

193418/13

MG01

Particulars of a mortgage or charge



A fee is payable with this form.

We will not accept this form unless you send the correct fee

Please see 'How to pay' on the last page



What this form is for

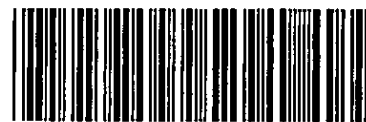
You may use this form to register particulars of a mortgage or charge in England and Wales or Northern Ireland



What this form is NOT for

You cannot use this form to particulars of a charge for a company. To do this, please form MG01s

TUESDAY



A1EAGYWJ

A11

31/07/2012

#79

COMPANIES HOUSE

1

Company details

Company number

0 7 9 3 0 6 0 6

Company name in full

AGILITY TRAINS WEST LIMITED (the "Chargor")



Filing in this form

Please complete in typescript or in bold black capitals

All fields are mandatory unless specified or indicated by *

2

Date of creation of charge

Date of creation

d2 d4 m0 m7 y2 y0 y1 y2

3

Description

Please give a description of the instrument (if any) creating or evidencing the charge, e.g. 'Trust Deed', 'Debenture', 'Mortgage', or 'Legal charge'

Description

DEBENTURE dated 24 July 2012 between the Chargor and the Security Trustee (the "Debenture").

4

Amount secured

Please give us details of the amount secured by the mortgage or charge

Amount secured

All money or liabilities due, owing or incurred to any Finance Party by the Chargor or MidCo under any Finance Document as at 24 July 2012 or in the future, in any manner whether actual or contingent, whether incurred solely or jointly with any other person and whether as principal or surety, together with all interest accruing thereon and including all liabilities in connection with any notes, bills or other instruments accepted by any Finance Party for or at the request of the Chargor or MidCo and all losses incurred by any Finance Party in connection therewith (the "Liabilities")

Continued on continuation page

Continuation page

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

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Particulars of a mortgage or charge

5 Mortgagee(s) or person(s) entitled to the charge (if any)

Please give the name and address of the mortgagee(s) or person(s) entitled to the charge

Continuation page

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

Name BTMU (EUROPE) LIMITED

Address Ropemaker Place, 25 Ropemaker Street, London as security trustee for the benefit of the Secured Creditors (the "Security Trustee")

Postcode E C 2 Y 9 A N

Name

Address

Postcode

6 Short particulars of all the property mortgaged or charged

Please give the short particulars of the property mortgaged or charged

Continuation page

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

Short particulars

1 FIXED CHARGES**1 1 Creation of first-ranking fixed charges**

The Chargor, with full title guarantee and as security for the payment of the Liabilities, has charged in favour of the Security Trustee (as trustee for the Finance Parties) the following assets both as at 24 July 2012 and in the future

(a) by way of first legal mortgage, all Real Property in England and Wales,

(b) by way of first fixed equitable charge, all other Real Property belonging to it as at 24 July 2012 not charged under clause 3 1(a) of the Debenture, as set out in clause 1 1(a) above, and all Real Property acquired by it in the future and all proceeds of sale derived therefrom and the benefit of all warranties and covenants given in respect thereof and all licences to enter upon or use land and the benefit of all other agreements relating to land,

(c) by way of first fixed charge all its

(i) Book Debts,

(ii) all debts and monetary claims (other than Book Debts) and all rights against third parties in respect of such debts and claims,

(iii) Bank Accounts (except the Distributions Account and any balance standing to the credit of or accrued or accruing on the Joint Insurance Account to which the Secretary of State has an interest in at any time as at 24 July 2012 or in the future in accordance with the MARA) and Account Investments,

(iv) Investments and all other corresponding Distribution Rights,

(v) uncalled capital and goodwill,

(vi) Intellectual Property,

Continued on continuation page

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7 Particulars as to commission, allowance or discount (if any)

Please insert the amount or rate percent of any commission, allowance or discount paid or made either directly or indirectly by the company to any person on consideration of his

- subscribing or agreeing to subscribe, whether absolutely or conditionally, or
- procuring or agreeing to procure subscriptions, whether absolute or conditional,

for any debentures included in this return. The rate of interest payable under the terms of the debentures should not be entered

Commission, allowance or discount

N/A

8 Delivery of instrument

You must deliver the original instrument (if any) creating or evidencing the charge and these prescribed particulars to the Registrar of Companies within 21 days after the date of creation of the charge (section 860). If the property is situated and the charge was created outside the United Kingdom (UK), you must deliver the information to the Registrar within 21 days after the date on which the instrument could have been received in the UK in the normal course of post and assuming you had posted it promptly (section 870).

We will accept a verified copy of the instrument creating the charge where the property charged is situated and the charge was created outside the UK (section 866). The company or the person who has delivered the copy to the Registrar must verify it to be a correct copy and sign it. Where a body corporate gives the verification, an officer of that body must sign it. We will also accept a verified copy where section 867(2) applies (property situated in another part of UK).

9 Signature

Please sign the form here

Signature

Signature

X ASHURST LLP. X

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

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Particulars of a mortgage or charge



Presenter information

You do not have to give any contact information, but if you do it will help Companies House if there is a query on the form and will establish where we return the original documents. The contact information you give will be visible to searchers of the public record.

Contact name LANDER/SYEUNG/JPN03 00113/25368331

Company name
Ashurst LLP

Address Broadwalk House

5 Appold Street

Post town London

County/Region

Postcode E C 2 A 2 H A

Country England

DX 639 London City

Telephone +44 (0)20 7638 1111



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 the original deed with this form
- ☐ You have entered the date the charge was created
- ☐ You have supplied the description of the instrument
- ☐ You have given details of the amount secured by the mortgagee or chargee
- ☐ You have given details of the mortgagee(s) or person(s) entitled to the charge
- ☐ You have entered the short particulars of all the property mortgaged or charged
- ☐ You have signed the form
- ☐ You have enclosed the correct fee



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.

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

For further information, please see the guidance notes on the website at www.companieshouse.gov.uk or email enquiries@companieshouse.gov.uk

This form is available in an alternative format. Please visit the forms page on the website at www.companieshouse.gov.uk

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Particulars of a mortgage or charge

6 Short particulars of all the property mortgaged or charged

Please give the short particulars of the property mortgaged or charged

Short particulars

- (vii) beneficial interest in any pension fund,
- (viii) plant, machinery, vehicles, computers, office and other equipment and the benefit of all contracts, licences and warranties relating thereto (except to the extent mortgaged or charged by clauses 3 1(a), 3 1(b) or clause 3 2 of the Debenture, as set out in clauses 1 1(a), 1 1(b) or clause 1 2 of this Form MG01,
- (ix) Insurance Proceeds (other than those Relevant Proceeds) as such term is defined in the MARA) in the Joint Insurance Account which are required to be applied in accordance with clause 2 11 of part A of schedule 5 (Insurance) of the MARA) and other than to the extent assigned by clause 5 (Assignment of the Debenture), as set out in clause 3 below,
- (x) without prejudice to clause 3 1(c)(ix) of the Debenture, as set out in clause 1 1(c)(ix) above, any contracts or policies of insurance taken out by or on behalf of it (other than the Insurances) and all related proceeds, claims of any kind, returns of premia and other benefits,
- (xi) all rights and interest in each Senior Hedging Agreement,
- (xii) to the extent permitted by law and/or their respective terms, the benefit of all Licences and all other consents and agreements held by it in connection with the use of any of its assets, and
- (xiii) if not effectively assigned by clause 5 (Assignment) of the Debenture, as set out in clause 3 below, all its right, title and interest in and to (and claims under) the Assigned Contracts
- 1 2 Creation of first ranking fixed charge over the Train Assets
- (a) The Chargor, with full title guarantee and as security for the payment of the Liabilities and performance of the Train Transfer Obligations, has charged in favour of the Security Trustee (as trustee for the Secured Creditors) by way of first ranking fixed charge all its right, title, interest in and to the Train Assets as at 24 July 2012 and in the future
- (b) The Parties have acknowledged that if the Train Asset Transfer Date occurs at a time prior to the Interim Discharge Date (as such term is defined in the Intercreditor Agreement) and prior to payment of all MARA Termination Sums due under the MARA, the security over the Train Assets for the payment of the Liabilities will continue in full force and effect and title to the Train Assets will pass to the Secretary of State (and/or the SoS Nominee as the case may be) subject to that security Accordingly as from the Train Asset Transfer Date the Train Assets (with title to the Train Assets vested in the Secretary of State (or the SoS Nominee as such term is defined in the Intercreditor Agreement)) will continue to secure the Liabilities until the earlier of the Discharge Date or the date the Secretary of State has made payment in full of the applicable MARA Termination Sum in accordance with the MARA and such security is released in accordance with the provisions of the Intercreditor Agreement, notwithstanding the release of the Secretary of State's interest in the Train Asset Security under clause 23 1(b) (Final Redemption) of the Debenture
- 2 FLOATING CHARGE
- 2 1 Creation of first-ranking floating charges
- (a) The Chargor, with full title guarantee and as security for the payment of the Liabilities, has charged in favour of the Security Trustee (as trustee for the Finance Parties) by way of first floating charge its undertaking and all its assets, both as at 24 July 2012 and in the future, including assets not effectively charged by way of first-ranking fixed charge under clause 3 1 (Creation of first-ranking fixed charges) of the Debenture, as set out in clause 1 1 above,
- and those not effectively assigned under clause 5 (Assignment) of the Debenture, as set out in clause 3 below (other than, in each case, the Distributions Account and any balance standing to

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Particulars of a mortgage or charge

6 Short particulars of all the property mortgaged or charged

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Short particulars

the credit of or accrued or accruing on the Joint Insurance Account to which the Secretary of State has an interest in at any time as at 24 July 2012 or in the future in accordance with the MARA)

2 2 Qualifying Floating Charge

(a) The floating Charges created by the Chargor pursuant to clause 4 1 (Creation of first-ranking floating charges) of the Debenture, as set out in clause 2 1 above, are a "qualifying floating charge" for the purposes of paragraph 14 2(a) of Schedule B1 to the Insolvency Act

(b) Paragraph 14 of Schedule B1 to the Insolvency Act shall apply to the Debenture and the Security Trustee may appoint an Administrator of the Chargor pursuant to that paragraph

2 3 Ranking

The floating Charges created by the Chargor pursuant to clause 4 (Floating Charge) of the Debenture, as set out in this clause 2, rank

(a) behind all the fixed Charges created by the Chargor pursuant to clause 3 (Fixed Charges) of the Debenture, as set out in clause 1 above, but

(b) in priority to any other Security over the Charged Assets except for the Security ranking in priority in accordance with paragraph 6 of schedule 1 (Rights of Receivers) to the Debenture

2 4 Conversion by notice

The Security Trustee may convert the floating Charges over all or any of the Charged Assets into a fixed Charge by notice to the Chargor specifying the relevant Charged Assets (either generally or specifically) and the Chargor shall promptly execute a fixed charge or legal assignment over those assets in the form which the Security Trustee requires if

(a) the Security Trustee considers it necessary to do so in order to protect or preserve the Charges over those Charged Assets and/or the priority of those Charges, and/or

(b) the Security Trustee is of the view (acting reasonably) that any legal process or execution is being enforced against any of the Charged Assets or that any Charged Asset is in danger of being seized or is otherwise in jeopardy, and/or

(c) upon the occurrence of an Enforcement Event

2 5 Automatic conversion

If

(a) the Chargor creates (or purports to create) or takes any step to create any Security in breach of clause 5 3 (Security) of the Debenture, as set out in clause 3 3 below, over any of the Charged Assets not subject to a fixed Charge, or

(b) any person takes any step to effect any expropriation, attachment, sequestration, distress or execution against any of those Charged Assets,

the floating Charges over the relevant Charged Assets shall automatically (without notice) and immediately be converted into fixed Charges

3 ASSIGNMENT

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Particulars of a mortgage or charge

6 Short particulars of all the property mortgaged or charged

Please give the short particulars of the property mortgaged or charged

Short particulars

3 1 The Chargor, with full title guarantee, has assigned absolutely to the Security Trustee (as trustee for the Finance Parties) and as security for the payment of the Liabilities all its

(a) right, title and interest in and to the Assigned Contracts and each Senior Hedging Agreement including all moneys payable to the Chargor, and any claims, awards and judgments in favour of receivable or received by the Chargor, under or in connection with the Assigned Contracts and each Senior Hedging Agreement,

(b) right, title and interest in and to the Insurance Proceeds (other than those Insurance Proceeds which are required to be paid into the Joint Insurance Account in accordance with part A of schedule 5 (Insurance) to the MARA), and

(c) without prejudice to clause 5 1(b) of the Debenture, as set out in clause 3 1(b) above, all its right, title and interest in and to all loss of anticipated revenue insurances (being those referred to in paragraph 2, Annex 1 of schedule 7 (Insurance) to the Common Terms Agreement) and business interruption insurances (being those referred to in paragraph 3, Annex 2 of schedule 7 (Insurance) to the Common Terms Agreement) and all proceeds in respect of such insurances and all benefits of such insurances (including all claims relating to, and all returns of premium in respect of, such insurances),

as at 24 July 2012 and in future,

provided that on payment or discharge in full of the Liabilities, the Security Trustee will at the request and cost of the Chargor re-assign the relevant rights, title and interest in the Assigned Contracts, the Senior Hedging Agreements and the Insurance Proceeds to the Chargor (or as it shall direct) and prior to such discharge, the provisions of clause 5 2 (Chargor's right to deal) of the Debenture, as set out in clause 3 2 below, will apply

3 2 Chargor's right to deal

(a) The Chargor is entitled to continue to exercise its rights, receive and retain for its account payments under and deal with the relevant counterparties to the Assigned Contracts until the occurrence of an Enforcement Event in accordance with the terms of the Finance Documents

(b) For the avoidance of doubt, following

(i) the service of a valid Call Option Notice in accordance with Part B of Schedule 3 (Call Option Requirements) of the MARA, there shall be no restriction on the ability of the Chargor to transfer or dispose of

(A) any Depot Lease Documents to which the Call Option Notice relates to, or

(B) any Maintainer Depot Agreements which the Call Option Notice relates to; or

(ii) the service of a valid Surrender Notice in accordance with Part B of Schedule 3 (Call Option Requirements) of the MARA, there shall be no restriction on the ability of the Chargor to surrender any Depot Lease Agreements relating to the relevant Depot(s) subject to the Surrender Notice as permitted under the terms of the MARA

3 3 Security

The Chargor shall not create or permit to subsist any Security over any Charged Asset, nor do anything else prohibited by clause 19 3 (Negative pledge) of the Common Terms Agreement, except as permitted by that clause

3 4 Disposal

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Particulars of a mortgage or charge

6	Short particulars of all the property mortgaged or charged	
	Please give the short particulars of the property mortgaged or charged	
Short particulars	<p>The Chargor shall not (nor agree to) enter into a single transaction or a series of transactions (whether related or not and whether voluntary or involuntary) to sell, lease, license, sub-license, transfer or otherwise dispose of any Charged Asset.</p> <p>(a) other than those Relevant Proceeds (as such term is defined in the MARA) in the Joint Insurance Account which are required to be applied in accordance with part A of schedule 5 (Insurance) of the MARA),</p> <p>(b) except as permitted under clause 19 4 (Disposals) of the Common Terms Agreement (including, for the avoidance of doubt, any Depot Lease Agreements, Depot Lease Documents or Maintainer Depot Agreements which are required to be transferred, surrendered or disposed of pursuant to Schedule 8 (Variation) or Part B of Schedule 3 (Call Option Requirements) of the MARA or any licence of Intellectual Property rights granted to the Secretary of State under paragraphs 1 2 and 1 3 of the MARA)</p> <p>4 FURTHER ASSURANCE</p> <p>(a) The Chargor shall, at its own expense, promptly do whatever the Security Trustee requires</p> <p>(i) to perfect or protect the Charges created (or intended to be created) by the Debenture or the priority of such Charges or the exercise of any rights, powers and remedies of the Security Trustee, any Receiver, any Delegate or the Secured Creditors,</p> <p>(ii) to facilitate the realisation or enforcement of the Charged Assets on or following an Enforcement Event,</p> <p>(iii) to facilitate the exercise of any rights vested in the Security Trustee or any Receiver or Delegate of the Secured Creditors, or</p> <p>(iv) to confer on the Security Trustee or the Secured Creditors security over any assets of the Chargor (in whatever jurisdiction situated) (other than any assets expressly excluded from the security interests constituted under the Debenture) equivalent or similar to the security intended to be conferred by the Debenture,</p> <p>including without limitation converting charges to assignments, converting equitable security to legal security, executing any transfer, conveyance, charge, assignment or assurance of the Charged Assets (whether to the Security Trustee or its nominees or otherwise), making any registration and giving any notice, order or direction</p> <p>(b) Any security document required to be executed by the Chargor under clause 5 5 (Further assurance) of the Debenture, as set out in this clause 4, will contain clauses corresponding to the provisions set out in the Debenture</p> <p>(c) The Chargor as registered proprietor appoints the Security Trustee as its agent to apply for the particulars of the Debenture and of the Finance Parties' interest in its existing trade marks and trade mark applications and any future trade marks or trade mark applications registered or to be registered in the United Kingdom in the name of the Chargor, to be made on the Register of Trade Marks under section 25(1) of the Trade Marks Act 1994, and the Chargor has agreed to execute all documents and forms required to enable those particulars to be entered on the Register of Trade Marks</p>	

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Particulars of a mortgage or charge

6 Short particulars of all the property mortgaged or charged

Please give the short particulars of the property mortgaged or charged

Short particulars

SCHEDULE

Assigned Contracts

- 1 The MARA
- 2 The Authority Franchise Letter
- 3 The TARA
- 4 The Manufacture and Supply Agreement
- 5 The Manufacturer Parent Guarantee (and any replacement or additional credit support provided in accordance with the terms of the Manufacture and Supply Agreement)
- 6 The Advance Payment Bond
- 7 The Train Services Agreement
- 8 The Maintainer Parent Guarantee (and any replacement credit support provided in accordance with the terms of the Train Services Agreement)
- 9 The Agreement for Lease for North Pole (including Depot Letting Conditions and Depot Access Conditions and Depot Annexes)
10. The Agreement for Lease for Swansea Maliphant and Stoke Gifford (including Depot Letting Conditions and Depot Access Conditions and Depot Annexes)
- 11 The Connection Agreement for North Pole
12. The Connection Agreement for Swansea Maliphant
- 13 The Connection Agreement for Stoke Gifford
- 14 The Network Rail Direct Agreement
- 15 The BRBR Direct Agreement
- 16 Each Secondment Agreement
- 17 The Dispute Resolution Procedure Agreement
- 18 The Adhoc Lending Agreement
- 19 The Relevant Operator Direct Agreement
- 20 Hitachi Equity Guarantee
- 21 Interest Rate Cap Agreement entered into between the Chargor and Mitsubishi UFJ Securities International plc
- 22 Interest Rate Cap Agreement entered into between the Chargor and Mizuho Corporate Bank, Ltd
- 23 The Shareholder Support Agreement
- 24 The SoS Direct Agreement (Manufacture and Supply Agreement)
- 25 The SoS Direct Agreement (Train Services Agreement)
- 26 The Parallel Loan Agreement (Manufacture and Supply Agreement)
27. The Parallel Loan Agreement (Train Services Agreement)
- 28 Each other Project Document designated as such by the Intercreditor Agent and the Chargor, (each as defined in the Common Terms Agreement or the MARA)

(Each as defined in the Common Terms Agreement and/or the MARA)

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Particulars of a mortgage or charge

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Amount secured

Please give us details of the amount secured by the mortgage or charge

Amount secured

Payment of Liabilities

The Chargor as primary obligor covenants with the Security Trustee (on behalf of itself and each Secured Creditor) that it shall on demand

(a) pay the Liabilities when they fall due for payment, and

(b) perform the Train Transfer Obligations when they fall due for performance under the MARA

It is acknowledged that the Train Transfer Obligations cannot fall due for performance prior to the Minimum Fleet Acceptance Date

NOTE

In this Form MG01

"Account Banks" means the Original Account Banks and any Acceding Party (as both such terms are defined in the Intercreditor Agreement) which becomes a party to the Intercreditor Agreement as an Account Bank and "Account Bank" means any of them,

"Account Bank Agreement" means the account bank agreement dated 24 July 2012 between the Borrower, MidCo, the Account Banks, the Security Trustee, the Intercreditor Agent and the Equity Bridge Facility Agent,

"Account Investment" has the meaning given to it in the Account Bank Agreement,

"Administrator" means an administrator appointed under Schedule B1 to the Insolvency Act,

"Assigned Contracts" means the contracts and documents listed in schedule 3 (Assigned Contracts) to the Debenture, as set out in the schedule hereto, any other agreement, contract or document whether or not existing, relating to or connected with the Project after 24 July 2012 (including, for the avoidance of doubt, any Project Document to which the Chargor is a party or in respect of which it derives rights or benefits from time to time) and any other document designated as an Assigned Contract by the Chargor and the Security Trustee,

"Bank Accounts" means all current, deposit or other accounts with any bank or financial institution in which the Chargor has an interest as at 24 July 2012 or in the future and (to the extent of its interest) all balances as at 24 July 2012 in the future standing to the credit of or accrued or accruing on those accounts and all related rights to those accounts,

"Book Debts" means all book and other debts of any nature, and all other rights to receive money (excluding the Bank Accounts), due, owing or payable to the Chargor as at 24 July 2012 or in the future, and the benefit of all related negotiable instruments, rights, Security, guarantees and indemnities of any kind,

"Call Option Notice" means Call Option Notice as such term is defined in the MARA,

"Charged Assets" means the assets from time to time subject, or expressed to be subject, to the Charges or any part of those assets;

"Charges" means all or any of the Security created or expressed to be created by or pursuant to the Debenture,

"Chargor" means Agility Trains West Limited (CRN 07930606),

"Common Terms Agreement" means the common terms agreement dated 24 July 2012 between, amongst others, the Chargor, MidCo and the Security Trustee,

"Delegate" means a delegate or sub-delegate appointed under clause 17.3 (Delegation) of the Debenture,

"Depot" means Depot as such term is defined in the MARA,

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Particulars of a mortgage or charge

4	Amount secured	
	Please give us details of the amount secured by the mortgage or charge	
Amount secured	<p>"Depot Lease Agreement" means Depot Lease Agreement as such term is defined in the MARA,</p> <p>"Depot Lease Document" means Depot Lease Document as such term is defined in the MARA,</p> <p>"Discharge Date" means the date that is the later of the Equity Bridge Discharge Date and the Senior Discharge Date (as both such terms are defined in the Intercreditor Agreement),</p> <p>"Distributions Account" means the account so named held in the name of the Chargor and maintained with the Account Bank pursuant to the Account Bank Agreement,</p> <p>"Distribution Rights" means all dividends, distributions and other income paid or payable on an Investment, together with all shares and other property derived from that Investment and all other allotments, accretions, rights, benefits and advantages of all kind, accruing, offered or otherwise derived from or incidental to that Investment (whether by way of conversion, redemption, bonus, preference or otherwise),</p> <p>"Enforcement Event" means Enforcement Event as such term is defined in the Debenture,</p> <p>"Environmental Approval" means any consent required under or in relation to Environmental Laws,</p> <p>"Environmental Law" means Environmental Law as such term is defined in the Common Terms Agreement,</p> <p>"Equity Bridge Facility Agent" means Mizuho Corporate Bank, Ltd ,</p> <p>"Equity Bridge Facility Agreement" means the facility agreement entitled Equity Bridge Facility Agreement made between, among others, the Borrower and the Equity Bridge Lenders (as such term is defined therein) dated 24 July 2012,</p> <p>"Equity Bridge Finance Documents" means the Equity Bridge Finance Documents as such term is defined in the Common Terms Agreement,</p> <p>"Equity Bridge Finance Parties" means the Equity Bridge Finance Parties as such term is defined in the Equity Bridge Facility Agreement,</p> <p>"Finance Documents" means the Senior Finance Documents and the Equity Bridge Finance Documents,</p> <p>"Finance Parties" means the Senior Finance Parties and the Equity Bridge Finance Parties,</p> <p>"Fixtures" means fixtures, fittings (including trade fixtures and fittings) and fixed plant, machinery and apparatus,</p> <p>"Insolvency Act" means the Insolvency Act 1986,</p> <p>"Insurances" means all contracts and policies of insurance contemplated by schedule 7 (Insurance) of the Common Terms Agreement,</p> <p>"Insurance Proceeds" means all proceeds of the Insurances payable to or received by the Borrower and/or MidCo, including any proceeds paid directly by an insurer to a third party claimant,</p> <p>"Intellectual Property" means intellectual property of every designation (including patents, copyrights, design registrations, trade marks, service marks and know-how),</p>	

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Particulars of a mortgage or charge

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Amount secured

Please give us details of the amount secured by the mortgage or charge

Amount secured

"Intercreditor Agent" means Mizuho Corporate Bank, Ltd ,

"Intercreditor Agreement" means the intercreditor agreement dated 24 July 2012 between, amongst others, the Chargor, MidCo and the Security Trustee,

"Investments" means

(a) securities and investments of any kind (including shares, stock, debentures, units, loan notes, depositary receipts, bonds, notes, commercial paper and certificates of deposit),

(b) warrants, options or other rights to subscribe for, purchase or otherwise acquire securities and investments,

(c) all rights relating to securities and investments which are deposited with, or registered in the name of, any depositary, custodian, nominee, clearing house or system, investment manager, chargee or other similar person or their nominee, in each case whether or not on a fungible basis (including rights against any such person), and

(d) all other rights attaching or relating to securities or investments and all cash or other securities or investments in the future deriving from Investments or such rights,

in each case owned by the Chargor as at 24 July 2012 or in the future, or (to the extent of its interest) in which it has an interest as at 24 July 2012 or in the future and in each case, excluding any Account Investments,

"Joint Insurance Account" means Joint Insurance Account as such term is defined in the MARA,

"Licence" means any authorisation, permit, licence, consent or approval (including any Planning Consent and any Environmental Approval) required by any person in connection with and necessary for the entry into, performance, validity, enforceability and admissibility in evidence of, and the transactions contemplated by, the Relevant Documents or to otherwise implement the Project,

"Maintainer Depot Agreements" means Maintainer Depot Agreements as such term is defined in the MARA,

"MARA" means the master availability and reliability agreement dated 24 July 2012 between the Borrower and the Authority,

"MARA Termination Sum" means MARA Termination Sum as such term is defined in the MARA,

"MidCo" means Agility Trains West (Midco) Limited (registered number 07930573) whose registered office is at 7th Floor, 40 Holborn Viaduct, London, EC1N 2PB,

"Minimum Fleet Acceptance Date" has the meaning given to it in the MARA,

"Party" means a party to the Debenture,

"Planning Consent" means each detailed planning consent necessary for the Chargor or Hitachi Rail Europe Limited to carry out the Project,

"Project" means Project as such term is defined in the MARA,

"Project Documents" means Project Documents as such term is defined in the Common Terms Agreement,

"Real Property" means freehold and leasehold property in England and Wales and other real

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Particulars of a mortgage or charge

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Amount secured

Please give us details of the amount secured by the mortgage or charge

Amount secured

property anywhere in the world (in each case including any estate or interest therein, all rights from time to time attached or relating thereto and all Fixtures from time to time therein or thereon) from time to time owned by the Chargor or in which it is otherwise interested,

"Receiver" means a receiver and manager or other receiver appointed in respect of the Charged Assets and shall, if allowed by law, include an administrative receiver,

"Relevant Documents" means the Project Documents and the Senior Finance Documents;

"Secretary of State" means the Secretary of State for Transport,

"Secured Creditors" means

(a) the Finance Parties,

(b) in relation to the Train Assets, the Finance Parties and the Secretary of State, and

(c) in relation to the Train Transfer Obligations, the Secretary of State,

"Security" means a mortgage, charge, 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,

"Senior Finance Documents" means the Senior Finance Document as such term is defined in the Common Terms Agreement,

"Senior Finance Parties" means the Senior Finance Parties as such term is defined in the Common Terms Agreement,

"Senior Hedging Agreement" means Senior Hedging Agreement as such term is defined in the Common Terms Agreement,

"SoS Nominee" means the SOS Nominee as such term is defined in the Intercreditor Agreement,

"Surrender Notice" means Surrender Notice as such term is defined in the MARA,

"Train Assets" means the Sets (including any Vehicle forming part of any Set), Spares, Special Tools, Simulator Information and the Technical Library (as all such terms are defined in the MARA), regardless of stage of completion and including, all materials used for manufacturing the same,

"Train Asset Security" means the security granted by the Borrower pursuant to clause 3.2 (Creation of first ranking fixed charge over the Train Assets) of the Debenture in respect of the Train Assets,

"Train Asset Transfer Date" means the date upon which title in all or any of the Train Assets passes to the Secretary of State (or the SoS Nominee) pursuant to the Train Transfer Obligations (and whether implemented by the Borrower pursuant to its obligations under the MARA or pursuant to enforcement of the security over the Train Assets to implement the Train Transfer Obligations),

"Train Transfer Obligations" means

(a) the obligation of the Chargor under (and subject to the terms set out in) in the MARA to transfer its right, title and interest in and to the Train Assets (subject to Permitted Encumbrances (as such term is defined in the MARA)) to the Secretary of State (or as it directs) in accordance with the terms of Part J of Schedule 6 to the MARA, and

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Particulars of a mortgage or charge

4

Amount secured

Please give us details of the amount secured by the mortgage or charge

Amount secured

(b) any obligation the Chargor may have pursuant to the terms of the MARA to pay damages to or indemnify the Secretary of State as a result of the Chargor failing to discharge its obligations to transfer the Train Assets as envisaged by paragraph (a) of this definition



CERTIFICATE OF THE REGISTRATION OF A MORTGAGE OR CHARGE

Pursuant to section 869(5) & (6) of the Companies Act 2006

**COMPANY NO. 7930606
CHARGE NO. 1**

THE REGISTRAR OF COMPANIES FOR ENGLAND AND WALES
HEREBY CERTIFIES THAT A DEBENTURE DATED 24 JULY 2012
AND CREATED BY AGILITY TRAINS WEST LIMITED FOR
SECURING ALL MONIES DUE OR TO BECOME DUE FROM THE
COMPANY OR AGILITY TRAINS WEST (MIDCO) LIMITED TO
ANY FINANCE PARTY ON ANY ACCOUNT WHATSOEVER
UNDER THE TERMS OF THE AFOREMENTIONED INSTRUMENT
CREATING OR EVIDENCING THE CHARGE WAS REGISTERED
PURSUANT TO CHAPTER 1 PART 25 OF THE COMPANIES ACT
2006 ON THE 31 JULY 2012

GIVEN AT COMPANIES HOUSE, CARDIFF THE 3 AUGUST 2012

Dx



Companies House
— for the record —



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES