acceding Chargor ratifies and confirms whatever any attorney does or prompts to do pursuant to its appointment under this clause 4.]

## **5 Notices**

The Acceding Chargor confirms that its address details for notices in relation to clause 23 (Notices) of the Debenture are as follows:

Address: ♦

Facsimile: ♦

Attention: ♦

**6 Counterparts**

This Deed may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Deed.

**7 Governing law and jurisdiction**

Clause [29] (Governing law) of the Debenture shall be incorporated in this Deed as if set out here in full but so that references to the Debenture shall be construed as references to this Deed.

This Deed has been entered into as a deed on the date given at the beginning of this Deed.

**Schedule 1**

**Properties**

**Schedule 2**

**Subsidiary Shares**

**Schedule 4**

**Relevant Agreements**

## SIGNATURES TO THE SECURITY DEED OF ACCESSION

### Company

Executed as a deed by ) .....  
**Ascot Authority (Holdings) Limited** ) Director  
 acting by two directors or by a director and its ) .....  
 secretary ) .....  
 ) Director/Secretary

### OR

Executed as a deed by ) .....  
**Ascot Authority (Holdings) Limited** ) .....  
 acting by a director in the presence of ) Director

.....  
 Signature of witness

Name .....

Address .....

.....

### Acceding Chargor

Executed as a deed by ) .....  
**♦ Limited** ) Director  
 acting by two directors or by a director and its ) .....  
 secretary ) .....  
 ) Director/Secretary

### OR

Executed as a deed by ) .....  
**♦ Limited** ) .....  
 acting by a director in the presence of ) Director

.....  
 Signature of witness

Name .....

Address .....

.....



**Security Trustee**

By

**Barclays Bank PLC**

for and on its own behalf

by its duly authorised officer

.....

## SIGNATURES TO THE DEBENTURE

### Company

Executed as a deed by )  
**Ascot Authority (Holdings) Limited** ) Director  
 acting by two directors or by a director and its )  
 secretary )  
 ) Director/Secretary

### OR

Executed as a deed by )  
**Ascot Authority (Holdings) Limited** )  
 acting by a director in the presence of ) Director

Signature of witness

Name

Address

### Chargors

Signed as a deed by )  
**Ascot Racecourse Limited** ) Director  
 acting by two directors or by a director and its )  
 secretary )  
 ) Director/Secretary

### OR

Executed as a deed by )  
**Ascot Racecourse Limited** )  
 acting by a director in the presence of ) Director

Signature of witness

Name

Address

Signed as a deed by ) .....  
**Ascot Racecourse Estates Limited** ) Director  
acting by two directors or by a director and its ) .....  
secretary ) Director/Secretary

OR

Executed as a deed by ) .....  
**Ascot Racecourse Estates Limited** ) .....  
acting by a director in the presence of ) Director

Signature of witness

Name N. J. Todman

Address .....

Signed as a deed by ) .....  
**Ascot Racecourse Estates (Property** ) Director  
**Developments) Limited** ) .....  
acting by two directors or by a director and its ) .....  
secretary ) Director/Secretary

OR

Executed as a deed by ) .....  
**Ascot Racecourse Estates (Property** ) .....  
**Developments) Limited** ) Director

acting by a director in the presence of

Signature of witness

Name N. J. Todman

Address .....

**Security Trustee**

Signed by )  
duly authorised for and on behalf of )  
**Barclays Bank PLC** ) .....

**Security Trustee**

Signed by  
duly authorised for and on behalf of  
**Barclays Bank PLC**

)  
)  
)

