



Registration of a Charge

Company name: **INVESTEC BANK PLC**

Company number: **00489604**



X7X4VE57

Received for Electronic Filing: **14/01/2019**

Details of Charge

Date of creation: **28/12/2018**

Charge code: **0048 9604 0109**

Persons entitled: **INVESTEC BANK LIMITED**

Brief description:

Contains fixed charge(s).

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 THE ELECTRONIC COPY INSTRUMENT
DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION
IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by: **WATSON FARLEY & WILLIAMS LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 489604

Charge code: 0048 9604 0109

The Registrar of Companies for England and Wales hereby certifies that a charge dated 28th December 2018 and created by INVESTEC BANK PLC was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 14th January 2019 .

Given at Companies House, Cardiff on 16th January 2019

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

We hereby certify this document to be a true
copy of the original.

EXECUTION VERSION

Watson Farley & Williams LLP

Watson Farley & Williams LLP

15 Appold Street

London EC2A 2HB

United Kingdom

14 January 2019

DATED 28 DECEMBER 2018

INVESTEC BANK PLC IN ITS CAPACITY AS LENDER

AS ASSIGNOR

IN FAVOUR OF

INVESTEC BANK LIMITED AS

ASSIGNEE

SECURITY ASSIGNMENT
RELATING TO SUB-PARTICIPATED LOANS
IN RESPECT OF THE FINANCING OF ONE (1)
ATR 72-600 AIRCRAFT WITH MANUFACTURER'S
SERIAL NUMBER 1537

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THIS AGREEMENT is made by way of deed on 28 December 2018

BETWEEN

- (1) **INVESTEC BANK PLC**, a public limited company incorporated in the jurisdiction of England and Wales, whose registered office is at 30 Gresham Street, London EC2V 7QP, United Kingdom in its capacity as Lender under the Credit Documentation ("**Assignor**");
- (2) **INVESTEC BANK LIMITED**, a company incorporated in the Republic of South Africa, whose registered office is at 100 Grayston Drive, Sandown, Sandton, 2196, Republic of South Africa (the "**Assignee**").

IT IS AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement:

"**Aircraft**" means ATR 72-600 aircraft bearing manufacturer's serial number 1537.

"**Assigned Property**" has the meaning given to that term in Clause 3.1 (*Assignment*).

"**Authorisation**" means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration.

"**Borrower**" means Ewa Invest SAS.

"**Business Day**" means a day (other than a Saturday or a Sunday) on which banks are open for general business in England (and, solely for the purposes of Clause 13 (*Notices*), the Republic of South Africa).

"**Cash Distribution**" means the amount of any cash payment in respect of the Traded Portion of a Sub-Participated Loan including:

- (a) any repayment or prepayment of principal in respect of the Traded Portion of a Sub-Participated Loan;
- (b) any interest paid in respect of the Traded Portion of a Sub-Participated Loan, or default interest paid whether accrued on the Traded Portion of a Sub-Participated Loan, on any interest or on any other amount in respect of which the Assignee has made a payment under clause 2 (*Participant's Obligations*) of the Funded Participation Agreement; and
- (c) any commission, recurring or non-recurring fees or any other amount relating to the Traded Portion of a Sub-Participated Loan.

"**Collateral Rights**" means all rights, powers and remedies of the Assignee provided by this Agreement or by law.

"Confirmation" means the confirmation entered into or to be entered into as the context may require between the Assignor (as grantor) and the Assignee (as participant) in relation to the Traded Portion of the Sub-Participated Loans.

"Credit Documentation" means the Facility Agreement and the Proceeds Agreement.

"Elevation" has the meaning given to it in the Funded Participation Agreement.

"Enforcement Event" has the meaning given to that term in Clause 6.1 (*Time for Enforcement*).

"Facility Agreement" means the facility agreement dated 27 December 2018 relating to the financing of the Aircraft between the Borrower as borrower, the Assignor as agent and lender and the Assignee as security trustee.

"Funded Participation Agreement" means the funded participation agreement relating to the Traded Portion of the Sub-Participated Loans entered into or to be entered into as the context may require between the Assignor as grantor and the Assignee as participant.

"Insolvency Event" means, in relation to an entity:

- (a) a receiver, receiver and manager, administrator, trustee or similar official is appointed over all or a substantial part of the assets or undertakings of the entity;
- (b) the entity is or becomes unable to pay its debts when they fall due;
- (c) the entity enters into or resolves to enter into any arrangement, competition or compromise with, or assignment for the benefit of, its creditors or any class of them; or
- (d) an application (that is not frivolous or vexatious) or order is made for the winding up or dissolution of, or the appointment of a provisional liquidator, to the entity or a resolution is passed for the winding up or dissolution of the entity otherwise than for the purpose of an amalgamation or reconstruction that has the prior consent of the other party.

"Lender" means the Assignor in its capacity as Lender as defined in, and pursuant to, the Credit Documentation.

"Majority Lenders" has the meaning given to it in the Credit Documentation.

"Non-Cash Distribution" has the meaning given to it in the Funded Participation Agreement.

"Proceeds Agreement" means the proceeds agreement dated 27 December 2018 in respect of the financing of the Aircraft between the Borrower as borrower, the Assignor as agent and lender, the Assignee as security trustee, Ewa Invest SAS as lessee and GIE Avions de Transport Regional as ATR guarantor.

"Receiver" means a receiver, receiver or manager or an administrative receiver as the Assignee may specify at any time in the relevant appointment made under this Agreement, which terms will include any appointee made under a joint and/or several appointment by the Assignee.

"Participation Effective Date" has the meaning given to it in the Funded Participation Agreement.

"Qualifying Lender" has the meaning given to it in the Credit Documentation.

"Secured Obligations" means all present and future obligations and liabilities (whether actual or contingent, whether owed jointly severally or in any other capacity whatsoever and whether originally incurred by the Assignor or by some other person) of the Assignor to the Assignee under or pursuant to the Funded Participation Agreement and this Agreement.

"Security" means the security created under or pursuant to or evidenced by this Agreement.

"Sub-Participated Loan" means the Loan (as defined in the Credit Documentation).

"Traded Portion" means one hundred per cent. (100%).

1.2 Construction

- (a) Unless a contrary indication appears any reference in this Agreement to:
- (i) any reference to the **"Assignor"**, **"Assignee"** or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees;
 - (ii) any agreement or instrument is a reference to that agreement or instrument as amended, extended, novated, supplemented, replaced or restated;
 - (iii) **"including"** shall be construed as a reference to **"including without limitation"**, so that any list of items or matters appearing after the word **"including"** shall be deemed not to be an exhaustive list, but shall be deemed rather to be a representative list, of those items or matters forming a part of the category described prior to the word **"including"**;
 - (iv) a **"person"** includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium or partnership (whether or not having separate legal personality);
 - (v) a **"successor"** includes an assignee or successor in title of any party and any person who under the laws of its jurisdiction of incorporation or domicile has assumed the rights and obligations of any party under this Agreement or to which, under such laws, any rights and obligations have been transferred; and

- (vi) a provision of law is a reference to that provision as amended or re-enacted; and

(b) Section, Clause and Schedule headings are for ease of reference only.

1.3 Third Party Rights

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

2. COVENANT TO PAY

The Assignor covenants with the Assignee to discharge each of the Secured Obligations on their due date in accordance with their respective terms.

3. ASSIGNMENT

3.1 Assignment

The Assignor hereby assigns absolutely and with full title guarantee to the Assignee all of its right, title and interest present and future as Lender in the Traded Portion of the Sub-Participated Loan and the benefit of all covenants and obligations relating to them and all powers and remedies for enforcing the same (together the "**Assigned Property**").

3.2 Assignee Assumes No Obligations

The Assignee shall not be under any obligation in relation to the Assigned Property or the Credit Documentation as a consequence of this Agreement and the Assignor (as Lender) shall at all times remain liable to perform all obligations expressed to be assumed by it (as Lender) in respect of the Assigned Property and the Credit Documentation.

3.3 Notice of Assignment

- (a) Prior to the occurrence of an Enforcement Event, neither the Assignor nor the Assignee shall give notice of this Agreement to the Borrower or any other person (except as required under applicable law or, in respect of the Assignor, by way of filing at Companies House in the United Kingdom).
- (b) After the occurrence of an Enforcement Event and **provided that** the Assignee, in the exercise of its rights as contemplated under Clause 6.1(b)(ii), has notified the Assignor that it has determined (acting reasonably) that it is unable to effect the Elevation of the Traded Portion of the relevant Sub-Participated Loan (subject to the terms thereof) pursuant to the Funded Participation Agreement to an affiliate of the Assignee which is a Qualifying Lender, upon the request of the Assignee, the Assignor shall ensure prompt delivery to the Borrower of notice of this Agreement (in form and substance acceptable to the Assignee) duly executed by or on behalf of the Assignor.

3.4 Consultation

Notwithstanding the terms of the Funded Participation Agreement, in the event that in relation to any matter the Majority Lenders are required to give instructions or otherwise exercise any discretion under the Credit Documentation, the Assignor shall, prior to exercising its right as Lender to give such instructions or exercise such discretion in respect of the relevant matter, consult with the Assignee for such time as the Assignor considers reasonable.

3.5 Elevation

Notwithstanding the terms of the Funded Participation Agreement or the Credit Documentation or any provisions herein to the contrary, the Assignee may not without the prior written consent of the Assignor exercise its right to effect the Elevation of the Traded Portion of a Sub-Participated Loan pursuant to the Funded Participation Agreement to any person other than to an affiliate of the Assignee which is a Qualifying Lender.

3.6 Release

- (a) Upon the Secured Obligations being irrevocably paid or discharged in full, the Assignee shall, at the request and cost of the Assignor reassign to the Assignor the Assigned Property, subject to Clause 8.8 (*Avoidance of payments*) and without recourse to, or any representation or warranty by, the Assignee.
- (b) Upon the Elevation of a Traded Portion of a Sub-Participated Loan and the discharge of the Secured Obligations in respect thereof pursuant to the terms of the Funded Participation Agreement, the Assignee shall, at the request and cost of the Assignor, reassign to the Assignor the Assigned Property insofar as it relates to the Traded Portion of the relevant Sub-Participated Loan, subject to Clause 8.8 (*Avoidance of payments*) and without recourse to, or any representation or warranty by, the Assignee.

4. ASSIGNOR'S REPRESENTATIONS AND UNDERTAKINGS

4.1 Representations

The Assignor represents and warrants to the Assignee on the date hereof (and, if different, on the Participation Effective Date) that:

- (a) it is a company, duly incorporated and validly existing under the laws of England and Wales;
- (b) it has the power to enter into and perform and deliver, and has taken all necessary action to authorise the entry into, performance and delivery of, this Agreement;
- (c) the entry into and performance by it of, and the transactions contemplated by, this Agreement do not conflict with:
 - (i) any law or regulation applicable to it; or

- (ii) its constitutional documents,

and it has obtained or effected all necessary consents and authorisations for the performance by it of this Agreement;

- (d) save in respect of the transactions contemplated by the Confirmation and the Funded Participation Agreement, it is the sole legal and beneficial owner of the Assigned Property; and
- (e) save in respect of the transactions contemplated by the Confirmation and the Funded Participation Agreement, it has not sold or otherwise disposed of, or created, granted or permitted to subsist any security interest (other than the Security) over all or any of its right, title and interest in the Assigned Property.

4.2 Undertakings

The Assignor undertakes to the Assignee for the duration of this Agreement that:

- (a) it shall not sell, assign transfer or otherwise dispose of all or any part of the Assigned Property save for:
 - (i) as regards Cash Distributions and Non-Cash Distributions, payment or transfer of the same from time to time to the Assignee in satisfaction of the Assignor's obligations to the Assignee under the Funded Participation Agreement; and
 - (ii) any other assignment, transfer or disposal to the Assignee or as contemplated by the Funded Participation Agreement;
- (b) it shall not create, grant or permit to subsist any security interest over all or any of its right, title and interest in the Assigned Property; and
- (c) it shall not set-off against the Traded Portion of any Sub-Participated Loan any of its debts to any obligor of that Sub-Participated Loan.

5. FURTHER ASSURANCE

The Assignor will promptly at the cost of the Assignee do all such acts or execute all such documents as the Assignee may specify (acting reasonably) for the purpose of exercising the Collateral Rights or perfecting the Security created or intended to be created in respect of the Assigned Property or for the exercise of the rights, powers and remedies of the Assignee provided by or pursuant to this Agreement or by law in each case in accordance with the rights vested in it under this Agreement.

6. SECURITY ENFORCEMENT

6.1 Time for Enforcement

- (a) Each of the following events or circumstances is an "**Enforcement Event**" for the purposes of this Agreement:

- (i) the Assignor fails to pay on its due date any amount payable to the Assignee pursuant to the Funded Participation Agreement at the place and in the currency in which it is expressed to be payable unless payment is made within three (3) Business Days of such due date; or
 - (ii) an Insolvency Event occurs in respect of the Assignor.
- (b) After the occurrence of an Enforcement Event, the Assignee shall be entitled, without prior notice to the Assignor or prior authorisation from any court, to enforce all or any part of the security constituted by this Agreement in any manner it sees fit. Without limiting any of the powers conferred on the Assignee by this Clause 6.1(b), the Assignee shall be entitled to:
 - (i) take possession of the Assigned Property (subject to the terms thereof) or otherwise exercise in relation to it all of the rights of an absolute owner (subject to the terms of the Funded Participation Agreement);
 - (ii) effect the Elevation of the Traded Portion of any Sub-Participated Loan (subject to the terms thereof) pursuant to the terms of the Funded Participation Agreement (subject to Clause 3.5 (*Elevation*)); and
 - (iii) collect, recover or compromise, and give a good discharge for, any moneys paid or payable by the Assignor under or in respect of the Assigned Property, and enforce any rights or claims arising under or in respect of the Assigned Property.

6.2 Power of sale

- (a) The power of sale or other disposal conferred on the Assignee and on the Receiver by this Agreement shall operate as a variation and extension of the statutory power of sale under Section 101 of the Law of Property Act 1925 and such power shall arise (and the Secured Obligations shall be deemed due and payable for that purpose) on execution of this Agreement.
- (b) The restrictions contained in Sections 93 and 103 of the Law of Property Act 1925 shall not apply to this Agreement or to the exercise by the Assignee of its right to consolidate all or any of the Security created by or pursuant to this Agreement with any other security in existence at any time or to its power of sale.

6.3 Certificate

A certificate in writing by an officer or agent of the Assignee that the power of sale or disposal has arisen and is exercisable shall be conclusive evidence of that fact, in favour of a purchaser of all or any part of the Assigned Property.

6.4 Assignee's liability

Neither the Assignee nor any Receiver will be liable to account as mortgagee or mortgagee in possession in respect of the Assigned Property or be liable for any loss upon realisation or for any neglect or default of any nature whatsoever in connection

with the Assigned Property for which a mortgagee or mortgagee in possession might as such be liable.

6.5 Right of Appropriation

To the extent that any part of the Assigned Property constitutes "financial collateral" and this Agreement and the obligations of the Assignor hereunder constitute a "security financial collateral arrangement" (in each case as defined in, and for the purposes of, the Financial Collateral Arrangements (No. 2) Regulations 2003 (SI 2003 No. 3226), as amended, (the "**Regulations**") the Assignee shall have the right to appropriate all or any part of such financial collateral in or towards discharge of the Secured Obligations and may exercise such right to appropriate upon giving written notice to the Assignor. For this purpose, the parties agree that the value of such financial collateral so appropriated shall be the market price of the Assigned Property determined by the Assignee by reference to such public index or by such other process as the Assignee may select, including independent valuation. The parties further agree that the method of valuation provided for in this Agreement shall constitute a commercially reasonable method of valuation for the purposes of the Regulations.

6.6 Statutory powers

The powers conferred by this Agreement on the Assignee are in addition to and not in substitution for the powers conferred on mortgagees and mortgagees in possession under the Law of Property Act 1925, the Insolvency Act 1986 or otherwise by law and in the case of any conflict between the powers contained in any such Act and those conferred by this Agreement the terms of this Agreement will prevail.

7. RECEIVERS

7.1 Appointment and Removal

At any time after having been requested to do so by the Assignor or after this Agreement becomes enforceable in accordance with Clause 6 (*Security Enforcement*), the Assignee may by deed or otherwise (acting through an authorised officer of the Assignee), without prior notice to the Assignor:

- (a) appoint one or more persons to be a Receiver of the whole or any part of the Assigned Property;
- (b) appoint one or more Receivers of separate parts of the Assigned Property;
- (c) remove (so far as it is lawfully able) any Receiver so appointed; and
- (d) appoint another person(s) as an additional or replacement Receiver(s).

7.2 Capacity of Receivers

Each person appointed to be a Receiver pursuant to Clause 7.1 (*Appointment and Removal*) will be:

- (a) entitled to act individually or together with any other person appointed or substituted as Receiver;

- (b) for all purposes deemed to be the agent of the Assignor which shall be solely responsible for his acts, defaults and liabilities and for the payment of his remuneration and no Receiver shall at any time act as agent for the Assignee; and
- (c) entitled to remuneration for his services at a rate to be fixed by the Assignee from time to time (without being limited to the maximum rate specified by the Law of Property Act 1925).

7.3 Statutory powers of appointment

The powers of appointment of a Receiver shall be in addition to all statutory and other powers of appointment of the Assignee under the Law of Property Act 1925 (as extended by this Agreement) or otherwise and such powers shall remain exercisable from time to time by the Assignee in respect of any part of the Assigned Property.

7.4 Powers of Receivers

Every Receiver shall (subject to any restrictions in the instrument appointing him but notwithstanding any winding-up or dissolution of the Assignor) have and be entitled to exercise, in relation to the Assigned Property in respect of which he was appointed, and as varied and extended by the provisions of this Agreement (in the name of or on behalf of the Assignor or in his own name and, in each case, at the cost of the Assignor):

- (a) all the powers conferred by the Law of Property Act 1925 on mortgagors and on mortgagees in possession and on receivers appointed under that Act;
- (b) all the powers of an administrative receiver set out in Schedule 1 to the Insolvency Act 1986 (whether or not the Receiver is an administrative receiver);
- (c) all the powers and rights of an absolute owner and power to do or omit to do anything which the Assignor itself could do or omit to do;
- (d) the power to delegate (either generally or specifically) the powers, authorities and discretions conferred on it by this Agreement (including the power of attorney) on such terms and conditions as it shall see fit which delegation shall not preclude either the subsequent exercise any subsequent delegation or any revocation of such power, authority or discretion by the Receiver itself; and
- (e) the power to do all things (including bringing or defending proceedings in the name or on behalf of the Assignor) which seem to the Receiver to be incidental or conducive to:
 - (i) any of the functions, powers, authorities or discretions conferred on or vested in him;
 - (ii) the exercise of any of the Collateral Rights (including realisation of all or any part of the Assigned Property); or
 - (iii) bringing to his hands any assets of the Assignor forming part of, or which when got in would be, the Assigned Property.

7.5 Consideration

The receipt of the Assignee or any Receiver shall be a conclusive discharge to a purchaser and, in making any sale or disposal of any of the Assigned Property or making any acquisition, the Assignee or any Receiver may do so for such consideration, in such manner and on such terms as it thinks fit.

7.6 Protection of purchasers

No purchaser or other person dealing with the Assignee or any Receiver shall be bound to inquire whether the right of the Assignee or such Receiver to exercise any of its powers has arisen or become exercisable or be concerned with any propriety or regularity on the part of the Assignee or such Receiver in such dealings.

7.7 Discretions

Any liberty or power which may be exercised or any determination which may be made under this Agreement by the Assignee or any Receiver may be exercised or made in its absolute and unfettered discretion without any obligation to give reasons.

8. EFFECTIVENESS OF COLLATERAL

8.1 Collateral Cumulative

The collateral constituted by this Agreement and the Collateral Rights shall be cumulative, in addition to and independent of every other security which the Assignee may at any time hold for the Secured Obligations or any rights, powers and remedies provided by law. No prior security held by the Assignee over the whole or any part of the Assigned Property shall merge into the collateral constituted by this Agreement.

8.2 No Waiver

No failure to exercise, nor any delay in exercising, on the part of the Assignee, any right or remedy under this Agreement shall operate as a waiver of any such right or remedy or constitute an election to affirm this Agreement. No single or partial exercise of any right or remedy shall prevent any further or other exercise or the exercise of any other right or remedy of the Assignee. The rights and remedies are cumulative and not exclusive of any rights or remedies provided by law.

8.3 Illegality, Invalidity, Unenforceability

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

8.4 No liability

None of the Assignee, its nominee(s) or any Receiver appointed pursuant to this Agreement shall be liable by reason of (a) taking any action permitted by this Agreement or (b) any neglect or default in connection with the Assigned Property or (c)

the taking possession or realisation of all or any part of the Assigned Property, except in the case of gross negligence or wilful default upon its part.

8.5 Implied Covenants for Title

- (a) The covenants set out in Sections 3(1), 3(2) and 6(2) of the Law of Property (Miscellaneous Provisions) Act 1994 will not extend to Clause 3.1 (*Assignment*).
- (b) It shall be implied in respect of Clause 3.1 (*Assignment*) that the Assignor is assigning the Assigned Property free from all charges and encumbrances (whether monetary or not) and from all other rights exercisable by third parties (including liabilities imposed and rights conferred by or under any enactment).

8.6 Continuing security

- (a) The Security from time to time constituted by this Agreement is a continuing security and will remain in full force and effect as a continuing security until released or discharged by the Assignee.
- (b) No part of the Security from time to time constituted by this Agreement will be considered satisfied or discharged by any intermediate payment, discharge or satisfaction of the whole or any part of the Secured Obligations.

8.7 Immediate recourse

The Assignor waives any right it may have of first requiring the Assignee to proceed against or enforce any other rights or security or claim payment from any person before claiming from the Assignor under this Agreement. This waiver applies irrespective of any law or any provision of this Agreement to the contrary.

8.8 Avoidance of Payments

Notwithstanding Clause 3.4 (*Release*) if the Assignee considers that any amount paid or credited to it is capable of being avoided or reduced by virtue of any bankruptcy, insolvency, liquidation or similar laws the liability of the Assignor under this Agreement and the Security constituted by this Agreement shall continue and that amount shall not be considered to have been irrevocably paid.

8.9 No prejudice

The Security created by or pursuant to this Agreement and the Collateral Rights shall not be prejudiced by any unenforceability or invalidity of any other agreement or document or by any time or indulgence granted to the Assignor or any other person by the Assignee or by any other thing which might otherwise prejudice the Security or the Collateral Rights.

8.10 Retention of Agreement

The Assignee may retain this Agreement, the Security constituted by or pursuant to this Agreement and all documents relating to or evidencing ownership of all or any part of the Assigned Property for a period of seven months after any discharge in full of the Secured Obligations **provided that** if at any time during that seven month period a

petition or application is presented for an order for the winding-up of, or the making of an administration order in respect of, the Assignor or any person who is entitled to do so gives written notice of its intention to appoint an administrator of the Assignor or files such a notice with the court or the Assignor commences to be wound-up voluntarily or any analogous proceedings are commenced in respect of it, the Assignee may continue to retain such Security and such documents for such further period as the Assignee may determine and the Security and such documents shall be deemed to have continued to be held as security for the Secured Obligations.

9. APPLICATION OF PROCEEDS

All moneys received or recovered by the Assignee or any Receiver pursuant to this Agreement or the powers conferred by it shall (subject to the claims of any person having prior rights thereto and by way of variation of the provisions of the Law of Property Act 1925) be applied first in the payment of the costs, charges and expenses incurred and payments made by the Receiver, the payment of his remuneration and the discharge of any liabilities incurred by the Receiver in, or incidental to, the exercise of any of his powers, and thereafter shall be applied by the Assignee (notwithstanding any purported appropriation by the Assignor) in such order and manner as the Assignee shall think fit.

10. OTHER SECURITY INTERESTS

10.1 Redemption or transfer

In the event of any action, proceeding or step being taken to exercise any powers or remedies conferred by any prior ranking security in case of exercise by the Assignee or any Receiver of any power of sale under this Agreement the Assignee may redeem such prior security or procure the transfer thereof to itself.

10.2 Accounts

The Assignee may settle and pass the accounts of the prior security and any accounts so settled and passed will be conclusive and binding on the Assignor.

10.3 Subsequent Interests

If the Assignee at any time receives notice of any subsequent mortgage, assignment, charge or other interest affecting all or any part of the Assigned Property, all payments made by the Assignor to the Assignee after that time shall be treated as having been credited to a new account of the Assignor and not as having been applied in reduction of the Secured Obligations as at the time when the Assignee received notice.

11. SUSPENSE ACCOUNTS

All monies received, recovered or realised by the Assignee under this Agreement (including the proceeds of any conversion of currency) may in the discretion of the Assignee be credited to any non-interest bearing suspense or impersonal account maintained with the Assignee or any bank with investment grade rating assigned to it by an accredited internal rating agency, building society or financial institution as it considers appropriate and may be held in such account for so long as the Assignee may think fit pending their application from time to time (as the Assignee is entitled to do

in its discretion) in or towards the discharge of any of the Secured Obligations and save as provided herein no party will be entitled to withdraw any amount at any time standing to the credit of any suspense or impersonal account referred to above.

12. ASSIGNMENT

12.1 Assignment

The Assignee may not assign or transfer all or any of its rights and obligations under this Agreement without the prior written consent of the Assignor.

12.2 Permitted Successors

This Agreement shall be binding upon and shall inure to the benefit of each party and its direct or subsequent legal successors, permitted transferees and assigns.

13. NOTICES

13.1 Communications in Writing

Each communication to be made under or in connection with this Agreement shall be made in writing and, unless otherwise stated, shall be made by fax or letter.

13.2 Addresses

The address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each party for any communication or document to be made or delivered under or in connection with the Agreement is:

(a) in the case of the Assignor:

Address: Investec Bank plc, 30 Gresham Street. London EC2V 7QP,
United Kingdom

Fax: N/A

(b) in the case of the Assignee:

Address: 100 Grayston Drive
Sandown
Sandton
2196
Republic of South Africa

Fax: +27 11 286 7561

or any substitute address, fax number, or department or officer as the relevant party may notify to the other party by not less than five (5) Business Days' notice.

13.3 Delivery

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

- (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 five (5) Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address.

13.4 English language

Any notice given under or in connection with this Agreement must be in English.

14. WAIVERS AND COUNTERPARTS

14.1 Waivers

No waiver by a party of any of its rights under this Agreement shall be effective unless given in writing.

14.2 Counterparts

This Agreement 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 Agreement.

15. LAW

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

16. ENFORCEMENT

16.1 Jurisdiction of English Courts

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement (including a dispute relating to the existence, validity or termination of this Agreement or the consequences of its nullity) or any non-contractual obligations arising out of or in connection with this Agreement (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.

THIS AGREEMENT has been signed on behalf of the Assignee and executed as a deed by the Assignor and is intended to be and is hereby delivered by it as a deed on the date specified above.

EXECUTION PAGE – SECURITY ASSIGNMENT

Assignor

EXECUTED as a **DEED** by
INVESTEC BANK PLC
as Assignor
acting by:



Name: _____

Title: _____

Oliver Tagg
Authorised Signatory

)
)
)



Name: _____

Title: _____

Celia Britt
Authorised Signatory

Assignee

EXECUTED by
INVESTEC BANK
LIMITED
as Assignee
acting by: _____
in the presence of: _____

)
)
)
)
)
)

EXECUTED by
INVESTEC BANK
LIMITED
as Assignee
acting by: _____
in the presence of: _____

)
)
)
)
)
)


EXECUTION PAGE – SECURITY ASSIGNMENT

Assignor


EXECUTED as a DEED by)
INVESTEC BANK PLC)
as Assignor)
acting by:)

Name: _____ Name: _____
Title: _____ Title: _____

Assignee

EXECUTED by)
INVESTEC BANK)
LIMITED)
as Assignee)
acting by: )
in the presence of: ANDREW JOHN CHANANIE)
AUTHORISED SIGNATORY)

CHE LOE
100 GRAYSTON DRIVE, SANDOWN, SANDTON
JOHANNESBURG, SOUTH AFRICA

EXECUTED by)
INVESTEC BANK)
LIMITED)
as Assignee)
acting by: )
in the presence of: DAVID CHRISTOPHER MINTY)
AUTHORISED SIGNATORY)

BRADLEY GORDON
100 GRAYSTON DRIVE, SANDOWN, SANDTON,
JOHANNESBURG, SOUTH AFRICA