



**Registration of a Charge**

Company name: **P.C. Harrington Holdings Limited**

Company number: **02655872**



X56V26KG

Received for Electronic Filing: **12/05/2016**

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**Details of Charge**

Date of creation: **06/05/2016**

Charge code: **0265 5872 0023**

Persons entitled: **P.C. HARRINGTON CONTRACTORS LIMITED - IN ADMINISTRATION**

Brief description: **3 COLLETT WAY, SOUTHALL, UB2 4SE REGISTERED AT THE LAND REGISTRY WITH TITLE NUMBER NGL566024.**

**Contains fixed charge(s).**

**Contains negative pledge.**

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**Authentication of Form**

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

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**Authentication of Instrument**

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

Certified by:

**ADDLESHAW GODDARD LLP**



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

Company number: 2655872

Charge code: 0265 5872 0023

The Registrar of Companies for England and Wales hereby certifies that a charge dated 6th May 2016 and created by P.C. Harrington Holdings Limited was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 12th May 2016 .

Given at Companies House, Cardiff on 13th May 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

6 May

2016

**P.C. HARRINGTON HOLDINGS LIMITED**

**P.C. HARRINGTON CONTRACTORS LIMITED – IN ADMINISTRATION**

**HOWARD SMITH and JONATHAN MARSTON**

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**CHARGE BY WAY OF LEGAL  
MORTGAGE**

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6 May

**Between**

- (1) **P.C Harrington Holdings Limited** (registered in England with number 02655872) whose registered office is at 171-173 Gray's Inn Road, London WC1X 8UE (**Mortgagor**); and
- (2) **P.C Harrington Contractors Limited** – in administration (registered in England with number 1465166) whose registered office is at KPMG LLP, 15 Canada Square, Canary Wharf, London, E14 5GL (**Company**) acting by the Administrators;
- (3) **Howard Smith** and **Jonathan Marston** both of KPMG LLP, 1 Sovereign Square, Leeds, LS1 4DW (**Administrators**).

**It is agreed**

**1 Definitions and interpretation**

**1.1 Definitions**

In this Deed:

**Event of Insolvency** means:

- (a) the Mortgagor becomes unable to pay its debts or is deemed to be unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986; or
- (b) a winding-up petition is presented in respect of the Mortgagor; or
- (c) the Mortgagor enters into liquidation whether compulsory or voluntary (save for the purposes of a solvent reconstruction or amalgamation); or
- (d) a provisional liquidator is appointed in respect of the Mortgagor; or
- (e) a notice of intention to appoint an administrator is filed at Court or an application for an administration order is issued by the Court in respect of the Mortgagor; or
- (f) an administrator, administrative receiver, receiver or manager is appointed in respect of the whole or any part of the Mortgagor's assets or
- (g) the Mortgagor proposes to enter or enters into any composition or arrangement with its creditors generally or any class of creditors or
- (h) any other steps are taken to enforce any encumbrance over all or any part of the assets and/or undertaking of the Mortgagor; or
- (i) the Mortgagor is subject to an event analogous to (a) to (h) above in any other jurisdiction

**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

**Occupational Lease** means any occupational lease or licence to which the Secured Property, or any part of the Secured Property, is subject

**Party** means a party to this Deed

**Property** means the property described in schedule 1 (Property)

**Receiver** means any receiver, manager or administrative receiver appointed by the Company in respect of the Mortgagor or any of the Secured Assets

**Relevant Policies** means all policies of insurance present and future relating to the Secured Assets in which the Mortgagor has an interest (other than policies in respect of third party liability) together with all monies payable in respect of those policies

**Secured Assets** means the assets and undertaking of the Mortgagor which are the subject of any Security created by, under or supplemental to, this Deed in favour of the Company

**Secured Obligations** means the sum of £2,700,000 (two million seven hundred thousand pounds sterling) due and payable by the Mortgagor to the Company on or before 31 December 2016 together with all interest accruing on such monies from 2 August 2016 and all costs, charges and expenses incurred by the Company in respect of those monies

**Secured Property** means the Property

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

**Security Period** means the period beginning on the date of this Deed and ending on the date on which the Company is satisfied that the Secured Obligations have been irrevocably and unconditionally satisfied in full

## 1.2 Interpretation

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

## 1.3 Third party rights

- (a) Unless expressly provided to the contrary, 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 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 the consent of any person who is not a Party is not required to rescind or vary this Deed.

## 2 Covenant to pay

The Mortgagor covenants with the Company to pay and discharge the Secured Obligations when they become due for payment and discharge.

## 3 Charging provisions

### 3.1 General

All Security created by the Mortgagor 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;
- (c) granted in respect of all the right, title and interest (if any), present and future, of the Mortgagor in and to the relevant Secured Asset.

### **3.2 First legal mortgages**

The Mortgagor charges by way of first legal mortgage the Property and all Fixtures on such property for the time being.

### **3.3 Assignments**

The Mortgagor assigns:

- (a) all rental income, and all other sums, payable under any Occupational Lease; and
- (b) the Relevant Policies.

The Mortgagor shall remain liable to perform all its obligations under each Occupational Lease to which it is a party and each Relevant Policy.

### **3.4 First fixed charges**

The Mortgagor charges by first fixed charge:

- (a) the proceeds of sale of its Secured Property and all licences to enter on or use any Secured Property;
- (b) the benefit of all other agreements, instruments and rights relating to its Secured Property; and
- (c) to the extent that any legal mortgage in clause 3.2 or any assignment in clause 3.3 is ineffective as a legal mortgage or assignment (as applicable), the assets referred to in that clause.

### **3.5 Documents of title**

The Mortgagor shall:

- (a) immediately upon the execution of this Deed (and on the acquisition by it of any interest in any Secured Assets at any time) deposit with the Company all deeds, certificates and other documents in its possession constituting or evidencing title to the Secured Assets (or otherwise procure that any such deeds, certificates and other documents are held to the order of the Company on terms acceptable to the Company); and
- (b) deposit with the Company at any time after the date of this Deed any further deeds, certificates and other documents constituting or evidencing title to the Secured Assets, promptly upon coming into possession of them (or otherwise procure that any such deeds, certificates and other documents are held to the order of the Company on terms acceptable to the Company).

### **3.6 Small company moratorium**

Where the Mortgagor 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 restrictions which would not otherwise apply to be imposed on the disposal of its property and assets by the Mortgagor.

## **4 Continuing security**

### **4.1 Continuing security**

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 the Mortgagor 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 the Company 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 the Company.

## **5 Negative pledge**

The Mortgagor shall not create or permit to subsist any Security over any of the Secured Assets unless permitted by the Company in writing.

## **6 Restrictions on disposals**

The Mortgagor shall not 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 Secured Assets.

## **7 Further assurance**

7.1 The Mortgagor shall promptly do all such acts and execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Company may reasonably specify (and in such form as the Company may reasonably require) in favour of the Company 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 Company provided by or pursuant to this Deed or by law; and
- (b) to confer on the Company Security over any of the Secured Assets of the Mortgagor located in any jurisdiction equivalent or similar to the Security intended to be conferred by or pursuant to this Deed.

7.2 The Mortgagor 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 Company by or pursuant to this Deed.

7.3 Any document required to be executed by the Mortgagor under this clause 7 will be prepared at the cost of the Mortgagor.

## **8 Land Registry**

8.1 In relation to land and buildings comprised within the Secured Assets situated in England and Wales title to which is registered or is to be registered at the Land Registry, the Mortgagor consents to an application being made to the Chief Land Registrar for registration of a restriction on the register of title of all such present and future registered freehold, leasehold or commonhold property (and any unregistered properties subject to compulsory first registration at the date of this Deed).

8.2 The Mortgagor confirms that so far as any of the Secured Property is unregistered, such land is not affected by any disclosable overriding interests within the meaning of the Land Registration Act 2002 or the Land Registration Rules 2003.

## **9 Notices of assignments and charges**

### **9.1 Rental Income**

- (a) The Mortgagor shall, promptly following the Security created by and under this Deed becoming enforceable, give notice in a form reasonably acceptable to the Company to each tenant (if any)

under each Occupational Lease that it has assigned to the Company all its right, title and interest in the rental income and other monies payable under that Occupational Lease.

- (b) The Mortgagor shall give the notices referred to in clause 9.1(a):
  - (i) in the case of an Occupational Lease subsisting at the date of this Deed, on the date of this Deed; and
  - (ii) in the case of an Occupational Lease coming into existence after the date of this Deed, upon the Mortgagor entering into that Occupational Lease.
- (c) The Mortgagor shall use reasonable endeavours to procure that the recipient of each such notice acknowledges that notice within 5 Business Days of that notice being given.

## **9.2 Insurance policies**

- (a) The Mortgagor shall give notice in a form reasonably acceptable to the Company to each insurer under each Relevant Policy that it has assigned to the Company all its right, title and interest in that Relevant Policy.
- (b) The Mortgagor shall give the notices referred to in clause 9.2(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, on that Relevant Policy being put on risk.
- (c) The Mortgagor shall use reasonable endeavours to procure that the recipient of each such notice acknowledges that notice within 5 Business Days of that notice being given.

## **10 Security power of attorney**

The Mortgagor, by way of security, irrevocably and severally appoints the Company, each Receiver and any of their delegates or sub-delegates to be its attorney to take any action which the Mortgagor is obliged to take under this Deed. The Mortgagor ratifies and confirms whatever any attorney does or purports to do pursuant to its appointment under this clause 10.

## **11 Enforcement of security**

### **11.1 When security is enforceable**

On the failure by the Mortgagor to pay to the Company any sum when due or upon the occurrence of an Event of Insolvency, the Security created by and under this Deed is immediately enforceable.

### **11.2 Acts of enforcement**

The Company may, at its absolute discretion, at any time after the Security created by or under this Deed is enforceable:

- (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 Secured Assets;
- (c) appoint a Receiver to all or any part of the Secured Assets;

- (d) if permitted by law, appoint an administrator in respect of the Mortgagor 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 or administrator in respect of the Mortgagor.

### **11.3 Statutory powers - general**

- (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 Company 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 Company 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 Company 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.

### **11.4 Mortgagee in possession - no liability**

Neither the Company nor any Receiver will be liable, by reason of entering into possession of a Secured Asset, 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.

### **11.5 Redemption of prior mortgages**

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

- (a) redeem any prior form of Security over any Secured Asset; 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 Mortgagor.

## **12 Receiver**

### **12.1 Appointment of Receiver**

- (a)
  - (i) At any time after any Security created by or under this Deed is enforceable, the Company may appoint a Receiver to all or any part of the Secured Assets in accordance with clause 11.2(c) (Acts of enforcement).
  - (ii) At any time, if so requested in writing by the Mortgagor, without further notice, the Company may appoint a Receiver to all or any part of the Secured Assets as if the Company 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 Mortgagor and the Mortgagor 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 Company be in any way responsible for any misconduct, negligence or default of the Receiver.
- (c) Where the Mortgagor 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.

## **12.2 Removal**

The Company 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.

## **12.3 Powers of Receiver**

### **(a) General**

- (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 12.3.
- (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 who is an administrative receiver of the Mortgagor has all the rights, powers and discretions of an administrative receiver under the Insolvency Act 1986.
- (iv) A Receiver may, in the name of the Mortgagor:
  - (A) do all other acts and things which he may consider expedient for realising any Secured Asset; and
  - (B) exercise in relation to any Secured Asset 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 Secured Asset, 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 the Mortgagor 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 the Mortgagor or relating in any way to any Secured Asset.

**(e) Delegation**

A Receiver may delegate his powers in accordance with clause 13 (Delegation).

**(f) Employees**

For the purposes of this Deed, a Receiver as he thinks appropriate, on behalf of the Mortgagor 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 Mortgagor.

**(g) Leases**

A Receiver may let any Secured Asset 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 Secured Assets 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 Mortgagor in relation to any Secured Asset as he considers expedient.

**(i) Possession**

A Receiver may take immediate possession of, get in and collect any Secured Asset.

**(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 Mortgagor might do in the ordinary conduct of its business be they for the protection or for the improvement of the Secured Assets;
- (ii) commence and/or complete any building operations on the Secured Property or other Secured Asset; 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 Secured Asset.

**(l) Sale of assets**

A Receiver may sell, exchange, convert into monies and realise any Secured Asset 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 Mortgagor.

**(m) Subsidiaries**

A Receiver may form a subsidiary of the Mortgagor and transfer to that subsidiary any Secured Asset.

**(n) Deal with Secured Assets**

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 Secured Assets 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 Secured Assets 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 Secured Assets on such terms and conditions whether or not including payment by instalments secured or unsecured as he may think fit.

**(o) 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 the Mortgagor and the money so paid shall be deemed to be an expense properly incurred by the Receiver.

**(p) Acquire land**

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

**(q) 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.

**(r) Landlord's obligations**

A Receiver may on behalf of the Mortgagor and without consent of or notice to the Mortgagor 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.

**(s) 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 Secured Assets and to use the name of the Mortgagor for all the purposes set out in this clause 12.

**12.4 Remuneration**

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

**13 Delegation**

13.1 The Company 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 Company 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 Company and Receiver (as appropriate) may think fit.

13.2 The Company and any Receiver will not be liable or responsible to the Mortgagor or any other person for any losses, liabilities or expenses arising from any act, default, omission or misconduct on the part of any delegate.

**14 Application of monies**

14.1 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.

14.2 All monies received by the Company or any Receiver under this Deed and applied in discharge of the Secured Obligations shall be applied to the Secured Obligations in such order as the Company may determine.

14.3 The Company 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.

**15 Remedies and waivers**

15.1 No failure to exercise, nor any delay in exercising, on the part of the Company 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.

15.2 A waiver given or consent granted by the Company 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.

**16 Protection of third parties**

16.1 No person (including a purchaser) dealing with the Company or a Receiver or its or his agents has an obligation to enquire of the Company, 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 Company or to the Receiver shall be applied; or
- (e) the status, propriety or validity of the acts of the Receiver or the Company.

16.2 The receipt by the Company 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 Company or any Receiver.

16.3 In clauses 16.1 and 16.2 **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 Secured Assets or any of them.

## **17 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 the Company.

## **18 Settlements conditional**

18.1 If the Company (acting reasonably) believes that any amount paid by the Mortgagor 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.

18.2 Any settlement, discharge or release between the Mortgagor and the Company shall be conditional upon no Security or payment to or for the Company by the Mortgagor 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.

## **19 Subsequent Security**

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

## **20 Set-off**

The Company may, set off any matured obligation due from the Mortgagor against any matured obligation owed by the Company to the Mortgagor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Company may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

## **21 Notices**

21.1 Any communication to be made under or in connection with this Deed shall be made in writing and, unless otherwise stated, may be made by fax or letter.

21.2 The address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of the Mortgagor and the Company for any communication or document to be made or delivered under or in connection with this Deed is:

- (a) in the case of the Mortgagor:



Address: Unit 7 (or Central Trailer Rentco Limited), Dean Way, Southall, UB2 4SB  
Fax: 0208 571 4352  
Telephone: 0208 574 5431  
Attention: Anne McGann

(b) in the case of the Company:

Address: KPMG LLP, 15 Canada Square, Canary Wharf, London, E14 5GL  
Fax: 020 7311 3311  
Telephone: 020 7694 1851  
Attention: Tony Rudkin

or any substitute address, fax number or department or officer as may be notified in writing to the Company (or the Company may notify the Mortgagor, if a change is made by the Company) by not less than 7 days' notice.

21.3 Any communication or document made or delivered by one person to another under or in connection with this Deed will be effective only:

- (a) if by way of fax, when received in legible form; or
- (b) if by way of letter, when it has been left at the relevant address or 5 days after being deposited in the post postage prepaid in an envelope addressed to it at that address,

and, if a particular department or officer is specified as part of its address details provided under clause 21.2, if addressed to that department or officer.

21.4 Any communication or document to be made or delivered to the Company will be effective only when actually received by the Company and then only if it is expressly marked for the attention of the department or officer identified above (or any substitute department or officer as the Company shall specify for this purpose).

## 22 Invalidity

If, at any time, any provision of this Deed is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

## 23 Assignment

The Company may assign or otherwise transfer all or any part of its rights under this Deed or any Security created by or under it.

## 24 Releases

Upon the expiry of the Security Period, the Company shall, at the request and cost of the Mortgagor, take whatever action is necessary to release and reassign to the Mortgagor:

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

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

## 25 Currency clauses

If a payment is made to the Company under this Deed in a currency (**Payment Currency**) other than the currency in which it is expressed to be payable (**Contractual Currency**), the Company 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 Mortgagor will remain liable for such shortfall.

## **26 Certificates and determinations**

Any certification or determination by the Company of a rate or amount under this deed is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

## **27 Exclusion of liability**

### **27.1 No liability**

- (a) The Company will not be liable for any action taken by it (or any omission to take action) under or in connection with this Deed unless directly caused by its gross negligence or wilful misconduct.
- (b) Neither the Company nor any Receiver shall be liable in respect of all or any part of the Secured Assets or for any loss or damage which arises out of the exercise or the attempted or purported exercise of, or the failure to exercise any of, their respective powers unless such loss or damage is caused by its gross negligence or wilful acts of default and recklessness.

### **27.2 Officers and agents**

The Mortgagor may not take proceedings against any officer, employee or agent of the Company in respect of any claim it might have against the Company or in respect of any act or omission of any kind by that officer, employee or agent and any officer, employee or agent of the Company may rely on this clause.

## **28 Fees, costs and expenses**

### **28.1 Transaction expenses**

The Mortgagor shall promptly on demand pay the Company the amount of all costs, fees and expenses (including legal fees) together with any associated VAT reasonably incurred by it in connection with the negotiation, preparation, printing, execution and perfection of this Deed.

### **28.2 Amendment costs**

If the Mortgagor requests an amendment, waiver or consent of this Deed the Mortgagor shall, within 3 Business Days of demand, reimburse the Company for the amount of all costs and expenses (including legal fees) together with any associated VAT reasonably incurred by the Company in responding to, evaluating, negotiating or complying with the request or requirement.

### **28.3 Enforcement and preservation costs**

The Mortgagor shall, within 3 Business Days of demand, pay to the Company the amount of all costs, fees and expenses (including legal fees) together with any associated VAT incurred by the Company in connection with the enforcement of or the preservation of any rights under this Deed and proceedings instituted by or against the Company as a consequence of taking or holding this Deed or enforcing these rights.

### **28.4 Interest on late payments**

If the Mortgagor fails to pay any amount payable by it under this Deed on its due date, interest shall accrue on the overdue amount from the due date up to the date of actual payment (both before and after judgment) at the rate of 5% above the base rate of  $\clubsuit$ . Any interest accruing under this clause 28.4 shall be immediately payable by the Mortgagor on demand by the Company.

**29 Exclusion of Administrators' Liability**

The Administrators are party to this Deed only for the purpose of receiving the benefit of this declaration and any other covenants conditions or provisions in their favour contained in this Deed. Neither the Administrators nor their business organisation or its members or partners or its or their employees or agents shall incur any personal liability (nor shall any liability rank and/or be claimed by the Mortgagor as an expense of the administration of the Company) howsoever arising under or in connection with this Deed or other document or agreement entered into pursuant to or in connection with this Deed.

**30 Counterparts**

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 by e-mail attachment or telecopy shall be an effective mode of delivery.

**31 Governing Law**

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

**32 Enforcement**

**32.1 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) (a **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 32 is for the benefit of the Company. As a result, the Company shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Company 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)**

**Property**

**Registered Land**

| <b>Country and District (or Address or Description London Borough)</b> | <b>Title Number</b> |
|--|---------------------|
| 3 Collett Way, Southall, UB2 4SE                                       | NGL566024           |

SIGNATORIES TO THE Deed

The Mortgagor

Executed as a deed by )  
**PC Harrington Holdings Limited** )  
acting by a director in the presence of ) Director

Signature of witness

Name

Address

The Company

Executed as a deed by )  
**PC Harrington Contractors Limited – in** )  
**administration** )  
acting by one of the Administrators (without )  
personal liability) in the presence of ) Administrator

Signature of witness

Name KATE WATSON

Address C/O: KPMG LLP, 1 SOVERGON  
SQUARE, SOVERGON STREET, LEEDS, LS1 4DA

**Executed as a Deed** by one of the )  
Administrators on behalf of himself and his )  
joint Administrator (without personal liability) )  
in the presence of:

Witness

Signature

Name KATE WATSON

Address C/O: KPMG LLP, 1 SOVERGON

SQUARE, SOVERGON STREET, LEEDS

SIGNATORIES TO THE Deed

**The Mortgagor**

Executed as a deed by )

**PC Harrington Holdings Limited** )

acting by a director in the presence of )

Director

Signature of witness

Name

*R. H. CLEMONS.*

Address

**The Company**

Executed as a deed by )

**PC Harrington Contractors Limited – in  
administration** )

acting by one of the Administrators (without  
personal liability) in the presence of )

Administrator

Signature of witness

Name

Address

Executed as a Deed by one of the )  
Administrators on behalf of himself and his )  
joint Administrator (without personal liability) )  
in the presence of:

Witness

Signature

Name

Address