



**Registration of a Charge**

Company name: **PORTERBROOK MARCH LEASING (4) LIMITED**

Company number: **02682768**



X8GCDS7K

Received for Electronic Filing: **18/10/2019**

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**Details of Charge**

Date of creation: **17/10/2019**

Charge code: **0268 2768 0003**

Persons entitled: **LUCID TRUSTEE SERVICES LIMITED**

Brief description: **NONE.**

**Contains fixed charge(s).**

**Contains negative pledge.**

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**Authentication of Form**

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

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**Authentication of Instrument**

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

Certified by: **ASHURST LLP**



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

Company number: 2682768

Charge code: 0268 2768 0003

The Registrar of Companies for England and Wales hereby certifies that a charge dated 17th October 2019 and created by PORTERBROOK MARCH LEASING (4) LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 18th October 2019 .

Given at Companies House, Cardiff on 21st October 2019

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



**Companies House**



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

## Security Trustee Substitution Deed

Crédit Agricole Corporate and Investment Bank

as Resigning Security Trustee

and

Lucid Trustee Services Limited

as New Security Trustee

and

Lloyds Bank Plc

as Facility Agent

and

Porterbrook Rail Finance Limited and others

17 October 2019

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THIS DEED is made on 17 October 2019

**BETWEEN:**

- (1) **CRÉDIT AGRICOLE CORPORATE AND INVESTMENT BANK** (the "**Resigning Security Trustee**");
- (2) **LUCID TRUSTEE SERVICES LIMITED** (the "**New Security Trustee**");
- (3) **LLOYDS BANK PLC** (the "**Facility Agent**");
- (4) **PORTERBROOK RAIL FINANCE LIMITED ("PRFL")**; and
- (5) **THE CHARGORS** listed in schedule 1 (the "**Chargors**").

**RECITALS**

- (A) The Resigning Security Trustee is currently the Security Trustee in connection with the Finance Documents. The Resigning Security Trustee is resigning its position as Security Trustee in accordance with clause 21.10 (Resignation of the Security Trustee) of the Intercreditor Agreement.
- (B) The Resigning Security Trustee has given the Finance Parties and PRFL notice of its resignation and it has been agreed that the New Security Trustee will be appointed in its place as Security Trustee in accordance with this deed.
- (C) This deed is entered into to record the substitution of the New Security Trustee for the Resigning Security Trustee in the role of Security Trustee.

**NOW THIS DEED WITNESSES AS FOLLOWS:**

**1. INTERPRETATION**

**1.1 Definitions**

In this deed, unless the context otherwise requires, the following expressions have the following meanings:

**"Cancelled Accounts"** means each of the accounts listed in part 1 of Schedule 5 (Accounts);

**"Continuing Accounts"** means each of the accounts listed in part 2 of Schedule 5 (Accounts);

**"Debenture"** means the debenture dated 21 October 2008 (as amended or supplemented from time to time), executed (or entered into by way of accession) by the Charging Companies (as defined therein) in favour of the Resigning Security Trustee in its capacity as Security Trustee;

**"Existing Security Documents"** means each of the Transaction Security Documents listed in schedule 2 (Existing Security Documents);

**"Intercreditor Agreement"** means the intercreditor agreement dated 21 October 2008 (as amended from time to time) between, among others, (1) PRFL, (2) the Finance Parties named therein, (3) the Hedge Counterparties (as defined therein), (5) the Resigning Security Trustee and others;

**"New Accounts"** means each of the accounts listed in part 3 of Schedule 5 (Accounts);

**"Notice of Substitution"** means a notice of the change of Security Trustee for delivery to such persons (including contract counterparties, insurers and bank account providers) as have received notice of charge or assignment under the Debenture or other Transaction Security Document (such notice to be substantially in the form set out in schedule 3 (Form of Substitution Notice);

**"Original Documents List"** means the documents list headed "Porterbrook – Original Documents List" as at the date immediately prior to the date of this deed with the document reference number 356220975.02;

**"Resignation Documents"** means each Notice of Substitution specified in schedule 4 (Resignation Documents) and each other document specified in that schedule; and

**"Senior Facilities Agreement"** means the facilities agreement dated 21 June 2018 (as amended from time to time) between (1) PRFL, (2) the Borrowers and Guarantors defined therein, (3) the Senior Lenders defined therein (4) the Facility Agent and (5) the Resigning Security Trustee.

- 1.2 Terms defined in the Intercreditor Agreement and not otherwise defined herein have the same meaning when used in this deed.
- 1.3 Clause 1.2 (Construction) of the Intercreditor Agreement will be deemed to be set out in full in this deed, but as if references in that clause to the Intercreditor Agreement were references to this deed.
- 1.4 The terms of the respective documents under which the obligations secured by the Transaction Security Documents arise or relating thereto are incorporated in this deed to the extent required for any purported disposition of the Charged Property contained in this deed to be a valid disposition under section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.
- 1.5 The parties intend that this document shall take effect as a deed.

## **2. SUBSTITUTION OF SECURITY TRUSTEE**

### **2.1 Appointment of New Security Trustee**

- (a) The New Security Trustee is hereby appointed as Security Trustee in place of the Resigning Security Trustee for all purposes under the Finance Documents. The New Security Trustee agrees to become a party to and agrees to be bound by the terms of the Finance Documents as if it had originally been party to the Finance Documents as Security Trustee. The New Security Trustee undertakes (subject to the terms of the Finance Documents) to perform all the obligations expressed in the Intercreditor Agreement and other Finance Documents to be assumed by the Security Trustee.
- (b) The New Security Trustee confirms that it will hold the Transaction Security and the Transaction Security Documents on the terms contained in the Intercreditor Agreement and that it will apply all payments and other benefits received by it under the Transaction Security Documents in accordance with the Intercreditor Agreement.
- (c) The parties agree and acknowledge, with the effect from the date hereof, the accession of the New Security Trustee as Security Trustee to the Intercreditor Agreement and other Finance Documents pursuant to this clause 2.

### **2.2 Assignment and Transfer**

The Resigning Security Trustee assigns and transfers absolutely to the New Security Trustee all its present and future rights, title and interests in:

- (a) the Transaction Security under the Transaction Security Documents;
- (b) the other Finance Documents,

as Security Trustee.

### **2.3 Acknowledgement of the New Security Trustee**

The New Security Trustee acknowledges and agrees to its appointment as the New Security Trustee and for the avoidance of doubt:

- (a) the New Security Trustee is appointed as trustee of the existing trusts in accordance with this clause 2 and section 36 of the Trustee Act 1925; and
- (b) the parties to this deed (other than the Resigning Security Trustee) declare that the assignment and transfer pursuant to clause 2.2 (Assignment and Transfer) shall vest all such rights, title and interests in the Transaction Security Documents and the other Finance Documents and all other rights, title and interests as Security Trustee, in each case to the fullest extent as it may, in the New Security Trustee for the purpose of section 40(1)(a) of the Trustee Act 1925.

### **2.4 Parallel Debt**

The parties to this deed confirm that as a result of the assignment and transfer pursuant to clause 2.2 (Assignment and Transfer) it is intended that the New Security Trustee is substituted for the Resigning Security Trustee for the purpose of clause 29 (Parallel Debt) of the Intercreditor Agreement and accordingly the Parallel Debt (as defined in the Intercreditor Agreement) will be owed to the New Security Trustee from the date of this deed upon the terms set out in that clause.

### **2.5 Cancelled Accounts**

PRFL and the Chargors each confirm that the Cancelled Accounts have been closed as at the date of this deed and, with effect from the date of this deed, the Resigning Security Trustee shall be discharged from any further obligation in respect of the Cancelled Accounts under the Finance Documents.

### **2.6 Continuing Accounts and New Accounts**

PRFL and the Chargors each confirm that the Continuing Accounts and the New Accounts are the accounts of the Chargors in existence as at the date of this deed and, with effect from the date of this deed, each Chargor, as security for the payment of the Secured Liabilities, charges in favour of the New Security Trustee with full title guarantee all monies standing to the credit of its accounts (including the Continuing Accounts and the New Accounts) with any bank, financial institution or other person and all rights related to those accounts in accordance with the Finance Documents.

### **2.7 Existing Security Documents**

PRFL and the Chargors each confirm that the Existing Security Documents are the Transaction Security Documents in each case in existence as at the date of this deed.

## **3. FURTHER ASSURANCE**

### **3.1 Resigning Agents: Further Assurance**

The Resigning Security Trustee undertakes in favour of the New Security Trustee to:

- (a) do all such acts and things and execute all such further agreements, deeds, transfers or other documents as may be necessary to ensure that the Resigning Security Trustee's rights, title and interests under the Finance Documents as Security Trustee are vested in the New Security Trustee;
- (b) take any further steps to assist the New Security Trustee in perfecting or protecting the Transaction Security including (without limitation):
  - (i) execution of Land Registry Form TR4 (for the purpose of transferring registered charges at the Land Registry);
  - (ii) execution of the Resignation Documents;
  - (iii) promptly following the written request of the New Security Trustee (as the case may be), deliver or procure the delivery to the New Security Trustee of all Finance Documents and other documents held by it in its capacity as Security Trustee (as applicable) including any share certificates, undated stock transfer forms and other documents relating to the Transaction Security (including, in particular but without limitation, the Rolling Stock Agreements referred to in clause 26.24 (Further Assurance) of the Senior Facilities Agreement).

### **3.2 New Security Trustee: Further Assurance**

The New Security Trustee undertakes in favour of the Resigning Security Trustee to do all such acts and things and execute all such further agreements, deeds, transfers, or other documents as may be necessary to ensure that the Resigning Security Trustee's rights, title and interests under the Finance Documents as Security Trustee are vested in the New Security Trustee including in the case of the New Security Trustee (without limitation):

- (a) execution of Land Registry Form TR4 (for the purpose of transferring registered charges at the Land Registry);
- (b) execution of the Resignation Documents; and
- (c) execution of a quiet enjoyment undertaking as envisaged by the Lease Security Requirements (as defined in the Debenture) within 10 Business Days of request from the relevant lessee.

### **3.3 Chargers' Acknowledgment**

Each Chargor (or, in the case of paragraph (b) (iii) and (iv) below, PRFL):

- (a) acknowledges the substitution of security trustee role effected by this deed and agrees that it will (and that it will procure that its Subsidiaries will) do all such acts and things as may be reasonably required in order to perfect the appointment of the New Security Trustee as the Security Trustee; and
- (b) confirms:
  - (i) that the Existing Security Documents:
    - (A) extend to guarantee and secure all indebtedness, obligations and liabilities to be paid, observed, performed and/or discharged by any Obligor pursuant to the Finance Documents; and



- (B) continue in full force and effect as a continuing security for all indebtedness, obligations and liabilities the payment, observance, performance and/or discharge of which is thereby and hereby expressed to be guaranteed and/or secured;
- (ii) the continuation of all guarantees and indemnities set out in the Finance Documents and that the terms of the Finance Documents continue in full force and effect;
- (c) shall deliver all relevant Forms TR4 to the Land Registry as soon as reasonably practicable after the date of this deed; and
- (d) shall
  - (A) as soon as reasonably practicable and in any event within 30 days after the execution of this deed, serve a Notice of Substitution upon each relevant counterparty in respect of each document specified in Schedule 4 (Resignation Documents);
  - (B) use its reasonable endeavours to procure that each counterparty promptly acknowledges that Notice of Substitution by countersigning a copy of it and delivering that copy to the New Security Agent with a copy to the Resigning Security Agent;
  - (C) within 10 Business Days of having sent all the Notices of Substitution to the relevant counterparties in accordance with paragraph (A), deliver a certificate to the New Security Trustee certifying the same together with a spreadsheet setting out the details of such notices (including counterparties, the relevant underlying agreements and the date notified); and
  - (D) promptly upon request from time to time, provide the New Security Trustee with an update on the progress of discharging its obligations under this clause 3.3(d),

in each case following the New Security Trustee's appointment as Security Trustee pursuant to this deed.

#### **4. CONTINUATION OF SECURITY TRUSTEE PROTECTIONS AND NO LIABILITY**

##### **4.1 Continuation of Security Trustee Protections**

The parties acknowledge that the Resigning Security Trustee shall continue to have the benefit of all exclusions of liability, undertakings and indemnities given to it under the Finance Documents in its capacity as Security Trustee in respect of any actions taken or omitted to be taken by it or any event occurring before the substitution effected by this deed.

##### **4.2 No Liability**

The New Security Trustee will not be liable to any other Finance Party or any Obligor for any loss or liability under the Finance Documents to the extent that that loss or liability is attributable to any act or omission of the Resigning Security Trustee before the date of this deed. Nothing in this deed will affect any of the rights or obligations of any Finance Party or any Obligor under the Finance Documents which relate to the period before the date of this deed.

5. **COSTS AND EXPENSES**

PRFL shall promptly on demand pay each of the Resigning Security Trustee and the New Security Trustee the amount of all costs and expenses (including legal fees) reasonably incurred by it in connection with the negotiation, preparation, printing, execution and perfection of this agreement and any other documents referred to in this agreement.

6. **FINANCE DOCUMENT**

This deed is designated as a Finance Document and the Facility Agent countersigns this deed solely for the purpose of designating this deed as a Finance Document.

7. **COUNTERPARTS**

This deed may be executed in any number of counterparts and all such counterparts taken together shall be deemed to constitute one and the same instrument.

8. **GOVERNING LAW AND JURISDICTION**

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

8.2 The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this deed.

8.3 Notwithstanding clauses 8.1 and 8.2 above, to the extent that a Transaction Security Document is governed by Jersey law, the provisions of clause 2.2 above shall be governed by Jersey law and any dispute relating to the validity, interpretation or implementation of such clause shall be submitted to the jurisdiction of the courts of Jersey.

**IN WITNESS WHEREOF** this deed has been duly executed the day and year first before written.

## **SCHEDULE 1**

### **The Chargors**

Porterbrook Rail Finance Limited  
Porterbrook Maintenance Limited  
Porterbrook Leasing Asset Company Limited  
Porterbrook March Leasing (4) Limited  
Porterbrook Leasing Mid Company Limited  
Porterbrook Leasing Company Limited  
The Porterbrook Partnership

## SCHEDULE 2

### Existing Security Documents

Name	Transaction Security Document
Porterbrook Rail Finance Limited	English law debenture dated 21 October 2008 (as amended) and supplemental security deed dated 4 June 2010
Porterbrook Maintenance Limited	Security accession deed to the above debenture dated 19 December 2008 and supplemental security deed dated 4 June 2010
Porterbrook Leasing Asset Company Limited	Security accession deed to the above debenture dated 19 December 2008 and supplemental security deed dated 4 June 2010
Porterbrook March Leasing (4) Limited	Security accession deed to the above debenture dated 19 December 2008 and supplemental security deed dated 4 June 2010
Porterbrook Leasing Mid Company Limited	Security accession deed to the above debenture dated 16 September 2009 and supplemental security deed dated 4 June 2010
Porterbrook Leasing Company Limited	Security accession deed to the above debenture dated 19 December 2008 and supplemental security deed dated 4 June 2010
The Porterbrook Partnership	Jersey law Security Interest Agreement dated 21 October 2008, side letter relating thereto dated 4 December 2008 and supplemental security deed dated 4 June 2010
The Porterbrook Partnership	The Security Assignment Deed dated 21 October 2008 (as amended and restated on 19 December 2008) and supplemental security deed dated 4 June 2010
The Porterbrook Partnership	Jersey law Security Interest Agreement dated 28 December 2017 and the supplemental security agreement relating thereto dated 21 June 2018

### SCHEDULE 3

#### Notice of Substitution

To: [name and address of contract counterparty, insurer, account bank, hedge counterparty etc]

Dated: \_\_\_\_\_ 2019

Dear Sir/Madam

**Re: [identify relevant assigned agreement, insurance policy, bank account etc and name of relevant charging company(ies)] (the "Company"/"Companies")**

By a letter dated [date of original notice of assignment/charge] the [Company]/[Companies] gave you notice of a [security assignment]/[charge] (the "**Security**") of [its]/[their] rights under the above referenced [insurance policy/ies]/[agreement(s)]/[bank account(s)] in favour of Crédit Agricole Corporate and Investment Bank (the "**Resigning Security Trustee**") as Security Trustee, for itself and certain other parties (the "**Notice of Security**"), a copy of which is attached to this letter.

By a substitution deed dated [●] 2019 the Resigning Security Trustee has resigned its position as Security Trustee in relation to the Security and Lucid Trustee Services Limited (the "**New Security Trustee**") has been appointed as the successor Security Trustee. References in the Notice of Security to the "Security Trustee" should therefore be read as references to Lucid Trustee Services Limited as successor Security Trustee.

The Resigning Security Trustee irrevocably instructs and authorises you to:

- (a) disclose to the New Security Trustee any information relating to the Security or the Notice of Security requested from you by the New Security Trustee;
- (b) comply with the terms of any written notice or instruction relating to the Security or the Notice of Security received by you from the New Security Trustee.

Please acknowledge this substitution by countersigning and returning to us the enclosed copy of this letter.

Yours faithfully,

\_\_\_\_\_  
Name:  
for and on behalf of  
Crédit Agricole Corporate and Investment Bank

\_\_\_\_\_  
Name:  
for and on behalf of  
Lucid Trustee Services Limited

### Acknowledgement of Substitution

To: Lucid Trustee Services Limited  
[address]  
FAO: **[Contact individual's name/email]**

With a copy to: Crédit Agricole Corporate and Investment Bank  
[address]  
FAO: **[Contact individual's name/email]**

Date: \_\_\_\_\_ 2019

We acknowledge receipt of the above notice of substitution by which Lucid Trustee Services Limited has become Security Trustee in relation to the Security and agree to accept notices sent in connection with the Security and/or Notice of Security from Lucid Trustee Services Limited as successor Security Trustee.

.....  
Name:  
for and on behalf of  
**[Name of contract counterparty, insurer, account bank etc]**

## **SCHEDULE 4**

### **Resignation Documents**

A Notice of Substitution addressed to each third party counterparty for the relevant agreement as listed or identified in the following documents:

1. the Lease Documents, Maintenance Agreements and Rolling Stock Purchase Agreements listed in the Excel spreadsheets circulated by Milbank LLP on behalf of PRFL on 10 October 2019 (with such spreadsheets having the designation numbers 310731, 190125 and 190731); and
2. the security notifications identified in the Original Documents List.

## SCHEDULE 5

### Accounts

#### Part 1 - Cancelled Accounts

Account Bank	Account Name	Sort Code	Account Number	Charging Company
Crédit Agricole Corporate and Investment Bank	Mandatory Prepayment Account			Porterbrook Rail Finance Limited
Crédit Agricole Corporate and Investment Bank	Collection Account			Porterbrook Rail Finance Limited
Crédit Agricole Corporate and Investment Bank	Lock-up Account			Porterbrook Rail Finance Limited

#### Part 2 – Continuing Accounts

Account Bank	Account Name	Sort Code	Account Number	Charging Company
Lloyds Bank plc	Operating Account			Porterbrook Leasing Company Limited
Lloyds Bank plc	Pride Park			Porterbrook Leasing Company Limited
Lloyds Bank plc	Cash Account			Porterbrook Leasing Company Limited
National Westminster Bank plc	Back-up Account			Porterbrook Leasing Company Limited

#### Part 3 – New Accounts

Account Bank	Account Name	Sort Code	Account Number	Charging Company
Lloyds Bank plc	Lock-up Account			Porterbrook Rail Finance Limited
Lloyds Bank plc	Mandatory Prepayment Account			Porterbrook Rail Finance Limited
Lloyds Bank plc	Collection Account			Porterbrook Rail Finance Limited



### Resigning Security Trustee

Executed as a deed by  
**CRÉDIT AGRICOLE CORPORATE  
INVESTMENT BANK:**

) Signature.....  
) Name.....  
) Director  
)

Signature of witness .....  
Name of witness .....  
Address of witness .....

Occupation of witness .....

### New Security Trustee

Executed as a deed by  
**LUCID TRUSTEE SERVICES LIMITED:**

) Signature.....  
) Name.....  
) Director  
)

Signature of witness .....  
Name of witness .....  
Address of witness .....

Occupation of witness .....

### Facility Agent

Executed as a deed by  
**LLOYDS BANK PLC:**

) Signature.....  
) Name.....  
) Director  
)

Signature of witness .....  
Name of witness .....  
Address of witness .....

Occupation of witness .....

**The Chargors**

Executed as a deed by  
**PORTERBROOK RAIL FINANCE  
LIMITED:**

) Signature.....  
) Name..... Chris M<sup>c</sup>Clure  
) Director  
)

Signature.....  
Name..... Peter Coates  
Director

Executed as a deed by  
**PORTERBROOK MAINTENANCE  
LIMITED:**

) Signature.....  
) Name..... Chris M<sup>c</sup>Clure  
) Director  
)

Signature.....  
Name..... Peter Coates  
Director

Executed as a deed by  
**PORTERBROOK LEASING ASSET  
COMPANY LIMITED:**

) Signature.....  
) Name..... Chris M<sup>c</sup>Clure  
) Director  
)

Signature.....  
Name..... Peter Coates  
Director

Executed as a deed by  
**PORTERBROOK MARCH LEASING (4)  
LIMITED:**

) Signature.....  
) Name..... Chris M<sup>c</sup>Clure  
) Director  
)

Signature.....  
Name..... Peter Coates  
Director

Executed as a deed by  
**PORTERBROOK LEASING MID  
COMPANY LIMITED:**

) Signature.....  
) Name..... Chris M<sup>c</sup>Clure  
) Director  
)

Signature.....  
Name..... Peter Coates  
Director

Executed as a deed by  
**PORTERBROOK LEASING COMPANY  
LIMITED:**

) Signature.....  
) Name..... Chris M'Clure  
) Director  
)

Signature.....  
Name..... Peter Coates  
Director

Executed as a deed for and on behalf of  
**THE PORTERBROOK PARTNERSHIP** by

)  
)  
)  
)

Signature of Manager, as authorised signatory of  
The Porterbrook Partnership

Full name of Manager as authorised signatory

Chris McClure

Signature of Manager, as authorised signatory of  
The Porterbrook Partnership

Full name of Manager as authorised signatory

Peter Coates

in the presence of:

Signature of witness

Full name of witness

Address of witness

Occupation of witness

Stefan Rose

8th Floor, Lynton House, 7-12  
Tavistock Square, London WC1H 9LT

Head of Structured Finance