

# MR01

## Particulars of a charge



400035 / 13

**A fee is payable with this form.**  
Please see 'How to pay' on the  
last page

**You can use the WebFiling service to file this form online.**  
Please go to [www.companieshouse.gov.uk](http://www.companieshouse.gov.uk)

☒ **What this form is for**  
You may use this form to register  
a charge created or evidenced by  
an instrument

☒ **What this form is NOT for**  
You may not use this form to  
register a charge where there is no  
instrument Use form MR08

For further information, please  
refer to our guidance at  
[www.companieshouse.gov.uk](http://www.companieshouse.gov.uk)

This form **must be delivered to the Registrar for registration within 21 days** beginning with the day after the date of creation of the charge delivered outside of the 21 days it will be rejected unless it is accompanied by a court order extending the time for delivery

☒ You **must** enclose a certified copy of the instrument with this form. This  
scanned and placed on the public record

TUESDAY



A05 \*A31YYY7M\* #215  
18/02/2014  
COMPANIES HOUSE

### 1 Company details

Company number 02020423

Company name in full Durham Tees Valley Airport Limited

For official use  
5  
→ **Filing in this form**  
Please complete in typescript or in  
bold black capitals  
All fields are mandatory unless  
specified or indicated by \*

### 2 Charge creation date

Charge creation date 14/02/2014

### 3 Names of persons, security agents or trustees entitled to the charge

Please show the names of each of the persons, security agents or trustees  
entitled to the charge

Name The Council of The Borough of Middlesbrough

Name

Name

Name

If there are more than four names, please supply any four of these names then  
tick the statement below

☐ I confirm that there are more than four persons, security agents or  
trustees entitled to the charge

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**Description**

Please give a short description of any land (including buildings), ship, aircraft or intellectual property registered (or required to be registered) in the UK which is subject to this fixed charge or fixed security

**Continuation page**

Please use a continuation page if you need to enter more details

Description

The freehold land situate at and known as St George Hotel, Durham Tees Valley Airport, Darlington DL2 1RH and registered at the Land Registry under Title Number DU100407

5

**Fixed charge or fixed security**

Does the instrument include a fixed charge or fixed security over any tangible or intangible (or in Scotland) corporeal or incorporeal property not described above? Please tick the appropriate box

☒ Yes

☐ No

6

**Floating charge**

Is the instrument expressed to contain a floating charge? Please tick the appropriate box

☐ Yes Continue

☒ No Go to **Section 7**

Is the floating charge expressed to cover all the property and undertaking of the company?

☐ Yes

7

**Negative Pledge**

Do any of the terms of the charge prohibit or restrict the chargor from creating any further security that will rank equally with or ahead of the charge? Please tick the appropriate box

☒ Yes

☐ No

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**Trustee statement ①**

You may tick the box if the company named in Section 1 is acting as trustee of the property or undertaking which is the subject of the charge

☐

① This statement may be filed after the registration of the charge (use form MR06)

9

**Signature**

Please sign the form here

Signature

Signature

X Nabarro LLP as solicitors for The Council of  
The Borough of Middlesbrough X

This form must be signed by a person with an interest in the charge

# MR01

## Particulars of a charge



### Presenter information

We will send the certificate to the address entered below. All details given here will be available on the public record. You do not have to show any details here but, if none are given, we will send the certificate to the company's Registered Office address.

Contact name AC/DSZ/NIW/T1488/00056

Company name Nabarro LLP

Address 1 South Quay

Victoria Quays

Post town Sheffield

County/Region

Postcode S 2 S Y

Country

DX DX712550 Sheffield 20

Telephone



### Certificate

We will send your certificate to the presenter's address if given above or to the company's Registered Office if you have left the presenter's information blank.



### Checklist

We may return forms completed incorrectly or with information missing.

Please make sure you have remembered the following.

- ☐ The company name and number match the information held on the public Register
- ☐ You have included a certified copy of the instrument with this form
- ☐ You have entered the date on which the charge was created
- ☐ You have shown the names of persons entitled to the charge
- ☐ You have ticked any appropriate boxes in Sections 3, 5, 6, 7 & 8
- ☐ You have given a description in Section 4, if appropriate
- ☐ You have signed the form
- ☐ You have enclosed the correct fee
- ☐ Please do not send the original instrument, it must be a certified copy



### Important information

Please note that all information on this form will appear on the public record.



### How to pay

A fee of £13 is payable to Companies House in respect of each mortgage or charge filed on paper.

Make cheques or postal orders payable to 'Companies House'.



### Where to send

You may return this form to any Companies House address. However, for expediency, we advise you to return it to the appropriate address below.

**For companies registered in England and Wales**  
The Registrar of Companies, Companies House,  
Crown Way, Cardiff, Wales, CF14 3UZ  
DX 33050 Cardiff

**For companies registered in Scotland.**  
The Registrar of Companies, Companies House,  
Fourth floor, Edinburgh Quay 2,  
139 Fountainbridge, Edinburgh, Scotland, EH3 9FF  
DX ED235 Edinburgh 1  
or LP - 4 Edinburgh 2 (Legal Post)

**For companies registered in Northern Ireland.**  
The Registrar of Companies, Companies House,  
Second Floor, The Linenhall, 32-38 Linenhall Street,  
Belfast, Northern Ireland, BT2 8BG  
DX 481 N R Belfast 1



### Further information

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This form is available in an alternative format. Please visit the forms page on the website at [www.companieshouse.gov.uk](http://www.companieshouse.gov.uk)



**FILE COPY**

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

Company number: 2020423

Charge code: 0202 0423 0005

The Registrar of Companies for England and Wales hereby certifies that a charge dated 14th February 2014 and created by DURHAM TEES VALLEY AIRPORT LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 18th February 2014

Qp

Given at Companies House, Cardiff on 19th February 2014



**Companies House**



**THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES**

DATED 14TH FEBRUARY 2014 ~~2013~~

DURHAM TEES VALLEY AIRPORT LIMITED

and

THE COUNCIL OF THE BOROUGH OF MIDDLESBROUGH

---

LEGAL MORTGAGE

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N A B A R R O

1 South Quay  
Victoria Quays  
Sheffield S2 5SY

Tel +44(0)114 279 4000

WE CERTIFY the within to be a  
true copy of the original  
*Nabarro LLP*  
Dated 17/02 2014  
File T1488 NABARRO LLP  
Ref: -56 1 South Quay, Victoria Quays  
Sheffield S2 5SY

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## LEGAL MORTGAGE

DATE 14 TH FEBRUARY 2014 2013

### PARTIES

- (1) DURHAM TEES VALLEY AIRPORT LIMITED (incorporated and registered in England and Wales under company registration number 2020423), the registered office of which is at Peel Dome, The Trafford Centre, Manchester M17 8PL (formerly known as Teesside International Airport Limited) (the "**Chargor**"), and
- (2) THE COUNCIL OF THE BOROUGH OF MIDDLESBROUGH (as the administering authority of the Teesside Pension Fund) of P O Box 99, Middlesbrough TS1 2XP (the "**Authority**")

### RECITALS

- (A) The Authority is an administering authority (within the meaning of the Regulations) of the Local Government Pension Scheme and maintains the Teesside Pension Fund (the "**Scheme**")
- (B) The Chargor and the Authority entered into the Admission Agreement (as defined below) to permit the participation of the Eligible Employees (as defined below) in the Scheme
- (C) In accordance with clause 6A of the Admission Agreement, the Admission Body is required to put in place and, until the later of the termination of the Admission Agreement and the date on which the Admission Body has discharged all its liabilities under the Admission Agreement, maintain a Legal Charge in favour of the Authority sufficient to cover the Secured Liabilities (as defined below)
- (D) The Chargor is the owner of the Property (as defined below) The Chargor has agreed to enter into a legal charge over the Property in favour of the Authority on the terms of this deed by way of security for the Secured Liabilities

### IT IS AGREED AS FOLLOWS.

#### 1. DEFINITIONS AND INTERPRETATION

##### 1.1 Definitions

In this deed

**"Administration Regulations"**

means the Local Government Pension Scheme (Administration) Regulations 2008, as amended, superseded or re-enacted from time to time,



**"Admission Agreement"**

means the admission agreement dated 1 April 2003 between (i) the Authority (as the administering authority of the Scheme), (ii) the persons named in Appendix I to that agreement and (iii) the Chargor, and as amended by a deed of variation dated *20 December* 2013,

**"Best Value Agreement"**

means the services or assets of the Chargor in connection with running Teesside airport following a transfer scheme which became operational on 1 April 1987,

**"Charged Property"**

means all assets mortgaged, charged or assigned by this deed,

**"Eligible Employees"**

mean those employees entitled to participate in the Scheme from time to time in accordance with the terms of the Admission Agreement,

**"Encumbrance"**

means any mortgage, charge (whether fixed or floating, legal or equitable), pledge, lien, assignment by way of security or other security interest securing any obligation of any person, or any other agreement or arrangement having a similar effect,

**"Enforcement Event"**

means the occurrence of any of the following events

- (a) a failure by the Chargor to pay any Secured Liability on the date on which it is due,
- (b) a failure by the Chargor to pay on demand any Secured Liability which is payable on demand,
- (c) any event by virtue of which any Secured Liability becomes due before the date on which it would otherwise be due for payment,
- (d) the Chargor becoming insolvent, being wound up or being put into liquidation (or any formal step being taken in relation to the insolvency, winding up or liquidation of the Chargor),

**"Environmental Law"**

means any law or requirement, code of practice, circular, guidance note, licence, consent or permission made or given under any law concerning the protection of the environment or human health, the condition of any land or of any place of work or the production, storage, treatment, transport or disposal of any substance capable of causing harm to any living organism or the environment,

**"Hotel Guests"**

means any and all persons who stay at the Property as paying guests on appropriate terms and conditions, in accordance with the Management Agreement

and otherwise in the ordinary course of business of a hotel and who have no other occupational right or interest in the Property,

**"Lease"**

includes any underlease, tenancy, letting, licence, any document supplemental or collateral to any of them and any agreement to enter into any of them and the expression tenant will be construed accordingly,

**"LPA"**

means the Law of Property Act 1925,

**"Management Agreement"**

means the management agreement dated 27 August 2013 between (1) the Chargor (as owner) and (2) Peel Leisure Holdings Limited (now known as Peel Leisure Group Limited) (as operator) under which the Property is operated as a hotel under the name "St George's Hotel",

**"Net Proceeds"**

means (a) 100 per cent of the gross proceeds of a Sale (including any premium in respect of the grant of a Lease) or of any other dealings in any interest in all or any part of the Property less (b) solicitors' and agents' fees, disbursements, value added tax and any other necessary expenses agreed by the Authority in writing prior to completion of such Sale,

**"Permitted Encumbrance"**

means any Encumbrance created in favour of or with the prior written consent of the Authority,

**"Property"**

means the freehold land situate at and known as St George Hotel, Durham Tees Valley Airport, Darlington DL2 1RH and registered at the Land Registry under Title Number DU100407,

**"Receiver"**

means any receiver appointed over any Charged Property whether under this deed or by order of the court on application by the Authority and includes a receiver and manager,

**"Regulations"**

means the Local Government Pension Scheme Regulations 1997, the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007, the Local Government Pension Scheme (Transitional Provisions) Regulations 2008 and the Administration Regulations,

**"Sale"**

means in relation to any part of the Property the sale of the freehold or the grant of a Lease at a premium and "Sold" shall be construed accordingly,

**"Secured Liabilities"**

means all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally and in any capacity whatsoever) of the Chargor to make payments to the Scheme including, without limitation, all employer and employee contributions, other payments (including interest payable under the Regulations), sums and costs due to the Authority (as the administering authority of the Scheme) under the Admission Agreement and/or the Regulations in respect of Eligible Employees and former Eligible Employees or otherwise arising during the Chargor's participation in the Scheme and/or on or from the variation or termination of the Best Value Arrangement or the Admission Agreement having taken actuarial advice as to the quantum of all such sums being properly and reasonably due from the Chargor,

**"Security Documents"**

means this deed and any other document which grants security rights or rights by way of guarantee and/or indemnity or other assurance against loss in respect of the Secured Liabilities,

**"Tax"**

means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same), and

**"Valuation"**

means the valuation of the Property by GVA Grimley Limited dated 14 August 2013

**1 2      Incorporation**

This deed incorporates the terms of the Admission Agreement and any side letters between the parties to the extent required to ensure the validity of any purported disposition under this deed of any freehold or leasehold property under section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989

**1 3      Interpretation**

1 3 1      References to the "Authority" include its successors, assigns and transferees

1 3 2      The expression the "Chargor" includes a person deriving title under the Chargor or entitled to redeem the Encumbrances created by this deed

1 3 3      Any reference to the "Admission Agreement" or any other agreement or instrument is a reference to the Admission Agreement or other agreement or instrument as amended, supplemented or novated from time to time

1 3 4      Any reference to a provision of law or Regulation is a reference to that provision or Regulation as amended, supplemented, superseded or re-enacted from time to time

1 3 5      The singular includes the plural and vice versa

1 3 6      Any reference to clauses, paragraphs and schedules is to the clauses, paragraphs of and schedules to this deed

- 1 3 7 Any reference to **"this clause"** is to the clause headed by a whole number in which such expression appears and includes each sub-clause with a decimal number beginning with the same whole number
- 1 3 8 Any reference to any gender includes other genders
- 1 3 9 The words **"including"** and **"in particular"** are to be construed as being by way of illustration or emphasis only and are not to be construed so as to limit the generality of any words preceding them
- 1 3 10 The words **"other"** and **"otherwise"** are not to be construed as being limited by any words preceding them
- 1 3 11 Clause and schedule headings are for ease of reference only
- 1 3 12 References to **"liabilities"** include present and future, actual and contingent liabilities
- 1 3 13 References to **"assets"** include present and future property, revenues and rights of every description
- 1 3 14 References to any asset include any proceeds of sale of any such asset
- 1 3 15 References to any freehold or leasehold property include
- (a) buildings, fixtures, fittings, fixed plant and machinery on such property, and
  - (b) rights under any contract for the purchase of such property and damages payable in respect of any such contract
- 1 3 16 Any covenant made by or obligation imposed on the Chargor in this deed will continue in force until the Authority is satisfied that all of the Secured Liabilities have been irrevocably paid in full (and, for the purposes of this clause 1 3 16, this will be deemed to be the case when the amount shown in the Scheme actuary's rates and adjustments certificate has been paid in full)

## **2. PAYMENT OF SECURED LIABILITIES**

- 2 1 The Chargor shall, on demand, pay and discharge the Secured Liabilities when they become due
- 2 2 The Chargor shall pay interest in accordance with Regulation 44 of the Administration Regulations on any amounts due under **clause 2 1** above from day to day until full discharge (whether before or after judgment, liquidation, winding-up or administration of the Chargor)

## **3. FIXED SECURITY**

As continuing security for the payment of the Secured Liabilities, the Chargor with full title guarantee

- 3 1 charges to the Authority by way of legal mortgage the Property and all fixtures and fittings forming part of the Property, and
- 3 2 charges to the Authority by way of fixed charge its interest in any present and future insurances in respect of any Charged Property and the proceeds of such insurances

#### **4. PROCEEDS OF SALES**

In the event that the Property (or any part of the Property) is Sold (with the consent of the Authority), the Net Proceeds of such Property or such part of the Property shall be paid to the Authority (or into such bank account as the Authority shall direct) to be applied in or towards payment of any costs, fees and expenses due to the Authority under this deed, then in discharge of the Secured Liabilities and the balance (if any) will then be applied as required by law (if applicable) or will be returned promptly to the Chargor

#### **5. REPRESENTATIONS AND WARRANTIES**

##### **5 1 Representations and warranties**

The Chargor represents and warrants to the Authority as set out in this clause 5

##### **5 2 Duration and scope**

The representations and warranties set out in this clause 5 will be deemed to be repeated by the Chargor on each day until the Secured Liabilities have been paid in full in relation to the then existing circumstances

##### **5 3 Status**

5 3 1 It is a limited liability company, duly incorporated and validly existing under the law of England and Wales

5 3 2 It has the power to own its assets and carry on its business in England and Wales as it is being conducted

##### **5 4 Binding obligations**

The obligations expressed to be assumed by it in this deed are its legal, valid, binding and enforceable obligations (subject to any bankruptcy, liquidation, administration, insolvency or other similar law which affects the rights of creditors generally)

##### **5 5 Non-conflict with other obligations**

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

5 5 1 any law or regulation applicable to it,

5 5 2 its constitutional documents, or

5 5 3 any agreement or instrument binding upon it or any of its assets

##### **5 6 Power and authority**

It has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, this deed and the transactions contemplated by this deed

**5 7      Validity and admissibility in evidence**

All authorisations, consents, approvals, resolutions, licences, exemptions, filings, registrations and notarisations required or desirable

5 7 1      to enable it lawfully to enter into, exercise its rights and comply with its obligations in this deed, and

5 7 2      to make this deed admissible in evidence in its jurisdiction of incorporation,  
have been obtained or effected and are in full force and effect

**5 8      No filing or stamp taxes**

Under the law of England and Wales it is not necessary that this deed be filed, recorded or enrolled with any court or other authority in England other than registration at the Land Registry and under the Companies Act 2006 or that any stamp, registration or similar tax be paid on or in relation to this deed or the transactions contemplated by this deed other than payment of the appropriate registration fees at the Land Registry and Companies House

**5 9      Encumbrances**

There are no Encumbrances over any of the Charged Property except for Permitted Encumbrances

**5 10     Security Documents**

This deed creates valid first priority Encumbrances over the Charged Property

**5 11     Ownership of Charged Property**

It is the legal and beneficial owner of the Charged Property mortgaged, charged or assigned by it under this deed

**5 12     The Property**

5 12 1      The Property is free from any Lease but is subject to the Management Agreement

5 12 2      It has not received or acknowledged notice of any adverse claim by any person in respect of the Property or any interest in it

5 12 3      To the best of its knowledge and belief having made due and proper enquiries, there is no material breach of any law in respect of the Property

5 12 4      There are no covenants, agreements, reservations, conditions, interests, rights or other matters whatever which materially adversely affect the use of the Property as a hotel

5 12 5      No facility necessary for the enjoyment and use of the Property is subject to terms entitling any person to terminate or curtail its use

5 12 6      Nothing has arisen or has been created or is subsisting which would be an overriding interest over the Property

5 12 7      To the best of its knowledge and belief having made due and proper enquiries, no high alumina cement, asbestos or asbestos-based products or other deleterious materials generally known at the time of use to be deleterious to health and safety or to the

durability of the Property in the particular circumstances in which it is used has been or shall be used in the construction of or any alterations or additions to the Property

- 5 12 8 To the best of its knowledge and belief having made due and proper enquires, no contaminative use has been or is being carried on at or within the vicinity of the Property
- 5 12 9 No dangerous substance is being or shall be used, generated, stored, transported, treated, dumped, released, deposited, buried, emitted or disposed of at, on, from or under the Property in circumstances where this might result in any environmental claim on the Chargor or any occupier of any of the Property or which might materially and adversely affect the open market realisable value or marketability of the Property
- 5 12 10 To the best of its knowledge and belief having made due and proper enquiries, it is not aware of any breach of Environmental Law
- 5 12 11 Any licences required under any Environmental Law in relation to the Property have been obtained by it and are valid and subsisting
- 5 12 12 It has no notice of any claim under any Environmental Law or of any circumstances which might result in such a claim applicable to the Property or any occupier of the Property or otherwise which might materially and adversely affect the open market realisable value or marketability of the Property

## **6. NEGATIVE COVENANTS**

- 6 1 Subject to clause 6 2, the Chargor shall not, except with the prior written consent of the Authority
- 6 1 1 sell, transfer, lease or otherwise dispose or purport or agree to sell, transfer, lease or otherwise dispose of any interest in or grant any licence or other right over any Charged Property, or
- 6 1 2 create, agree to create or allow to arise or remain outstanding any Encumbrance over any Charged Property other than Permitted Encumbrances
- 6 2 The Authority's consent shall not be required in relation to Hotel Guests occupying the Property

## **7. COVENANTS RELATING TO THE CHARGED PROPERTY**

### **7 1 Repair**

- 7 1 1 The Chargor shall
- (a) keep the Property in no worse a state of repair than it is in as at the date of this deed as evidenced by the Valuation, and
  - (b) not, without the prior written consent of the Authority, make any structural alterations or additions to or carry out any development on the Property
- 7 1 2 If the Chargor fails to comply with the covenants in this clause 7, the Authority will be entitled to repair and maintain the Property and carry out works of reinstatement at the cost of the Chargor (to be reimbursed upon demand) and will for this purpose have the rights of entry set out in this clause 7

## **7 2 Insurance**

- 7 2 1 The Chargor shall keep the Property insured in the joint names of the Authority and the Chargor against all risks which a prudent person carrying on a business similar to that of the Chargor would reasonably insure against on a full reinstatement basis and against all professional fees, value added tax, demolition and site clearance charges and loss of rental and other income derived from the Property
- 7 2 2 All such insurances shall be in amount and form and with insurers acceptable to the Authority (acting reasonably) and the Chargor shall as soon as reasonably practicable after receiving a request produce the policy and the last receipt for such insurances to the Authority and shall apply all moneys received by virtue of such insurances either in making good the loss or damage in respect of which the moneys were received or at the option of the Authority in or towards payment of the Secured Liabilities. If the Chargor fails to comply with this **clause 7** the Authority will be entitled to effect any relevant insurance at the cost of the Chargor
- 7 2 3 The Chargor shall ensure that every insurance policy in relation to the Property contains a clause (in terms satisfactory to the Authority acting reasonably) under which such insurance will not be prejudiced, vitiated or avoidable as against a mortgagee in the event of any misrepresentation, act or neglect or failure to disclose on the part of the insured party or parties (subject to the payment of any increased premium required by the insurer) and will not be invalidated as against a mortgagee for failure to pay any premium owing without the insurer giving to the Authority 10 working days' prior written notice
- 7 2 4 Promptly after the execution of this deed, the Chargor shall give notice of the charge of the insurances in this deed to its insurer and shall use reasonable endeavours to procure that such insurer executes and delivers to the Authority an acknowledgement of such notice. Both such notice and acknowledgement must be in form and substance satisfactory to the Authority

## **7 3 Proprietorship**

The Chargor shall not permit any person

- 7 3 1 to be registered as proprietor under the Land Registration Act 2002 of the Property nor create or permit to arise any overriding interest (as defined in such Act) affecting the Property, or
- 7 3 2 to become entitled to any proprietary right or interest which might affect the value of the Property

## **7 4 Powers of leasing**

- 7 4 1 Subject to clause 7 4 2, the Chargor's statutory and any other powers of entering into Leases and accepting or agreeing to accept surrenders of Leases are excluded and shall not be exercisable by the Chargor in relation to the Property and the Chargor shall not without the prior written consent of the Authority
- (a) part with possession or occupation of, confer any licence or right to occupy nor confer any interest in the Property,
  - (b) grant any permission to assign, underlet or part with possession or occupation of the Property,
  - (c) agree or permit any amendment to or waiver of the terms of any Lease, or



(d) exercise any power to determine any Lease

7 4 2 Nothing contained in clause 7 4 1 shall prevent or restrict the ability of the Chargor (or the ability of its operator, under the Management Agreement) to rent rooms at the Property to Hotel Guests

**7 5 Power of entry**

The Chargor shall permit the Authority, its agents and contractors at reasonable times and upon reasonable notice (or at any time without notice after the occurrence of an Enforcement Event or in case of emergency) to enter into or upon the Property without becoming liable as mortgagee in possession

7 5 1 to view the state and condition of or to value it,

7 5 2 to comply with or object to any direction or notice or other matter served upon the Chargor, and

7 5 3 to carry out at the expense of the Chargor any repairs or maintenance or to take any action which the Authority considers necessary or desirable in connection with the Property to procure compliance with any covenant or obligation set out in this deed

**7 6 Compliance with obligations**

The Chargor shall, in respect of the Property

7 6 1 pay all rents, rates, outgoing and other sums payable and observe and comply with any covenants, stipulations and conditions binding on the Chargor,

7 6 2 enforce all tenant's obligations under any Lease over any of the Property,

7 6 3 comply with all obligations under any law and produce to the Authority within seven days of receipt every notice, order or proposal given or made by any competent authority and make any obligations and representations against it as the Authority may require or approve,

7 6 4 not commit any waste which injures or lessens the value of the Property,

7 6 5 not detach or allow any fixture to be detached from the Property except for the purpose of replacing it by another of at least equal value

**7 7 Environmental Law**

The Chargor shall properly discharge all duties of care and responsibilities placed upon it by Environmental Law and observe and perform all the requirements of Environmental Law both in the conduct of its general business and in the management possession or occupation of the Property and shall apply for and obtain all authorisations, licences and consents necessary to ensure that it does not knowingly breach Environmental Law

## **8. ENFORCEMENT OF SECURITY**

### **8 1 Powers arising**

Section 103 of the LPA will not apply to this deed and the power of sale and all other powers conferred by section 101 of the LPA as varied or extended by this deed will arise upon execution of this deed by the Chargor

### **8 2 Possession**

The Authority shall be entitled by notice to the Chargor to end the Chargor's right to possession of all or any part of the Charged Property and to enter into possession of all or such part of the Charged Property immediately upon or at any time after an Enforcement Event has occurred

### **8 3 Powers exercisable**

The power of sale and all other powers conferred by section 101 of the LPA as varied or extended by this deed will be exercisable immediately upon or at any time after an Enforcement Event has occurred

### **8 4 Appointment of Receiver**

8 4 1 At the request of the Chargor or at any time after the occurrence of an Enforcement Event the Authority may appoint by writing a receiver and/or manager of any Charged Property upon such terms as to remuneration and otherwise as the Authority thinks fit

8 4 2 Any Receiver will be the agent of the Chargor for all purposes and the Chargor will be responsible for such Receiver's acts and defaults and for his remuneration, costs, fees, taxes and expenses to the exclusion of liability on the part of the Authority

8 4 3 Where two or more persons are appointed as Receivers under or pursuant to this deed any act authorised to be done by the Receivers may be done by all of them acting jointly or by any one or more of them acting severally

### **8 5 Removal of Receiver**

The Authority may at any time by writing remove any Receiver (subject to the obtaining of any required order of the court in the case of an administrative receiver) whether or not the Authority appoints any other person as Receiver in his place

## **9. POWERS OF RECEIVER AND AUTHORITY**

### **9 1 Statutory powers**

A Receiver shall have and be entitled to exercise all the powers conferred on a receiver by the LPA and, whether or not such a Receiver is an administrative receiver, all the powers conferred upon an administrative receiver by Schedule 1 to the Insolvency Act 1986 provided that references in that Schedule to the "property of the Company" will be deemed to be references to the Charged Property for the purposes of this deed

**9 2 Additional powers**

By way of addition to and without limiting any other powers referred to in this **clause 9 a** Receiver shall have power (both before and after the commencement of any liquidation of the Chargor) to do every act and thing and exercise every power

9 2 1 which the Chargor would have been entitled to do or exercise if no Receiver had been appointed, and

9 2 2 which such Receiver in his absolute discretion considers necessary or desirable for maintaining or enhancing the value of any Charged Property or for or in connection with the enforcement of the Encumbrances created by this deed or the realisation of any Charged Property,

and may use the name of the Chargor in connection with any exercise of such powers

**9 3 Exercise of powers by Authority**

After the occurrence of an Enforcement Event, all the powers conferred on a Receiver by this deed, the LPA and the Insolvency Act 1986 may be exercised by the Authority whether or not the Authority goes into possession as mortgagee

**9 4 Prior Encumbrances**

At any time after the security given by this deed has become enforceable, the Authority may redeem any prior Encumbrance against the Charged Property or procure a transfer of such Encumbrance to itself and may agree the accounts of the person entitled to that Encumbrance and any accounts so agreed will be binding on the Chargor. Any money paid by the Authority in connection with a redemption or transfer of a prior encumbrance will form part of the Secured Liabilities

**10. DELEGATION OF POWERS BY AUTHORITY OR RECEIVER**

**10 1 Delegation**

The Authority or any Receiver may from time to time delegate by power of attorney or in any other manner to any person the powers, authorities and discretions which are for the time being exercisable by the Authority or a Receiver under this deed in relation to any Charged Property and any such delegation may be made upon such terms as the Authority or such Receiver may think fit. Neither the Authority nor any Receiver will be in any way liable or responsible to the Chargor for any loss or damage arising from any act or omission on the part of any such delegate

**10 2 Possession**

If the Authority, any Receiver or any delegate of the Authority or any Receiver enters into possession of any Charged Property any of them may from time to time go out of possession

## **11. EXCLUSION OF LIABILITY**

### **11 1 Liability to account**

The Authority will not in any circumstances by reason of it taking possession of any Charged Property or for any other reason whatever, and whether as mortgagee in possession or on any other basis whatever, be liable to account to the Chargor for anything except the Authority's own actual receipts or be liable to the Chargor for any loss or damage arising from any realisation of any Charged Property or from any act, default or omission of the Authority in relation to any Charged Property or from any exercise or non-exercise by the Authority of any power, authority or discretion conferred upon it in relation to any Charged Property by or pursuant to this deed or by the LPA unless such loss or damage is caused by the Authority's own fraud

### **11 2 Losses on enforcement**

Upon the sale of any Charged Property on enforcement of the Encumbrances created by this deed, the Chargor will not have any right or claim against the Authority in respect of any loss arising out of such sale however such loss may have been caused and whether or not a better price could or might have been obtained on the sale of such Charged Property by either deferring or advancing the date of such sale or for any other reason

### **11 3 No obligation to recover**

The Authority is not under any obligation to take action to collect any money or enforce any rights comprised in the Charged Property

### **11 4 Application to Authority and Receiver**

The provisions of this clause 11 will apply in relation to the liability of any Receiver and any delegate of the Authority or any Receiver in all respects as though every reference in this clause 11 to the Authority were reference to such Receiver or (as the case may be) to such delegate

## **12 REIMBURSEMENT AND INDEMNITY**

### **12 1 Reimbursement**

Any sums paid or expended by the Authority or any Receiver either

12 1 1 as a result of the Authority or any Receiver taking action which the Authority or any Receiver considers necessary or desirable in connection with any Charged Property or to procure compliance with any covenant or obligation on the part of the Chargor contained in any Security Document, or

12 1 2 which is in respect of any action or thing expressed in this deed to be done at the cost of the Chargor,

and all costs, fees, taxes and expenses incurred by the Authority or any Receiver under or in connection with this deed or its enforcement and/or the preservation of the Authority's rights under this deed shall be reimbursed by the Chargor to the Authority on demand. The Authority will also be entitled to charge the Chargor a reasonable fee to recover the cost of

management time spent in connection with the preservation of its rights under this deed which will be payable by the Chargor on demand

**12 2 Indemnity**

The Chargor shall indemnify the Authority (whether or not acting as mortgagee in possession) and any Receiver against all liabilities, claims and expenses whether arising out of contract or in tort or in any other way (including any liability of the Authority or any Receiver under any Environmental Law) which may at any time be incurred by either of them (or by any person for whom they may be vicariously liable) in connection with this deed or for anything done or omitted to be done in the exercise or purported exercise of their powers pursuant to this deed

**12 3 Secured Liabilities**

All moneys payable by the Chargor under this clause 12 will form part of the Secured Liabilities and if unpaid will bear interest (both before and after judgment) as set out in Regulation 44 of the Administration Regulations and will form part of the Secured Liabilities

**13. APPLICATION OF SUMS REALISED**

Subject to claims having priority to the Encumbrances created by this deed all moneys received by the Authority or any Receiver will be applied in the following order

- 13 1 in payment of all costs, fees, taxes and expenses incurred by the Authority or any Receiver in or pursuant to the exercise of the powers set out in this deed and of all other outgoings properly payable by any Receiver,
- 13 2 in payment of remuneration to any Receiver,
- 13 3 in or toward payment of the Secured Liabilities, and
- 13 4 the balance (if any) will be applied as required by law

**14. PROTECTION OF PERSONS DEALING WITH AUTHORITY OR RECEIVER**

No person dealing with the Authority or any Receiver will be concerned to enquire

- 14 1 whether any event has happened upon which any of the powers contained in this deed may have arisen or be exercisable,
- 14 2 otherwise as to the propriety or regularity of any exercise of the powers conferred by this deed or of any act purporting or intended to be in exercise of such powers, or
- 14 3 whether any Secured Liabilities remain owing

**15. NOTICE OF SUBSEQUENT CHARGE**

If the Authority receives notice of any subsequent Encumbrance or other interest affecting any Charged Property it may open a new account for the Chargor in its books and may transfer any outstanding balance owing by the Chargor to such new account. If the Authority does not do so

then, unless it gives express written notice to the contrary to the Chargor, all payments made by the Chargor to the Authority will as from the time of receipt of such notice by the Authority be treated as having been credited to a new account of the Chargor and not as having been applied in reduction of the Secured Liabilities

## **16 FURTHER ASSURANCE**

### **16 1 Execution of further documents**

As and when required by the Authority or any Receiver the Chargor, at its own cost, shall (and shall procure that every party other than the Authority to any Security Document shall)

- 16 1 1 execute such further legal or other mortgages, charges or assignments in favour of the Authority as the Authority or any Receiver from time to time requires over any Charged Property to secure the Secured Liabilities such further mortgages, charges or assignments to be prepared at the cost of the Chargor and to contain a power of sale which arises immediately upon execution, a clause excluding section 93 of the LPA and the restrictions contained in section 103 of the LPA and such other clauses for the benefit of the Authority as the Authority may reasonably require,
- 16 1 2 execute and do all such assurances, deeds, documents, acts and things as the Authority or any Receiver may require for perfecting or protecting the mortgages, charges and assignments created by this deed or any Security Document and for facilitating or effecting any dealing by the Authority or any Receiver under any authorities or powers granted under any Security Document, and
- 16 1 3 upon or with a view to assisting in any enforcement of any mortgage, charge or assignment created by this deed convey, transfer, assign or otherwise deal with any Charged Property in such manner as the Authority or any Receiver may require

### **16 2 Documents of title**

The Chargor shall deposit with the Authority the deeds and documents of title relating to the Charged Property

## **17. POWER OF ATTORNEY BY CHARGOR**

The Chargor irrevocably and by way of security appoints each of the Authority, any person authorised in writing by or on behalf of the Authority and any Receiver its attorney in each case (with full power to appoint substitutes and to delegate) severally in its name and on its behalf to execute any document or do any act or thing which the Chargor is entitled to execute or do in relation to the Charged Property including giving a receipt for any money and exercising any rights or remedies forming part of the Charged Property or which the Chargor is obliged to execute or do under any Security Document or which the Authority or the Receiver (or any substitute or delegate) may in their absolute discretion consider appropriate

- 17 1 in connection with the exercise of any of their rights or powers arising under or by virtue of any Security Document, the LPA or the Insolvency Act 1986, or

- 17 2 to perfect, vest in or assure to the Authority any security for the Secured Liabilities granted to the Authority or which the Authority may require to have granted to it under any Security Document

## **18. DISCHARGE OF SECURITY**

### **18 1 Discharge conditional**

Any discharge of the Chargor made by the Authority in reliance on a payment or Security Document given by another person will be of no effect if that payment or Security Document is avoided, reduced or invalidated for any reason and the Authority will be entitled to recover from the Chargor on demand the amount of such payment or the value of any such Security Document

### **18 2 Retention of security**

Following any discharge of the Chargor made by the Authority in reliance on a payment or Security Document given by another person the Authority may retain the security constituted by this deed until the expiry of the maximum period within which such payment or Security Document can be avoided, reduced or invalidated for any reason provided that if such other person goes into liquidation or administration within that period the Authority may retain the security constituted by this deed for as long as it thinks fit

## **19. REDEMPTION**

After the repayment in full of the Secured Liabilities and provided that the Authority is satisfied that it is not under any obligation to provide financial accommodation to the Chargor the Authority will at the request and cost of the Chargor release the Charged Property from the Encumbrances created by this deed

## **20. COMMUNICATIONS**

### **20 1 Method of giving notices**

Any demand, notice, consent or communication made or given to a party under or in connection with this deed must be in writing and may be left at or sent by first class post to any address for service of that party or sent by fax to any fax number for service of that party referred to in this **clause 20** Any such demand will be validly made whether or not it contains a statement as to the amount of the liabilities of the Chargor under the Admission Agreement and/or the Regulations or an inaccurate or incomplete statement of such liabilities

### **20 2 Addresses for service**

The addresses and fax numbers of the parties are

#### **20 2 1 in the case of the Chargor**

Address	Peel Dome, The Trafford Centre, Manchester M17 8PL
Fax number	0161 629 8330

For the attention of The Company Secretary  
20 2 2 in the case of the Authority  
Address P O Box 99, Middlesbrough TS1 2XP  
Fax number 01642 727989  
For the attention of Pensions Manager, Teesside Pension Fund

or any substitute address or fax number or officer or department as the addressee shall have notified to the party giving the notice for this purpose In the case of the Chargor the address of its registered office or of any place where it carries on business shall also be addresses of the Chargor for the purpose of this **clause 20**

**20 3 Effectiveness**

A notice, demand or other communication made by the Authority under this deed will be effective

- 20 3 1 if left at an address referred to in this **clause 20**, when so left,  
20 3 2 if posted by first class post to an address referred to in this **clause 20**, on the next working day in the place of receipt following the day when it was posted, or  
20 3 3 if transmitted by fax to a fax number referred to in this **clause 20**, when the sending fax machine produces a print out which confirms that transmission has taken place

**20 4 Authority**

A communication to the Authority will be effective only when actually received by the Authority and then only if it is expressly marked for the attention of any department or officer specified in this **clause 20** (or any substitute department or officer as the Authority shall have specified for this purpose)

**21. ASSIGNMENT AND TRANSFER**

**21 1 Authority**

The Authority may at any time, without the consent of the Chargor, assign or transfer the whole of the Authority's rights under this deed to any successor administering authority of the Scheme

**21 2 Chargor**

The Chargor may not assign any of its rights or transfer any of its obligations under this deed or enter into any transaction which would result in any of these rights or obligations passing to another person without the consent in writing of the Authority

**21 3 Disclosure**

The Authority may disclose any information about the Chargor to any person connected to or associated with it, and to any person to whom it proposes to assign or transfer (or has assigned or transferred) any of its rights under this deed



## **22 PAYMENTS**

### **22 1 Payments to Authority**

All payments to be made by the Chargor in respect of this deed shall be made to the Authority in immediately available funds to the credit of such account as the Authority may designate

### **22 2 Deductions**

All payments by the Chargor under this deed will be made without set-off or counterclaim

### **22 3 Tax gross-up**

22 3 1 The Chargor shall make all payments to be made by it under this deed without any deduction or withholding for or on account of Tax (a "**Tax Deduction**") unless a Tax Deduction is required by law

22 3 2 The Chargor shall promptly upon becoming aware that it must make a Tax Deduction (or that there is any change in the rate or the basis of a Tax Deduction) notify the Authority accordingly

22 3 3 If a Tax Deduction is required by law to be made by the Chargor, the amount of the payment due from the Chargor shall be increased to an amount which (after making any Tax Deduction) leaves an amount equal to the payment which would have been due if no Tax Deduction had been required

22 3 4 If the Chargor is required to make a Tax Deduction, it shall make that Tax Deduction and any payment required in connection with that Tax Deduction within the time allowed and in the minimum amount required by law

22 3 5 Within 30 days of making either a Tax Deduction or any payment required in connection with that Tax Deduction, the Chargor shall deliver to the Authority evidence satisfactory to the Authority that the Tax Deduction has been made or (as applicable) any appropriate payment has been paid to the relevant taxing authority

## **23. SET-OFF**

The Authority may set off any obligation whether or not matured due from the Chargor under this deed against any obligation whether or not matured owed by the Authority to the Chargor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Authority may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off

## **24 MISCELLANEOUS**

### **24 1 Possession**

The Chargor shall be entitled to possession of the Charged Property until termination of such right by the Authority under **clause 8 2**

**24 2 Certificates and determinations**

Any certification or determination by the Authority of the amount of the Secured Liabilities is, in the absence of manifest error, conclusive evidence of such amount

**24 3 Illegality**

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

**24 4 Rights and remedies of the Authority**

No failure to exercise, nor any delay in exercising, on the part of the Authority, 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

**24 5 Counterparts**

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

**24 6 Third party rights**

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

**24 7 Effect as a Deed**

The Chargor and the Authority agree that this deed is to take effect as a deed notwithstanding that the Authority may only have executed it under hand or not at all

**24 8 Continuing security**

This deed is a continuing security and extends to the balance from time to time of the Secured Liabilities irrespective of any intermediate payment of moneys due to the Authority

**24 9 Other security**

This deed is in addition to and will not in any way be prejudiced or affected by the holding or release by the Authority or any other person of any other security at any time held by the Authority

**24 10 Consolidation**

The restrictions on the right of consolidating mortgage securities contained in section 93 of the LPA will not apply to this deed

**24 11 Land Registry application**

By executing this deed the Chargor consents to the entry of the following restriction against any registered titles (and any unregistered properties subject to compulsory first registration) which are at any time subject to this deed

*"No disposition of the registered estate by the proprietor of the registered estate or by the proprietor of any registered charge is to be registered without a written consent signed by the proprietor for the time being of the charge dated [date] in favour of the Council of the Borough of Middlesbrough referred to in the charges register or, if appropriate, signed on such proprietor's behalf by its duly authorised officer"*

**25. GOVERNING LAW AND JURISDICTION**

**25 1 Law**

This deed together with any non-contractual obligations arising of or in connection with shall be is governed by English law

**25 2 Jurisdiction of English courts**

25 2 1 The courts of England and Wales have exclusive jurisdiction to settle any dispute arising out of or in connection with this deed (including a dispute regarding the existence, validity or termination of this deed) (a "**Dispute**")

25 2 2 The Authority and the Chargor agree that the courts of England and Wales are the most appropriate and convenient courts to settle Disputes and accordingly neither of them will argue to the contrary

25 2 3 This **clause** 25 2 is for the benefit of the Authority only As a result, the Authority shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction To the extent allowed by law, the Authority may take concurrent proceedings in any number of jurisdictions

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

**EXECUTION PAGE**

## The Chargor

Executed as a deed by **DURHAM  
TEES VALLEY AIRPORT LIMITED**  
acting by two directors, one director  
and its secretary or one director in  
the presence of a witness

Director

Director/Secretary/Witness

Witness Details (if applicable)

Name

Address

Occupation

## The Authority

The Common Seal of  
THE COUNCIL OF THE  
BOROUGH OF MIDDLESBROUGH  
(as administering authority of the  
Teesside Pension Fund) was hereto  
affixed in the presence of

Authorised Signatory

8212896