



**Registration of a Charge**

Company name: **EDDIE STOBART LIMITED**

Company number: **00995045**



X5HZQ6GI

Received for Electronic Filing: **20/10/2016**

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**Details of Charge**

Date of creation: **10/10/2016**

Charge code: **0099 5045 0042**

Persons entitled: **LEGAL AND GENERAL ASSURANCE (PENSIONS MANAGEMENT) LIMITED**

Brief description:

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

Certified by: **FREETHS LLP**



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

Company number: 995045

Charge code: 0099 5045 0042

The Registrar of Companies for England and Wales hereby certifies that a charge dated 10th October 2016 and created by EDDIE STOBART LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 20th October 2016 .

Given at Companies House, Cardiff on 21st October 2016

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



**Companies House**



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES

DATED 10th October 2016

**EDDIE STOBART LIMITED**

and

**LEGAL AND GENERAL ASSURANCE (PENSIONS MANAGEMENT) LIMITED**

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**CHATTEL MORTGAGE**

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**maples teesdale**

DocID: 2151484 Revision: 0 SeqNo: 2151862

30 King Street London EC2V 8EE / T: 020 7600 3600 / FX 15875+ Cheapside / @maplesteesdale / maplesteesdale.co.uk

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THIS CHATTEL MORTGAGE is made on 10th October

2016

**BETWEEN:-**

- (1) **EDDIE STOBART LIMITED** a company registered in England and Wales, company registration number 00995045, the registered office of which is at Stretton Green Distribution Park, Langford Way, Warrington, Cheshire WA4 4TQ ('the Company'); and
- (2) **LEGAL AND GENERAL ASSURANCE (PENSIONS MANAGEMENT) LIMITED** a company registered in England and Wales, company registration number 01006112, the registered office of which is at One Coleman Street, London EC2R 5AA ('the Chargee').

**NOW IT IS AGREED** as follows:

**1. Definitions and interpretation**

**1.1 Defined terms**

In this deed, unless the context otherwise requires:

- 1.1.1 'the Chattels' means the goods or chattels, whether already acquired or hereafter to be acquired, specified in the schedule, including all engines, appliances, parts, spare parts, components, instruments, appurtenances, accessories and other equipment of any kind installed in them or on them, and any and all substitutions, replacements, renewals and additions hereafter from time to time made for, in, or to them;
- 1.1.2 'the Documents' means all logbooks, maintenance records, record books, manuals, handbooks, drawings, technical data and all other documents relating to the Chattels;
- 1.1.3 'the Default Rate' means 4% per annum above the base lending rate from time to time of Lloyds Bank plc;
- 1.1.4 'the Expenses' means:
  - (a) the money and costs referred to in clause 6.2; and
  - (b) the items of expenditure identified in clause 17.2.
- 1.1.5 references to 'insurances' are references to all contracts and policies of insurance or indemnity taken out by, or on behalf of, the Company, or to the extent of its interest, in which the Company has an interest such as are referred to in clause 5.1;
- 1.1.6 'the Insured Risks' means fire, storm, lightning, earthquake, explosion, aircraft, riot, civil commotion, malicious damage, terrorism, aircraft and other aerial devices or articles dropped from aircraft, tempest, flood, bursting and overflowing of water tanks, apparatus or pipes and damage by, or resulting from, vehicular or other impact and such other risks as the Chargee may reasonably require including demolition and site clearance, costs and expenses, architects, surveyors and other professional fees and all other incidental expenses;
- 1.1.7 'the Lease' means the lease dated 5 March 2010 of Mersey Multimodal Gateway and Parkway, Widnes, Cheshire between (1) the Chargee (2) Westlink Holdings Limited and (3) Stobart Group Limited and which is now vested in the Company as described in the Licence to Assign;
- 1.1.8 'the Licence to Assign' means the licence to assign dated on or around the date of this deed and made between (1) the Chargee (2) Westlink Holdings Limited (3) the Company (4) Eddie Stobart Logistics Limited and (5) Stobart Group Limited;
- 1.1.9 'the Mortgaged Property' means the Chattels and all other rights, assets and property from time to time charged to the Chargee under clause 3;

1.1.10 references to 'permitted security interests' are references to:

- (a) security granted pursuant to this deed;
- (b) any security interest granted or permitted in accordance with the provisions of the Lease;
- (c) floating charge security granted by the Company from time to time pursuant to debentures arising under its banking facilities; and
- (d) any other security interest permitted from time to time by the Chargee;

1.1.11 references to 'a receiver' are references to an administrative receiver, receiver and manager or other receiver appointed in respect of the Mortgaged Property under this deed;

1.1.12 'the Secured Obligations' means the obligations and liabilities of the Company to the Chargee under clause 10 of the Lease and this deed;

1.1.13 references to 'a security interest' are references to any mortgage, charge, pledge, lien, assignment, hypothecation, security interest, title retention, preferential right or trust arrangement or other security or arrangement or agreement of any kind or any right, including any 'hold-back' or 'flawed asset' arrangement conferring a priority of payment; and

1.1.14 references to 'the winding-up' of a person also include the amalgamation, reconstruction, reorganisation, dissolution, liquidation, merger or consolidation of that person, and any equivalent or analogous procedure under the law of any jurisdiction, and a reference to the commencement of any of the foregoing includes a reference to the presentation of a petition to a court of competent jurisdiction or the passing of a valid resolution for, or with a view to, any of the foregoing.

## 1.2 **Construction**

In this deed:

1.2.1 the contents page and clause headings are included for convenience only and do not affect the construction of this deed;

1.2.2 words denoting the singular include the plural and vice versa; and

1.2.3 words denoting one gender include all genders.

## 1.3 **Interpretation**

In this deed, unless the context otherwise requires or unless otherwise expressly provided:

1.3.1 references to persons include references to natural persons, firms, partnerships, companies, corporations, associations, organisations, and trusts, in each case whether or not having a separate legal personality;

1.3.2 references to documents, instruments and agreements, including, without limitation, this deed and any document referred to in this deed, are references to such documents, instruments and agreements as modified, amended, varied, supplemented or novated from time to time;

1.3.3 references to an authorisation include references to an authorisation, consent, approval, resolution, licence, exemption, filing and registration;

1.3.4 references to a party to this deed include references to its successors, transferees and assigns;

1.3.5 references to clauses and schedules are references to clauses of, and schedules to, this deed, and references to this deed include its schedules;

- 1.3.6 references to paragraphs, unless otherwise expressly provided, are references to paragraphs of the schedule in which the references appear;
- 1.3.7 subject to clause 9.5, references to statutory provisions are construed as references to those provisions as respectively amended, consolidated, extended or re-enacted from time to time, and to any orders, regulations, instruments or other subordinate legislation made under the relevant statute; and
- 1.3.8 references to 'a company' include references to any company, corporation or other body corporate, wherever and however incorporated or established.

#### **1.4 The Lease**

Save as otherwise defined in this deed, terms used in this deed shall bear the same respective meanings as ascribed to them in the Lease.

### **2. Covenant to discharge secured obligations**

The Company shall promptly and diligently perform and discharge the Secured Obligations in accordance with the provisions of the Lease and this deed.

### **3. Charging provisions**

#### **3.1 Mortgage**

The Company, with full title guarantee, charges in favour of the Chargee as a continuing security with the payment and discharge of the Secured Obligations by way of mortgage ranking in priority to all other security interests in respect of the Mortgaged Property:

- 3.1.1 the Chattels and the Documents;
- 3.1.2 without prejudice to clause 4, the benefit of all contracts and agreements, including all conditions and warranties, entered into at any time relating to the title, merchantable quality, fitness for purpose, description, condition, operation, use, servicing, maintenance or repair of the Chattels;
- 3.1.3 the full benefit of all insurances from time to time in force in relation to the Mortgaged Property; and
- 3.1.4 any money payable to the Company for, or in connection with, a disposal by way of sale or otherwise of the Chattels, including any deposit, sum on account or instalment.

### **4. General undertakings**

#### **4.1 Duration**

The undertakings contained in this clause and clause 5, and the general negative undertakings contained in clause 7 shall remain in full force and effect from the date of this deed and for so long as the Secured Obligations remain outstanding.

#### **4.2 Good repair and working order**

The Company shall keep the Chattels in a good state of repair and in good working order and condition and renew, service and overhaul the Chattels as necessary and comply with all relevant legal requirements necessary for the operation of the Chattels and not suffer the Chattels to deteriorate in condition or value, otherwise than in the normal course of operation.

#### **4.3 Defects**

The Company shall, in case of any defect in the title, merchantable quality, fitness for purpose, condition or failure to correspond with description of the Chattels or any parts or equipment supplied for incorporation in or attachment to the Chattels, whether such terms are contractual or

statutory, and, notwithstanding clause 3.1.2, prosecute diligently all claims available to the Company in respect of any defect or failure against the supplier, manufacturer or other person liable in respect of it.

#### **4.4 Logbooks**

The Company shall maintain all logbooks, manuals, technical data and other materials and documents as are required by specific contracts, normal trade practice or by law to be maintained on, or with respect to, the Chattels.

#### **4.5 Licence to enter**

The Company shall grant the Chargee and its representatives and agents a licence to enter the premises where any of the Chattels or the Documents is kept or believed to be kept for the purposes of inspection.

#### **4.6 Notice of security to third parties**

The Company shall ensure that all persons having any interest in the premises where any of the Chattels or the Documents is kept, whether such interest arises as lessor, lessee, mortgagee or otherwise, receive written notice of the Chargee's interest as chargee.

#### **4.7 Proper maintenance**

The Company shall ensure that all services, replacements, inspections, maintenance, repairs, overhauls, tests improvements and modifications to be made or carried out to, or on, the Chattels are made or carried out by properly qualified personnel.

#### **4.8 No security interest**

The Company shall ensure that any replacements, modifications, renewals and additions to the Chattels are free of any security interest other than permitted security interests.

#### **4.9 Information**

The Company shall furnish the Chargee with all such information regarding the Chattels and their location, use, operation, engagement and condition, including any material alterations, modifications and additions to them and any proposed sale of them, as the Chargee may from time to time request.

#### **4.10 Discharge of other restrictions over the Chattels**

The Company shall pay and discharge as they fall due all debts, damages and liabilities which have given or may give rise to liens on, or claims enforceable against, the Chattels and, in the event of a detention of any of the Chattels in exercise or purported exercise of any such lien or claim as aforesaid, procure the release of them from detention forthwith upon receiving notice of it.

#### **4.11 Rates, etc**

The Company shall pay punctually all rents, rates, levies and taxes payable in respect of any premises in which the Chattels may be kept and all costs, fees and expenses in respect of the Chattels, whether for operation, maintenance or otherwise, and produce to the Chargee on demand evidence of payment.

#### **4.12 Lodging of documents: payment of disposal proceeds**

The Company shall deposit with the Chargee:

##### **4.12.1 the Documents, if so required by the Chargee; and**



4.12.2 all money received by the Company on a disposal of the Chattels and, in the meantime, shall hold all such money in trust for the Chargee.

#### 4.13 **Nameplates**

The Company shall, if so required by the Chargee, affix to the Chattels or any part of them plaques, name plates, notices or other forms of wording of reasonable size and type in a readily visible position stating that the Chargee has an interest in the Chattels as chargee.

#### 4.14 **Notices received relating to the Mortgaged Property**

The Company shall, forthwith upon receipt from any third party of any notice, or other matter whatsoever affecting or likely to affect the Mortgaged Property, give full particulars of it to the Chargee and, if required, produce it to the Chargee and shall, at the cost of the Company, forthwith either comply with the same or shall, at the request of the Chargee and at the Company's cost, make or join with the Chargee in making such objections or representations against, or in respect of, any such notice or other matter as aforesaid as the Chargee shall deem expedient.

#### 4.15 **Notice of damage**

The Company shall forthwith give written notice to the Chargee of any material damage to any material item comprised within the Mortgaged Property.

#### 4.16 **Indemnity**

Without prejudice to the provisions of clause 17.1, the Company shall keep the Chargee, and any Receiver appointed by the Chargee, fully and effectively indemnified from and against all actions, proceedings, costs, charges, claims, demands, expenses and liabilities, including VAT and any other taxes and/or legal and other professional fees, whatsoever in respect of any breach or non-observance or non-performance of any obligations on the part of the Company contained in this deed or the making good of any such breach or non-observance or non-performance.

#### 4.17 **General**

The Company shall execute and do at the expense of the Company all such work and things whatsoever as may now or at any time during the continuance of this security be directed or required by any national or local or other competent authority to be executed or done upon, or in respect of, the Mortgaged Property.

### 5. **Insurance undertakings**

#### 5.1 **Insurance**

The Company shall effect and maintain, in such amounts and on such terms as the Chargee may require, insurances in respect of the Mortgaged Property covering the Insured Risks.

#### 5.2 **Insurers**

5.2.1 The insurances shall be with insurers previously approved by the Chargee, and the Company shall procure the noting of the Chargee's intended interest on each policy of insurance.

#### 5.3 **Mortgagee protection clauses**

The Company shall ensure that each policy of insurance shall include such protection for the Chargee against avoidance and invalidation as the Chargee may reasonably require including a requirement on the part of the insurers to notify the Chargee of any material change to the policy or reduction of cover. The Company shall procure that the insurers shall, in connection with each such insurance, confirm in writing to the Chargee that:

- 5.3.1 the insurers will accept payment of all premiums from the Chargee to prevent the policy lapsing if the insured fails to make such payments;
- 5.3.2 the Chargee shall not, in any circumstances, be liable for the relevant premiums;
- 5.3.3 all money payable by the insurers will be paid to the Chargee;
- 5.3.4 to the extent aforesaid, the Chargee shall alone be entitled to give a good discharge for money paid by the insurers under a policy of Insurance; and
- 5.3.5 the insurers will not permit the policy of insurance to lapse or attempt to avoid the same without giving at least 28 days notice thereof to the Chargee.

5.4 **Non avoidance of insurances**

The Company shall not do or omit to do, or permit or suffer to be done or omitted to be done, anything that might render any insurance void, voidable or unenforceable.

5.5 **Policies and receipts for premiums**

The Company shall, on demand, deposit with the Chargee all policies of insurance and the related premium receipts.

5.6 **Proceeds of insurance**

The Company shall pay or cause any money received from any policies of insurance to be paid to the Chargee, or if received by the Company, the Company shall forthwith pay the money to the Chargee and until such payment shall hold the money on trust for the Chargee, to be applied, (a) if received prior to any enforcement event towards making good the loss or damage in respect of which the money was received or (b) if received after an enforcement event at the option of the Chargee either towards making good the loss or damage in respect of which the money was received or towards the discharge of the Secured Sums, which shall for such purpose be deemed to have become due and payable immediately following execution of this deed.

5.7 **Evidence of insurance**

The Company shall, upon the written request of the Chargee, produce to the Chargee evidence satisfactory to the Chargee of the effecting of the required insurances and evidence that they remain in force.

5.8 **Failure to insure**

If at any time the Chattels are not insured in accordance with the provisions of this clause 5, or if the Company fails to produce any such evidence as aforesaid, the Chargee shall be entitled, but not obliged, to insure the Chattels at the expense of the Company and keep them so insured during the continuance of this security. The Company shall indemnify the Chargee against any money expended by the Chargee for that purpose and such money shall be secured by the security created by clause 3.1.

5.9 **Use of the Chattels**

The Company shall not use or allow the Chattels to be used for any purpose not permitted by the terms or conditions of any policy of insurance for the time being relating to them, nor do or omit to do or allow to be done or to be omitted to be done any act or thing whereby any such policy of insurance may be invalidated.

**6. Curing non-performance**

**6.1 Chargee may cure breaches of covenants**

If the Company fails to observe or perform the provisions of this deed, the Chargee may do all such acts and things as may be necessary to secure the observance or performance of it without thereby becoming liable as a mortgagee in possession.

**6.2 Expenses so incurred**

All money expended and all costs incurred by the Chargee in carrying out any of its discretions or powers referred to in clause 6.1 shall be considered to have been properly incurred by the Chargee and shall be recoverable from the Company.

**7. General negative undertakings**

**7.1 Winding-up**

The Company shall not, without the prior written consent of the Chargee, enter into or commence any winding-up and shall not take any action that may prejudice its corporate existence and the right to carry on its business and operations.

**7.2 Dealing with the Mortgaged Property**

The Company shall not, without the prior written consent of the Chargee:

7.2.1 permit any of the Chattels to be removed from property demised by the Lease;

7.2.2 purport to sell the Mortgaged Property, offer it for sale, transfer or assign it;

7.2.3 create, or attempt to create or permit to exist, any security interest save for any permitted security interests, upon the Mortgaged Property, including any security interest on land to which the Chattels may be fixed;

7.2.4 lease, let, hire or license the Chattels, or permit any lease, letting, hiring, conditional sale or hire purchase agreement to exist in respect of them;

7.2.5 allow, perform or consent to any act or omission to act which would or might cause the Chattels to be forfeited under any applicable law or which might jeopardise the Chattels;

7.2.6 allow the Chattels to be used in any trade or business contrary to any applicable law;

7.2.7 permit the Chattels to leave the possession of the Company, except for the purpose of necessary repair or maintenance, or to be used by any person for any purpose other than in connection with the trade or business of the Company; or

7.2.8 fix any object or thing to the Chattels or to land on which the Mortgaged Property is located belonging to or to be charged to any person other than the Chargee, or allow anything to be fixed, in such manner that the Chattels cease to be secured by this deed free of the right of any such owner or chargee.

**8. Security to become enforceable**

**8.1 Security enforceable**

The security constituted by this deed shall become enforceable at any time after the Chargee has demanded performance of the Secured Obligations, and immediately thereafter the Chargee may, in respect of the Mortgaged Property, exercise the power of sale conferred upon mortgagees by the Law of Property Act 1925 section 101 without the restrictions imposed by section 103 of that Act as to the giving of notice or otherwise.

## **8.2 Right to enter land**

The Company grants to the Chargee and to any receiver the right without notice to enter upon any land or premises now owned or occupied or within 80 years of the date hereof acquired by the Company upon which the Mortgaged Property may from time to time be situate, whether fixed to the land or not, for the purposes of exercising the Chargee's power of sale under this deed.

## **9. Appointment and removal of a receiver and his powers**

### **9.1 Initial appointment**

Upon this security becoming enforceable, or any time if so requested by the Company, the Chargee may, subject to statutory restrictions, appoint any person or persons as receiver or receivers.

### **9.2 Removal and further appointment**

The Chargee may:

- 9.2.1 remove any receiver previously appointed under this deed; and
- 9.2.2 appoint any person or persons as receiver or receivers either in the place of a receiver so removed or who has otherwise ceased to act or to act jointly with a receiver or receivers previously appointed.

### **9.3 Exercise by joint receivers of powers etc**

If, at any time any two or more persons shall hold the office as receivers, each such receiver shall be entitled, unless the contrary be stated in any instrument appointing him, to exercise all the powers and discretions hereby conferred on receivers individually and to the exclusion of the other or others of them.

### **9.4 Method of appointment**

Every such appointment or removal and every delegation, appointment or removal by the Chargee in the exercise of any right to delegate its powers or to remove delegates herein contained may be made either by deed or by instrument in writing under the hand of any duly authorised officer of the Chargee or any person so authorised in writing in that behalf by any such officer.

### **9.5 Powers**

A receiver appointed in accordance with the foregoing provisions of this clause 9 shall, until his removal, have the powers conferred on receivers by the Law of Property Act 1925 section 109 and on administrative receivers by schedule 1 to the Insolvency Act 1986, both as in force at the date of this deed, and, in addition, shall have power either in his own name or in the name of the Company:

- 9.5.1 to carry on, manage or concur in carrying on or managing the business of the Company as he may think fit in so far as it relates to the Mortgaged Property including, without limitation, power to perform, repudiate, rescind or vary any contracts or agreements;
- 9.5.2 to sell, let, lease, hire, license the Chattels, enter into hire purchase agreements regarding them or concur in the selling, letting, leasing, hiring, licensing or entering into hire purchase agreements of them and to carry the same into effect in such manner as he thinks fit, whether or not in the name of the Company;
- 9.5.3 to repair, insure, protect, improve or replace the Chattels;
- 9.5.4 to appoint, employ or dismiss managers, officers, contractors or agents;

- 9.5.5 to have access to, and make use of, the premises, plant and equipment and accounting and other records of the Company and the services of its staff for the above purposes;
- 9.5.6 to do all other acts and things which he may consider desirable or necessary for realising the Mortgaged Property or incidental or conducive to the rights, powers or discretions conferred on a receiver under or by virtue of this deed; and
- 9.5.7 to exercise in relation to the Mortgaged Property all the powers, authorities and things which he would be capable of exercising if he were the absolute beneficial owner of it.

**9.6 Conflict**

If there is any ambiguity or conflict between the powers conferred on a receiver by this clause 9 and by the Law of Property Act 1925 or by Schedule 1 of the Insolvency Act 1986, the powers conferred by this clause 9 shall prevail.

**10. Application**

**10.1 Appropriation**

All money received by the Chargee or a receiver shall be applied in the following order:

- 10.1.1 in payment of the remuneration of the receiver and the costs of realisation including all costs and expenses of, or incidental to, any exercise of any power hereby conferred;
- 10.1.2 when so required, in or towards satisfaction of the Secured Obligations in such order and manner as the Chargee or the receiver shall, in his absolute discretion, determine, and the surplus, if any, shall be paid to the Company or such other person as may be entitled to it.

**10.2 Variation of statutes**

Clause 10.1 shall take effect as and by way of variation and extension of sections 99 to 109 inclusive of the Law of Property Act 1925, which as so varied and extended shall be regarded as incorporated in this deed.

**11. Responsibility for receiver**

**11.1 Agency**

A receiver shall, at all times and for all purposes, be deemed to be the agent of the Company and the Company, to the exclusion of the Chargee, shall be solely responsible for his acts or defaults.

**11.2 Remuneration**

A receiver shall be entitled to remuneration for his services and the services of his firm appropriate to the work and responsibility involved upon the basis of charging from time to time adopted by him or his firm and without being limited by the maximum rate specified in section 109(6) of the Law of Property Act 1925.

**11.3 Level of remuneration**

From time to time, the Chargee may, within the parameters referred to in clause 11.2, fix the remuneration of any receiver and direct that such remuneration be paid from money accruing to the receiver in the exercise of his powers as receiver, but the Company alone shall be liable for the payment of such remuneration.

## **12. Powers of the Chargee and a receiver**

### **12.1 Chargee's powers**

All the powers, authorities and discretions conferred by this deed either expressly or impliedly upon a receiver may be exercised by the Chargee in relation to the Mortgaged Property without first appointing a receiver or notwithstanding the appointment of a receiver.

### **12.2 Powers to be additional**

The powers conferred by this deed in relation to the Mortgaged Property on the Chargee or on a receiver shall be in addition to, and not in substitution for, the powers conferred on mortgagees or receivers under the Law of Property Act 1925 and the Insolvency Act 1986.

## **13. Delegation of powers**

The Chargee may, at any time and from time to time, delegate by power of attorney or in any other manner, including without limitation, under the hand of any duly authorised officer of the Chargee, to any person all or any of the powers, authorities and discretions that are, for the time being, exercisable by the Chargee under this deed, the Law of Property Act 1925 or the Insolvency Act 1986 in relation to the Mortgaged Property, and any such delegation may be made upon such terms and conditions, including power to sub-delegate, and subject to such regulations as the Chargee may think fit, but the Chargee shall not be in any way liable or responsible to the Company for any loss or damage arising from any act, default, omission or misconduct on the part of any delegate or sub-delegate (a 'delegate').

## **14. Liability in possession**

### **14.1 Possession**

If the Chargee or any receiver enters into possession of the Mortgaged Property, the Chargee or the receiver may, from time to time at will, go out of such possession.

### **14.2 Receipts**

The Chargee shall not, in any circumstances either by reason of any entry by it into, or taking by it of possession of, the Mortgaged Property or for any other reason whatsoever and whether as mortgagee in possession or on any other basis whatsoever:

14.2.1 be liable to account to the Company for anything except the Chargee's own actual receipts;

14.2.2 be liable to the Company for any loss or damage arising from:

- (a) any realisation by the Chargee of the Mortgaged Property; or
- (b) any act, default or omission of the Chargee in relation to the Mortgaged Property; or
- (c) any exercise or non-exercise by the Chargee of any power, authority or discretion conferred upon it in relation to the Mortgaged Property by, or pursuant to, this deed, the Law of Property Act 1925 or the Insolvency Act 1986,

unless the loss or damage is caused by the Chargee's own gross negligence or wilful default.

### **14.3 Extension to a receiver**

All the provisions of clause 14.2 shall apply in respect of the liability of any receiver and in respect of the liability of any delegate in all respects as though every reference in clause 14.2 to the Chargee were instead a reference to the receiver or, as the case may be, delegate.

**15. Protection for third party purchasers**

**15.1 Power of sale exercisable**

No person dealing with the Chargee or with a receiver or with any delegate shall be concerned to enquire whether any event has happened upon which any of the powers, authorities and discretions conferred by or pursuant to this deed in relation to the Mortgaged Property is or may be exercisable by the Chargee, the receiver or delegate or otherwise as to the propriety or regularity of acts purporting or intended to be in exercise of any such powers, and all the protection to purchasers contained in the Law of Property Act 1925 sections 104 and 107 shall apply to any person purchasing from, or dealing with, the Chargee or the receiver or delegate in like manner as if the statutory powers of sale and of appointing a receiver in relation to the Mortgaged Property had not been varied or extended by this deed.

**15.2 Power of sale arisen**

The powers conferred by the Law of Property Act 1925 section 101, as varied and extended by this deed shall be deemed to have arisen immediately on the execution of this deed.

**16. Further assurance and power of attorney**

**16.1 Further assurance**

The Company shall, at any time if and when reasonably required by the Chargee, execute in favour of the Chargee or as the Chargee shall direct such further legal or other assignments, mortgages, securities or charges on the Mortgaged Property as the Chargee shall require in order to secure the payment and discharge of the Secured Obligations in so far as the Company is lawfully entitled so to do, and subject to any third party consents that are required being obtained, which the Company shall use its best endeavours to do.

**16.2 Costs**

The assignments, mortgages, securities or charges shall be prepared by, or on behalf of, the Chargee at the cost of the Company and shall contain all such provisions as the Chargee may reasonably require.

**16.3 Attorney**

For the purpose of securing the interest of the Chargee in the Mortgaged Property and for facilitating the realisation of the security constituted by this deed, the Company irrevocably and by way of security appoints the Chargee and any receiver to be its attorney, with full power to appoint delegates and to sub-delegate in both cases with regard to the Mortgaged Property, on its behalf and in its name or otherwise and as its act and deed to sign, execute and do any deed, document, act or thing the Company is or may become obliged to sign, execute and do under this deed or which the Chargee or a receiver may, in its or his absolute discretion, consider appropriate in connection with the exercise of any of the powers of the Chargee or of a receiver or the realisation of any security constituted by this deed.

**16.4 Ratification**

The Company shall upon first request of the Chargee, ratify and confirm the actions the Chargee or any receiver or any delegate or sub-delegate carries out in its capacity as attorney for the Company as provided in clause 16.3; and the Chargee, a receiver, delegate or sub-delegate in its capacity as attorney may, on behalf of the Company, so ratify and confirm.

**17. Indemnities and expenses**

**17.1 General indemnity**

The Company shall indemnify the Chargee, any receiver and any manager, agent, officer or employee for whose liability, acts or omissions the Chargee or a receiver may be answerable, and keep them indemnified, from and against all liabilities, costs, charges, losses and expenses suffered or incurred by them arising from or as a result of:

- 17.1.1 the exercise or the purported exercise of any powers, authorities or discretions vested in any of them pursuant;
- 17.1.2 any matter or thing done or omitted or in any way relating to this deed;
- 17.1.3 any breach by the Company of its obligations to the Chargee under this deed;
- 17.1.4 the enforcement of this deed; or
- 17.1.5 any action, claim or proceeding relating to any of the above,

except to the extent that the same results from the gross negligence or wilful default of the Chargee, a receiver or such manager, agent, officer or employee.

**17.2 Indemnification of expenses**

The Company shall, in accordance with clause 17.3, pay to the Chargee the following items of expenditure:

- 17.2.1 on a full indemnity basis all expenses including legal and out-of-pocket expenses incurred by the Chargee in connection with:

- (a) preparation, negotiation and execution of this deed;
- (b) preparation and negotiation of documentation relating to any amendment or extension of this deed, regardless of the form which such documentation takes and whether or not such documentation is acceptable to, and/or executed by, any or all parties to it;
- (c) granting of any waiver, approval, consent, confirmation or release under, or in respect of, this deed; and
- (d) any investigation or due diligence into the financial or other condition of the Company or ascertaining whether or not the Company has complied or is complying with this deed,

together with interest at the Default Rate from the date such expenses were incurred to the date of payment, as well after as before judgment;

- 17.2.2 an amount equal to any stamp duties, search fees, registration fees and duties payable in connection with this deed and any penalties with respect to, or resulting from the delay or omission to pay any such duties or fees; and

- 17.2.3 all expenses, including legal and out of pocket expenses on a full indemnity basis, incurred by the Chargee:

- (a) in contemplation of, or otherwise in connection with, the enforcement of any rights or exercise of any powers under this deed or in investigating any possible breach by the Company of this deed; or
- (b) in respect of any proceedings, legal or otherwise, involving the Chargee in connection with this deed or the Mortgaged Property, whether such proceedings are brought by the Company or a third party;



together with interest at the Default Rate from the date such expenses were incurred to the date of payment, as well after as before judgment.

**17.3 Payment of expenses**

The Company shall, on first demand, pay or reimburse the Chargee for the Expenses.

**17.4 Interest on defaulted payments**

If any sums that are payable by the Company but have not been paid by the Company are paid by the Chargee or a receiver, they shall be repaid by the Company on demand together with interest at the Default Rate from the time of their being paid or incurred by the Chargee or a receiver to the time that payment is made in full by the Company, as well after as before judgment or demand for them.

**18. Miscellaneous**

**18.1 Additional security**

The security created by this deed is in addition to any other security the Chargee may now or from time to time hold or take from the Company.

**18.2 Continuing security**

This deed shall be a continuing security to the Chargee notwithstanding any intermediate payment or settlement of account or any other matter whatever, and shall be in addition to, and shall not prejudice or be prejudiced by, any right of lien, set-off, combination or other rights exercisable by the Chargee as chargee against the Company or any security, guarantee, indemnity and/or negotiable instrument now or in the future held by the Chargee.

**18.3 No merger**

Nothing contained in this deed shall operate so as to merge or otherwise prejudice or affect any bill, note, guarantee, mortgage or other security or any contractual or other right the Chargee may at any time have for any money or liabilities or other sums due or incurred by the Company to the Chargee or any right or remedy of the Chargee under this deed and any receipt, release or discharge of the security provided by, or of any liability arising under, this deed shall not release or discharge the Company from any liability to the Chargee for the same or any other moneys which may exist independently of this deed.

**18.4 Conditional discharge**

Any release, settlement or discharge between the Chargee and the Company shall be conditional upon no security, disposition or payment to the Chargee by the Company or any other person being avoided, set aside, reduced or ordered to be refunded by virtue of any statutory provision relating to insolvency or liquidation for the time being in force or for any reason whatsoever. If the same is so avoided, set aside, reduced or ordered to be refunded, the Chargee shall be entitled to recover the value or amount of any such security or payment from the Company subsequently as if such settlement or discharge had not occurred.

**18.5 Final redemption**

Subject to and without prejudice to clause 18.4 once the Chargee is satisfied that all the Secured Obligations have been discharged in full then the Chargee shall, at the request and cost of the Company, execute and do all such deeds, acts and things as may be necessary to release the Mortgaged Property from the mortgages and charges constituted by clause 3.1.

18.6 **Prior Security Interests**

The Chargee and a receiver may redeem any prior security interest and may settle and prove the accounts of the encumbrancer of that prior security interest, and accounts so settled and proved shall be conclusive and binding on the Company and the money so paid shall be a receivership expense and be secured by this deed.

18.7 **Counterparts**

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

18.8 **Assignments**

The Company may not assign any of its rights under this deed.

18.9 **Law of Property Act**

The restriction on consolidation of mortgages contained in section 93 of the Act shall not apply to this security.

18.10 **Waivers, remedies cumulative**

The rights of the Chargee under this deed:

18.10.1 may be exercised as often as necessary;

18.10.2 are cumulative and not exclusive of its rights under the general law; and

18.10.3 may be waived only in writing and specifically.

Delay in exercising or non-exercise of any such right is not a waiver of that right.

19. **Severability**

If any provision of this deed is or becomes illegal, invalid or unenforceable in any jurisdiction, that shall not effect:

19.1 the validity or enforceability in that jurisdiction of any other provision of this deed, or

19.2 the validity or enforceability in any other jurisdiction of that or any other provision of this deed.

20. **Notices**

20.1 **Time of receipt**

Except as otherwise stated in this deed, all demands, notices or other communications ('notices') under this deed to either party shall be made by letter or fax and shall be deemed to be duly given or made:

20.1.1 when delivered to the relevant party, in the case of a letter delivered personally;

20.1.2 when received by the relevant party, in the case of the hard copy of a notice or other communication sent by fax;

20.1.3 two days after being put in the first class post postage prepaid, in the case of post; or

- 20.1.4 upon transmission, in the case of a notice or communication sent by email,  
addressed to:
- 20.1.5 in the case of the Chargee, its address set out in clause 20.2.1, or such other address as the Chargee may notify to the Company, and
- 20.1.6 in the case of the Company, its address, fax number or email address set out in clause 20.2.2, or such address, fax number or email address as the Company may, after the date of this deed, specify to the Chargee for such purpose by not less than five days' notice provided that the Chargee has acknowledged the notice in writing.

**20.2 Addresses**

- 20.2.1 The Chargee's address for notices as at the date of this deed is: One Coleman Street, London EC2R 5AA.
- 20.2.2 The Company's address and fax number and email address for notices as at the date of this deed are: Stretton Green Distribution Park, Langford Way, Warrington, Cheshire WA4 4TZ with fax number 01925 605346 marked for the attention of Rupert Nichols.

**20.3 Non-working days**

A notice received on a non-working day or after business hours in the place of receipt shall be deemed to be served on the next following working day in that place.

**21. Law and jurisdiction**

- 21.1 This deed, and any non-contractual obligations arising out of or in connection with it, shall be governed by and construed in all respects in accordance with the laws of England.
- 21.2 For the benefit of the Chargee, the Company irrevocably agrees that the courts of England shall have jurisdiction to settle any dispute that may arise out of, or in connection with, this deed (including a dispute relating to the existence, validity or termination of this deed) and that, accordingly, any suit, action or proceedings (together in this clause referred to as 'proceedings') arising out of, or in connection with, this deed may be brought in such courts. The Company further agrees not to initiate any proceedings against the Chargee in any jurisdiction other than the courts of England.
- 21.3 The Company irrevocably waives any objection it may have now or hereafter to the courts referred to in the preceding clause being nominated as the forum to hear any proceedings and further waives any claim it may have now or hereafter that any such proceedings have been brought in any inconvenient forum, and in addition irrevocably agrees that a judgment in any proceedings brought in the English courts shall be conclusive and binding upon it and may be enforced in the courts of any other jurisdiction.
- 21.4 Nothing contained in this clause shall limit the right of the Chargee to take proceedings against the Company in any other court of competent jurisdiction, nor shall the taking of proceedings in one or more jurisdictions preclude the taking of proceedings in any other jurisdiction, whether concurrently or not.

**IN WITNESS** of which this Chattel Mortgage has been executed and delivered as a Deed.

## **SCHEDULE**

### **The Chattels**

Two Leibherr 35 tonne rail mounted container gantry cranes with serial numbers IR1399 and IR1400.

Two Leibherr S230L (RT) super stacking container cranes with serial numbers IR1651 and IR1652.

EXECUTED AS A DEED by )

as a director of **EDDIE STOBART LIMITED** in )  
the presence of: )

.....  
Director

Witness Name:

Witness Signature:

Signed as a deed by .....

*Charles Walker*

[Name of Attorney]

Signature of Attorney

as attorney for **LEGAL AND GENERAL ASSURANCE  
(PENSIONS MANAGEMENT) LIMITED**  
in the presence of:



.....  
Witness signature

*L. Blooming*

Witness Name

*1 Coleman Street*

*London*

.....  
Witness address

EXECUTED AS A DEED by *RUGERS NICHOLS* )  
as a director of EDDIE STOBART LIMITED in )  
the presence of: )

X *[Signature]*  
.....  
Director

Witness Name: X  
Witness Signature: *[Signature]*  
**Ian Mannering**  
**28 Callan Crescent**  
**Formby**  
**L37 6EZ**  
**Solicitor**

Signed as a deed by .....

.....  
[Name of Attorney]  
Signature of Attorney  
as attorney for LEGAL AND GENERAL ASSURANCE  
(PENSIONS MANAGEMENT) LIMITED  
in the presence of:

*[Signature]*  
.....  
Witness signature  
*[Signature]*  
.....

Witness Name **Ian Mannering**  
**28 Callan Crescent**  
**Formby**  
**L37 6EZ**  
**Solicitor**

.....  
Witness address