



Registration of a Charge

Company name: **NEW ERA CAP COMPANY LIMITED**

Company number: **04599312**



X7G8KXWQ

Received for Electronic Filing: **09/10/2018**

Details of Charge

Date of creation: **04/10/2018**

Charge code: **0459 9312 0009**

Persons entitled: **KAYNE SENIOR CREDIT III LOANCO, LLC**

Brief description:

Contains floating charge(s) .

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

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

Certified by: **SAMUEL WILSON**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 4599312

Charge code: 0459 9312 0009

The Registrar of Companies for England and Wales hereby certifies that a charge dated 4th October 2018 and created by NEW ERA CAP COMPANY LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 9th October 2018 .

Given at Companies House, Cardiff on 11th October 2018

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 4 October 2018

NEW ERA CAP COMPANY LIMITED
as Chargor

KAYNE SENIOR CREDIT III LOANCO, LLC
as Security Agent

FLOATING CHARGE

WE HEREBY CERTIFY THAT, SAVE FOR
MATERIAL REDACTED PURSUANT TO S.859G
OF THE COMPANIES ACT 2006, THIS COPY
INSTRUMENT IS A CORRECT COPY OF THE
ORIGINAL INSTRUMENT.

Bryan Cave Leighton Paisner LLP
08.10.2018

BRYAN CAVE LEIGHTON PAISNER LLP
ADELAIDE HOUSE

LONDON BRIDGE

LONDON EC4R 9HA

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DATED 4 October 2018

PARTIES

- (1) **NEW ERA CAP COMPANY LIMITED** a company incorporated in England and Wales with registered number 04599312 whose registered office is at 1st Floor East, CBX 2, Midsummer Boulevard, Milton Keynes, MK9 2EA (the "**Chargor**")
- (2) **KAYNE SENIOR CREDIT III LOANCO, LLC** as security trustee for the Lender Parties (the "**Security Agent**")

BACKGROUND

- (A) The Lender Parties have agreed to advance or to continue to advance monies or otherwise arrange credit or afford other financial facilities to the Borrowers on the security created by this Deed.
- (B) The Chargor has agreed to charge certain of its assets as security to the Security Agent as set out in this Deed.

OPERATIVE PROVISIONS

1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Deed:

"Acceleration Event" means the occurrence of an Event of Default which is continuing in respect of which any notice of acceleration has been served by the Administrative Agent upon the Administrative Borrower in accordance with section 7.01 (Events of Default) of the Facility Agreement.

"Charged Assets" means all the assets, property, undertaking and rights both present and future of the Chargor, but in each case other than Excluded Property.

"Excluded Property" means "Excluded Property" as defined in the Facility Agreement.

"Facility Agreement" means the credit agreement dated 10 September 2018 and made between (amongst others) (i) the Borrowers party thereto, (ii) the Guarantors party thereto, (iii) the Chargor and (iv) the Security Agent.

"Legal Reservations" means:

- (a) the principle that equitable remedies may be granted or refused at the discretion of a court and the limitation of enforcement by laws relating to insolvency, reorganisation and other laws generally affecting the rights of creditors; and
- (b) the time barring of claims under the Limitation Acts, the possibility that an undertaking to assume liability for or indemnify a person against non-payment of UK stamp duty may be void against defences of set-off or counterclaim.

"Limitation Acts" means the Limitation Act 1980 and the Foreign Limitation Periods Act 1984.

"Original Jurisdiction" means the jurisdiction under whose laws the Chargor is incorporated as at the date of this Deed.

"Receiver" means any receiver and/or manager (or joint receivers and/or managers) appointed under Clause 7 (*Receiver*).

"Relevant Jurisdictions" means, in respect of the Chargor:

- (a) its Original Jurisdiction;
- (b) England and Wales; and
- (c) any jurisdiction where it conducts its business.

"Second-Lien Lender Parties" means the Lender Parties under and as defined in the ABL Credit Agreement.

"Secured Liabilities" means all Obligations.

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

1.2 **Defined expressions**

Defined terms in the Facility Agreement shall have the same meanings when used in this Deed unless otherwise expressly defined in this Deed.

1.3 **Application of construction provisions of Facility Agreement**

The provisions of section 1.02 (*Terms Generally*) of the Facility Agreement apply to this Deed as if they were expressly incorporated and set out in full in this Deed with appropriate and necessary modifications.

1.4 **Inconsistency between ABL Split Lien Intercreditor Agreement and this Deed**

In case of any conflict between the ABL Split Lien Intercreditor Agreement and this Deed (other than this Clause 3 (*Floating Charge*) hereof), the ABL Split Lien Intercreditor Agreement shall prevail.

1.5 **Third party rights**

A person who is not a party to this Deed has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Deed.

1.6 **Insolvency**

Unless the contrary intention appears, references in this Deed to:

- (a) **"insolvency"** include any of the following or any steps in relation to the following:
 - (i) any insolvency, bankruptcy, liquidation, reorganisation, administration, receivership or distribution;

- (ii) any voluntary arrangement or assignment for the benefit of creditors; or
 - (iii) any similar or analogous event to (i) and (ii) above in any jurisdiction whatsoever; and
- (b) any share or other security or investment include:
 - (i) any dividend, interest or other distribution paid or payable;
 - (ii) any right, money or property accruing or offered at any time by way of redemption, substitution, exchange, bonus or preference, under option rights or otherwise,

in each case in respect of that share or other security or investment.

2 **COVENANT TO PAY**

The Chargor covenants with the Security Agent that it will on demand, pay and discharge each and all of the Secured Liabilities when due.

3 **FLOATING CHARGE**

3.1 **Floating Charge**

The Chargor, as security for the due and punctual payment of the Secured Liabilities, charges absolutely with full title guarantee in favour of the Security Agent by way of first floating charge the Charged Assets.

3.2 **Continuing and additional security**

3.2.1 The security constituted by this Deed is continuing and will extend to the ultimate balance of all of the Secured Liabilities, regardless of any intermediate payment or discharge in whole or in part.

3.2.2 The security constituted by this Deed is in addition to, and is not in any way prejudiced by, any other guarantee or security now or subsequently held by the Security Agent.

3.3 **No obligations assumed by the Security Agent**

The Chargor shall remain liable to perform all obligations connected with the Charged Assets and the Security Agent, but shall not, in any circumstances, have or incur any obligation of any kind in connection with the Charged Assets.

3.4 **Creation of fixed charges**

3.4.1 Subject to the terms of the ABL Split Lien Intercreditor Agreement, the Security Agent may by notice to the Chargor convert the floating charge created by Clause 3.1 (*Floating Charge*) into a fixed charge with immediate effect as regards all or any of the Security Assets specified in the notice if:

- (a) an Acceleration Event has occurred; or
- (b) the Security Agent (acting reasonably and in good faith) is of the view that any asset charged under the floating charge created under this Deed is in imminent danger of being seized or sold under any form of distress,

attachment, execution or other legal process or is otherwise in jeopardy;
or

- (c) the Security Agent reasonably considers that it is necessary in order to protect the priority, value or enforceability of the Security created under this Deed.

3.4.2 The floating charge created under this Deed will automatically (without notice) and immediately be converted into a fixed charge over all the assets of the Chargor which are subject to the floating charge created under this Deed, if:

- (a) the members of the Chargor pass a resolution for its winding-up, dissolution, or a compromise, assignment or arrangement with any creditor;
- (b) the Chargor creates, or purports to create, Security (except as permitted by the Loan Documents or with the prior consent of the Security Agent) on or over any asset which is subject to the floating charge created under this Deed;
- (c) any third party attempts to levy distress, attachment, execution or other legal process against any such asset;
- (d) any person (entitled to do so) gives notice of its intention to appoint an administrator to the Chargor or files such a notice with the court; or
- (e) if any other floating charge created by the Chargor crystallises for any reason.

3.4.3 Subject to Section 6.01(j) and Section 6.01(k) of the Facility Agreement, the conversion of any floating charge pursuant to this Clause 3.4, the Chargor shall, at its own expense, immediately upon request by the Security Agent execute a fixed charge or legal assignment in such form as the Security Agent may require.

3.5 **Negative Pledge**

The Chargor shall not:

- (a) create or agree to create or permit to subsist any Security over all or any part of the Charged Assets; or
- (b) sell, transfer, lease out, lend or otherwise dispose of all or any part of the Charged Property (other than on arm's length terms in the ordinary course of its business) or the right to receive or to be paid the proceeds arising on the disposal of the same, or agree or attempt to do so,

except as permitted by the Facility Agreement (which, for the avoidance of doubt, shall include an English law fixed charge to be entered into between the Chargor and Barclays Bank PLC, under or in connection with the Permitted Barclays Factoring Indebtedness) or with the prior consent of the Security Agent.

3.6 **Release of security**

3.6.1 If the Security Agent is satisfied that the Secured Liabilities have been unconditionally and irrevocably paid, repaid and discharged in full, the Security Agent will promptly, at the cost and request of the Chargor, discharge this Deed.

3.6.2 No discharge will be of any effect if any security or payment given or made in respect of the Secured Liabilities is rescinded, avoided, reduced or invalidated whether in respect of any insolvency or otherwise.

3.6.3 Once all of the Secured Liabilities have been irrevocably paid in full and none of the Security Agent nor any Lender Party has any actual or contingent liability to advance further monies to, or incur liability on behalf of, the Chargor, the Security Agent and each Lender Party shall, at the request and cost of the Chargor, as soon as reasonably practicable execute any documents (or procure that its nominees execute any documents) or take any and all action which may be necessary to release the Charged Assets from the Security constituted by this Deed.

3.7 **Ranking**

3.7.1 Notwithstanding anything to the contrary contained in this Clause 3 (*Security*) or elsewhere in this Deed, the parties hereto acknowledge and agree that:

- (a) as set forth in the ABL Split Lien Intercreditor Agreement, the Security granted pursuant to this Deed (including pursuant to this Clause 3) to the Security Agent for the benefit of the Lender Parties in the Charged Assets shall be first-priority Security and is expressly subject to the terms and conditions of the ABL Split Lien Intercreditor Agreement; and
- (b) each of the Lender Parties' and the Second-Lien Lender Parties' respective security interests in the Charged Assets constitute security interests separate and apart from the Lender Parties' Security in the Investments.

3.7.2 Notwithstanding anything herein to the contrary, the relative rights and remedies of the Security Agent and the Lender Parties hereunder shall be subject to and governed by the terms of the ABL Split Lien Intercreditor Agreement.

4 **REPRESENTATIONS AND WARRANTIES**

The Chargor makes the representations and warranties set out in this Clause 4 (*Representations and Warranties*) to each Lender Party.

4.1 **Status**

4.1.1 It is a corporation, duly incorporated and validly existing under the law of its jurisdiction of incorporation, except where the failure to be so incorporated and validly existing could not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect.

4.1.2 It has the power to own its assets and carry on its business as it is being conducted, except where the failure to have such power could not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect.

4.2 **Binding obligations**

The obligations expressed to be assumed by it in this Deed are, subject to the Legal Reservations, legal, valid, binding and enforceable obligations, except as could not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect.

4.3 Non-conflict

The entry into and performance by it of, and the transactions contemplated by, this Deed do not and will not conflict with:

- (a) any law or regulation applicable to it;
- (b) its constitutional documents; or
- (c) any agreement or instrument binding upon it or any of its assets or constitute a default or termination event (however described) under any such agreement or instrument,

except as could not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect.

4.4 Power and authority

4.4.1 It has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, this Deed and the transactions contemplated by this Deed, except where the failure to do so could not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect.

4.4.2 No limit on its powers will be exceeded as a result of the grant of Security contemplated by this Deed.

4.5 Validity and admissibility in evidence

Each authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration required or desirable:

- (a) to enable it lawfully to enter into, exercise its rights and comply with its obligations under this Deed; and
- (b) to make this Deed admissible in evidence in its Relevant Jurisdictions,

has been obtained or effected and is in full force and effect.

4.6 Governing law and enforcement

- (i) The choice of English law will be recognised and enforced in its Relevant Jurisdictions.
- (ii) Any judgment obtained in England in relation to a Loan Document will be recognised and enforced in its Relevant Jurisdictions.

4.7 Legal and beneficial ownership

It is and will be the sole legal and beneficial owner of the Charged Assets free from any encumbrance or Security except as created by this Deed and as permitted under the Facility Agreement.

4.8 Effective Security

This Deed is effective Security over the Charged Assets.

4.9 **Repetition of representations**

The representations and warranties set out in this Clause 4 (*Representations and Warranties*) shall be true and correct in all material respects:

- (a) on the date of this Deed; and
- (b) on the last day of any Interest Period,

(unless such representation or warranty is already qualified by materiality in any manner then such representation or warranty shall be true and correct in all respects).

5 **PROTECTION OF SECURITY**

The Security Agent may take any action which it may reasonably think fit for the purpose of protecting or maintaining the security created by this Deed or for any similar or related purpose.

6 **ENFORCEABILITY AND SECURITY AGENT'S POWERS**

6.1 **Right to enforce security**

On the occurrence of an Acceleration Event:

- (a) the floating charge created by Clause 3.1 (*Floating Charge*) shall crystallise; and
- (b) the Security Agent shall be entitled at any time or times to exercise the powers set out in Clause 6.2 (*Right to take possession, sell etc.*) and Clause 7 (*Receiver*) and in any other Loan Document; and
- (c) the Security Agent shall be entitled at any time or times:
 - (i) to exercise the powers possessed by it as mortgagee, chargee and assignee of the Charged Assets conferred by the law of any country or territory in which any Charged Asset is physically present or deemed to be sited the courts of which have or claim any jurisdiction in respect of any item of the Charged Assets; and
 - (ii) without limiting the scope of the Security Agent's powers under Clause 6.1(a), to exercise the powers possessed by it as a creditor or as a person with a Security interest in the Charged Assets conferred by English law.

6.2 **Right to take possession, sell etc.**

Upon or of any time after the security constituted by this Deed has become enforceable under Clause 6.1 (*Right to enforce security*), the Security Agent shall be entitled then or at any later times or times:

- (a) to collect, recover and give a good discharge for any moneys or claims forming part of, or arising in relation to, any Charged Assets and to permit any brokers through whom collection or recovery is effected to charge the usual brokerage for such collection or recovery;

- (b) to take over or commence or defend (if necessary using the name of the Chargor) any claims or proceedings relating to, or affecting, any Charged Assets which the Security Agent may think fit and to abandon, release or settle in any way any such claims or proceedings; and
- (c) generally, to enter into any transaction or arrangement of any kind and to do anything in relation to any Charged Assets which the Security Agent may think fit.

6.3 **Law of Property Act 1925 not applicable**

The Chargor:

- (a) waives the entitlement conferred by section 93 of the Law of Property Act 1925; and
- (b) agrees that section 103 of that Act shall not apply to the security created by this Deed.

6.4 **No liability of the Security Agent or Receiver**

6.4.1 Neither the Security Agent nor any Receiver shall be obliged to:

- (a) check the nature or sufficiency of any payment received by it or him under this Deed; or
- (b) preserve, exercise or enforce any right forming part of, or relating to, any Charged Assets.

6.4.2 Neither the Security Agent nor any Receiver shall have any liability to any Loan Party:

- (a) for any loss caused by an exercise of, or failure to exercise, rights under, or enforcement of, or failure to enforce any security created by, this Deed;
- (b) as mortgagee in possession or otherwise, to account for any income or principal amount which might have been produced or realised from any asset forming part of, or subject to, any security created by this Deed; or
- (c) as mortgagee in possession or otherwise, for any reduction of the value of any asset forming part of, or subject to, any security created by this Deed.

7 **RECEIVER**

7.1 **Appointment of Receiver**

7.1.1 In addition to the powers conferred by Clause 6 (*Enforceability and Security Agent's Powers*), upon or of any time after the security constituted by this Deed has become enforceable under Clause 6.1 (*Right to enforce security*), the Security Agent may appoint a Receiver of the Charged Assets.

7.1.2 An appointment of a Receiver shall be by deed or, at the Security Agent's option, by a document signed by any of its officers.

7.1.3 An appointment in respect of some only of the Charged Assets may later be extended to all or any part of the remaining Charged Assets.

7.2 Relationship with Security Agent

7.2.1 The Security Agent may exercise any of the powers conferred by this Deed while a Receiver is in office and is acting.

7.2.2 To the fullest extent permitted by law, a Receiver shall be the Chargor's agent, and the Chargor shall be responsible, to the exclusion of any liability on the part of the Security Agent, for his remuneration and for his contracts, acts and defaults.

7.3 Powers of a Receiver

7.3.1 A Receiver shall have all the powers conferred by Clause 6.2 (*Right to take possession, sell etc.*) as if references to the Security Agent in Clause 6.2 (*Right to take possession, sell etc.*) were references to the Receiver, and all the powers conferred on a Receiver by the Law of Property Act 1925.

7.3.2 In addition, a Receiver who is an administrative receiver for the purposes of the Insolvency Act 1986 shall have all the powers which an administrative receiver has under that Act.

7.3.3 In the case of joint Receivers, any of the powers (including the discretions) conferred by this Deed or by the general law (including the Insolvency Act 1986) may be exercised by any one or more of them, unless their appointment specifically states the contrary.

7.4 Receiver as Chargor's attorney

The Chargor irrevocably and by way of security appoints every Receiver its attorney on its behalf and in its name or otherwise to execute or sign any document and do any act or thing which that Receiver considers necessary or desirable with a view to or in connection with any exercise or proposed exercise of any of his powers.

7.5 Delegation

A Receiver may delegate to any person or persons of any of the powers (including the discretions) conferred on him by, or pursuant to, this Deed and may do so on terms authorising successive sub-delegations.

7.6 Removal and replacement

7.6.1 The Security Agent may remove a Receiver, with or without appointing another Receiver; such a removal may be effected by a document signed by any of the Security Agent's officers.

7.6.2 Clause 7.6.1 does not apply to a Receiver who is an administrative receiver under the Insolvency Act 1986.

7.6.3 The Security Agent may appoint a Receiver to replace a Receiver who has resigned or for any other reason ceased to hold office.

7.7 Remuneration and expenses

7.7.1 The remuneration of a Receiver shall be fixed by the Security Agent.

- 7.7.2 A Receiver shall be entitled to retain out of any money received by him such amounts in respect of his expenses (or to cover estimated future expenses) as he may from time to time agree with the Security Agent.

8 APPLICATION OF MONIES

8.1 General

All sums received by the Security Agent or by a Receiver in respect of any transaction or arrangement under Clause 6.1 (*Right to enforce security*), Clause 6.2 (*Right to take possession, sell etc.*), Clause 7 (*Receiver*) or otherwise in accordance with this Deed, shall be applied by the Security Agent in the order and manner specified by the ABL Split Lien Intercreditor Agreement notwithstanding any purported appropriation by the Chargor.

9 FURTHER ASSURANCES

9.1 Chargor's obligation to execute further documents etc.

The Chargor shall, subject to Section 6.01(j) and Section 6.01(k) of the Facility Agreement:

- (a) execute and deliver to the Security Agent (or as it may direct) any assignment, mortgage, power of attorney, proxy or other document, governed by the law of England or any other country; and
- (b) effect any registration or notarisation, give any notice or take any other step,

which the Security Agent may reasonably specify for any of the purposes described in Clause 9.2 (*Purposes of further assurances*) or for any similar or related purpose.

9.2 Purposes of further assurances

Those purposes are:

- (a) validly and effectively to create any Security or right of any kind which the Security Agent intended should be created by or pursuant to this Deed or any other Loan Document;
- (b) subject to the terms of the ABL Split Lien Intercreditor Agreement, to create a specific mortgage or assignment of any particular Charged Asset or otherwise to vest in the Security Agent the title to any particular Charged Asset;
- (c) to protect the priority, or increase the effectiveness, in any jurisdiction of any Security which is created, or which the Security Agent intended should be created, by or pursuant to this Deed or any other Loan Document;
- (d) to enable or assist the Security Agent or a Receiver to sell or otherwise deal with any Charged Assets, to transfer title to, or grant any interest or right relating to, any Security Assets or to exercise any power which is referred to in Clause 9.1 (*Chargor's obligation to execute further documents etc.*) or which is conferred by any Loan Document; and

- (e) to enable or assist the Security Agent to enter into any transaction to commence, defend or conduct any proceedings and/or to take any other action relating to any Charged Assets in any country or under the law of any country.

9.3 **Corporate action**

The Chargor shall deliver to the Security Agent such evidence of the due authorisation and execution of any document delivered pursuant to Clause 9.1 (*Chargor's obligation to execute further documents etc.*) as the Security Agent shall reasonably require.

10 **POWER OF ATTORNEY**

10.1 **Appointment**

The Chargor by way of security irrevocably appoints the Security Agent and every Receiver severally its attorney in its name and on its behalf to execute any documents, and do or perfect anything which the Security Agent and/or the Receiver shall consider appropriate for perfecting, maintaining, preserving, enhancing or enforcing the security created by this Deed and/or value of any of the Charged Assets and/or for the purpose of enforcing the performance of the Chargor's obligations in connection with this Deed, provided that such power of attorney may only be exercised (i) after the occurrence of an Acceleration Event; or (ii) if the Chargor has failed to perform a further assurance or perfection obligation under this Deed (and any grace period applicable thereto has expired).

10.2 **Ratification of actions of attorney**

The Chargor ratifies and confirms whatever any attorney does or purports to do pursuant to its appointment under this Clause 10 (*Power of Attorney*).

10.3 **Delegation**

Subject such power of attorney becoming exercisable in accordance with Clause 10.1. (*Power of Attorney*) above, the Security Agent may delegate to any person or persons (including a Receiver and persons designated by him) all or any of the powers and discretions conferred on the Security Agent and the Receiver by this Clause 10 (*Power of Attorney*) and may do so on terms authorising successive sub-delegations.

11 **INCORPORATION OF FACILITY AGREEMENT PROVISIONS**

11.1 **Incorporation of specific provisions**

The following provisions of the Facility Agreement apply to this Deed as if they were expressly incorporated and set out in this Deed with appropriate and necessary modifications:

- (a) section 2.09 (*Taxes*);
- (b) section 10.01 (*Notices, Etc*);
- (c) section 10.02 (*Amendments, Etc*); and
- (d) section 10.05 (*Severability*).

11.2 Incorporation of general provisions

Clause 11.1 (*Incorporation of specific provisions*) is without prejudice to the application to this Deed of any provision of the Facility Agreement which, by its terms, applies or relates to the Loan Documents generally.

12 SUPPLEMENTAL

12.1 No restriction on other powers, rights or remedies

Nothing in this Deed shall be taken to exclude or restrict any power, right or remedy which the Security Agent may at any time have under or in connection with:

- (a) any other Loan Document; or
- (b) the law of any country or territory the courts of which have or claim jurisdiction in respect of the Chargor or the Charged Assets.

12.2 Exercise of rights

The Security Agent may exercise any power, right or remedy under this Deed before it has exercised any power, right or remedy referred to in Clause 12.1(a) or Clause 12.1(b).

12.3 Settlement or discharge conditional

Any settlement or discharge under this Deed between the Security Agent and the Chargor shall be conditional upon no security or payment to the Security Agent by the Chargor or any other person being set aside, adjusted or ordered to be repaid, whether under any insolvency law or otherwise.

13 EFFECT AS A DEED

This Deed shall take effect as a deed notwithstanding that the Security Agent executes it under hand only.

14 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.

15 GOVERNING LAW

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

16 ENFORCEMENT

16.1 Jurisdiction

- 16.1.1 Subject to Clause 16.1.3, the courts of England have exclusive jurisdiction to settle any dispute arising out of, or in connection with, this Deed (including a dispute regarding the existence, validity or termination of this Deed or any non-contractual obligation arising out of or in connection with this Deed) (a "**Dispute**").

- 16.1.2 The Chargor and the Security Agent agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly neither a Loan Party nor the Security Agent will argue to the contrary.
- 16.1.3 The Security Agent 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 Agent may take concurrent proceedings in any number of jurisdictions.

This Deed has been executed as a deed and delivered on the date stated at the beginning of this Deed.

EXECUTION PAGE

Chargor

Executed as a deed by **NEW ERA CAP
COMPANY LIMITED** acting by
in the presence of:

)
)
)

Director

Name of witness: *Maribeth L. Dils*

Signature of witness:

Address:

Occupation: *Legal Assistant*

Address for notices: *1st Floor East, CBX2, Midsummer Boulevard, Milton Keynes, MK9 2EA,*

Fax: *+44 (0) 1908 354 410*

Attn: *Alan Jones*

United Kingdom

Security Agent

KAYNE SENIOR CREDIT III LOANCO, LLC

By

Address for notices:

Fax:

Attn:

EXECUTION PAGE

Chargor

Executed as a deed by **NEW ERA CAP**)
COMPANY LIMITED acting by)
in the presence of:) Director

Name of witness:

Signature of witness:

Address:

Occupation:

Address for notices:

Fax:

Attn:

Security Agent

~~KAYNE SENIOR CREDIT III~~ LOANCO, LLC

By  Douglas Goodwillie

Address for notices: 150 North Riverside Plaza, Suite 2010, Chicago, IL 60606

Fax: 312.994.8422

Attn: New Era Account Manager