



**Registration of a Charge**

Company name: **HE2 N2 HAYDOCK LIMITED**

Company number: **11455283**



X7B0MNAB

Received for Electronic Filing: **26/07/2018**

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**Details of Charge**

Date of creation: **18/07/2018**

Charge code: **1145 5283 0001**

Persons entitled: **EU INDUSTRIAL CLUB II SCS, HAVING ITS REGISTERED OFFICE AT 5, RUE HEIENHAFF, L-1736 SENNINGERBERG, LUXEMBOURG**

Brief description: **THE FREEHOLD PROPERTY KNOWN AS UNIT 2, M6MAJOR.COM, HAYDOCK LANE, ST HELENS, BEING THE LAND COMPRISED IN THE FORM TP1 DATED ON 18 JULY 2018 BETWEEN BERICOTE PROPERTIES LIMITED, HE2 N1 HAYDOCK LIMITED AND HE2 N2 HAYDOCK LIMITED.**

**Contains fixed charge(s).**

**Contains negative pledge.**

**Chargor acting as a bare trustee for the property.**

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**Authentication of Form**

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

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**Authentication of Instrument**

Certification statement: **I CERTIFY THAT THE ELECTRONIC COPY INSTRUMENT  
DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION  
IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by: **CLIFFORD CHANCE LLP**



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

Company number: 11455283

Charge code: 1145 5283 0001

The Registrar of Companies for England and Wales hereby certifies that a charge dated 18th July 2018 and created by HE2 N2 HAYDOCK LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 26th July 2018 .

Given at Companies House, Cardiff on 30th July 2018

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



**Companies House**



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

DATED 18 July 2018

HE2 N1 HAYDOCK LIMITED AND HE2 N2 HAYDOCK LIMITED  
AS THE NOMINEES

IN FAVOUR OF

EU INDUSTRIAL CLUB II SCS  
REPRESENTED BY ITS GENERAL PARTNER  
HE MANAGEMENT II S.À.R.L.  
AS THE LENDER

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SECURITY AGREEMENT

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**CLIFFORD  
CHANCE**

**CLIFFORD CHANCE LLP**

THIS SECURITY AGREEMENT is made by way of deed on 18 July 2018 by:

- (1) **HE2 N1 HAYDOCK LIMITED** registered as a limited company with registered number 11455288 and **HE2 N2 HAYDOCK LIMITED** registered as a limited company with registered number 11455283 (together the "**Nominees**") acting as joint trustees of land for HE2 Haydock Limited Partnership; and
- (2) **EU INDUSTRIAL CLUB II SCS**, a common limited partnership (*société en commandite simple*) with registered office at 5, rue Heienhaff, L-1736 Senningerberg, Grand Duchy of Luxembourg, registered with the R.C.S. Luxembourg under number B 218.626, represented by its general partner **HE MANAGEMENT II S.À R.L.**, a private limited company (*société à responsabilité limitée*), with registered office at 5, rue Heienhaff, L-1736 Senningerberg, Grand Duchy of Luxembourg, registered with the R.C.S. Luxembourg under number B 218.339 (the "**Lender**").

**IT IS AGREED** as follows:

1. **DEFINITIONS AND INTERPRETATION**

1.1 **Definitions**

In this Security Agreement:

"**Administration Event**" means:

- (a) the presentation of an application or petition to the court for the making of an administration order in relation to the Nominees; or
- (b) any person (who is entitled to do so) gives notice of its intention to appoint an administrator to the Nominees or files such a notice with the court.

"**Borrower**" means HE2 Haydock GP Limited as the general partner of HE2 Haydock Limited Partnership.

"**Loan Agreement**" means the loan agreement dated on the date hereof between the Borrower and the Lender.

"**Mortgaged Property**" means the freehold property known as Unit 2, M6major.com, Haydock Lane, St Helens, being the land comprised in the form TP1 dated on or about the date hereof and between (1) Bericote Properties Limited; (2) HE2 N1 Haydock Limited and (3) HE2 N2 Haydock Limited.

"**Real Property**" means (including as provided in Clause 1.5 (*Real Property*)), the Mortgaged Property and any present or future freehold or leasehold or immoveable property and any other interest in land or buildings and all rights relating thereto in which the Nominees have an interest.

"**Receiver**" means a receiver, receiver and manager or, where permitted by law, an administrative receiver of the whole or any part of the Security Assets and that term will include any appointee made under a joint or several appointment.

**"Related Rights"** means, in relation to any asset:

- (a) the proceeds of sale or rental of any part of that asset;
- (b) all rights under any licence, agreement for sale or agreement for lease in respect of that asset;
- (c) all rights, powers, benefits, claims, causes of action, contracts, warranties, remedies, security, guarantees, indemnities or covenants for title in respect of or derived from that asset; and
- (d) any moneys and proceeds paid or payable in respect of that asset.

**"Secured Liabilities"** means all present and future obligations and liabilities (whether actual or contingent, whether owed jointly or severally or in any other capacity whatsoever and whether originally incurred by the Nominees or by some other person) of the Nominees to any Secured Party under the Loan Agreement.

**"Secured Party"** means the Lender and any Receiver or Delegate.

**"Security Assets"** means each of the assets and undertaking of the Nominees which from time to time are, or are expressed to be, the subject of any Security created or expressed to be created by it in favour of the Lender by or pursuant to this Security Agreement.

**"Security Period"** means the period beginning on the date of this Security Agreement and ending on the date on which the Lender is satisfied that the Secured Liabilities have been irrevocably and unconditionally paid or discharged in full and the Lender is under no further actual or contingent obligation to make advances or provide other financial accommodation to the Nominees or any other person under the Loan Agreement.

**"Termination Date"** has the meaning given to it in the Loan Agreement.

## 1.2 Terms defined in the Loan

Unless defined in this Security Agreement, or the context otherwise requires, a term defined in the Loan Agreement has the same meaning in this Security Agreement or any notice given under or in connection with this Security Agreement, as if all references in those defined terms to Loan Agreement were a reference to this Security Agreement or that notice.

## 1.3 Construction

Clauses 1.2 (*Construction*) and 1.3 (*Currency symbols and definitions*) of the Loan Agreement will apply as if incorporated in this Security Agreement or in any notice given under or in connection with this Security Agreement, as if all references in that Clause to the Loan Agreement were a reference to this Security Agreement or that notice.



#### **1.4 Application of provisions in Loan Agreement**

Clauses 1.4 (*Third party rights*), 12 (*Governing Law*) and 13 (*Jurisdiction*) of the Loan Agreement are deemed to form part of this Security Agreement as if expressly incorporated into it and as if all references in those clauses to the Loan Agreement were references to this Security Agreement.

#### **1.5 Real Property**

A reference in this Security Agreement to a mortgage, assignment or charge of any freehold, leasehold or commonhold property includes all buildings, fixtures and fittings from time to time on or forming part of that property and all Related Rights.

#### **1.6 Present and future assets**

- (a) A reference in this Security Agreement to any Mortgaged Property, Security Asset or other asset includes, unless the contrary intention appears, present and future Mortgaged Property, Security Assets and other assets.
- (b) The absence of or incomplete details of any Security Assets in any Schedule shall not affect the validity or enforceability of any Security under this Security Agreement.

#### **1.7 Disposition of Property**

The terms of the Loan Agreement and of any side letters between the Parties are incorporated into this Security Agreement to the extent required for any purported disposition, or any agreement for this disposition, of any Real Property contained in any agreement between the Parties to be a valid disposition in accordance with Section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.

#### **1.8 Fixed Security**

Clauses 4.1 (*Mortgage*) and 4.2 (*Fixed charge*) shall be construed as creating a separate and distinct mortgage, fixed charge or assignment by way of security over each relevant asset within any particular class of assets defined under this Security Agreement and the failure to create an effective mortgage, fixed charge or assignment by way of security (whether arising out of this Security Agreement or any act or omission by any party) on any one asset shall not affect the nature of any mortgage, fixed charge or assignment imposed on any other asset whether within that same class of assets or not.

#### **1.9 No obligation**

The Lender shall not be under any obligation in relation to the Security Assets as a consequence of this Security Agreement and the Nominees shall at all times remain liable to perform all obligations expressed to be assumed by them in respect of the Security Assets.

### **2. COVENANT TO PAY**

The Nominees covenant with the Lender that they shall, on demand of the Lender pay, discharge and satisfy the Secured Liabilities in accordance with their respective terms

provided that the liability of the Nominees shall be limited to the proceeds of enforcement of the Security Assets from time to time.

### **3. COMMON PROVISIONS**

#### **3.1 Common provisions as to all Security**

All the Security constituted by or pursuant to this Security Agreement is:

- (a) created with full title guarantee;
- (b) created in favour of the Lender; and
- (c) continuing security for the payment and discharge of all the Secured Liabilities.

### **4. FIXED SECURITY**

#### **4.1 Mortgage**

The Nominees charge, by way of first legal mortgage, the Mortgaged Property held by them.

#### **4.2 Fixed charge**

The Nominees charge (to the extent not validly and effectively charged by way of first legal mortgage pursuant to Clause 4.1 (*Mortgage*)) by way of first fixed charge, all of their rights, title and interest from time to time in the Real Property and all Related Rights.

### **5. PROVISIONS AS TO SECURITY AND PERFECTION**

#### **5.1 Negative pledge and restriction on dealings**

Except where agreed in writing by the Lender the Nominees will not at any time during the Security Period create or permit to subsist any Security over all or any part of the Security Assets or dispose of or otherwise deal with any part of the Security Assets.

#### **5.2 Implied covenants for title**

- (a) The covenants set out in Sections 3(1), 3(2) and 6(2) of the Law of Property (Miscellaneous Provisions) Act 1994 will not extend to this Security.
- (b) It shall be implied in respect of this Security that the Nominees are disposing of the Security Assets free from all charges and incumbrances (whether monetary or not) and from all other rights exercisable by third parties (including liabilities imposed and rights conferred by or under any enactment).

#### **5.3 Deposit of title deeds**

The Nominees shall:

- (a) immediately upon the execution of this Security Agreement (and upon the acquisition by it of any interest in any Security Asset at any time) deposit (or

procure the deposit) with the Lender all deeds, certificates and other documents constituting or evidencing title to the Security Assets; and

- (b) deposit with the Lender at any time thereafter any further such deeds, certificates, instruments of transfer and other documents, promptly upon coming into possession of any of those items.

#### **5.4 Application to HM Land Registry**

The Nominees hereby consent to an application being made to HM Land Registry to enter the following restriction in the Proprietorship Register of any registered land at any time forming part of the Real Property.

*"No disposition of the registered estate by the proprietor of the registered estate, or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction, is to be registered without a written consent signed by the proprietor for the time being of the charge dated [•] in favour of EU Industrial Club II SCS referred to in the charges register or their conveyancer."*

#### **5.5 Further advances**

- (a) Subject to the terms of the Loan Agreement, the Lender is under an obligation to make further advances to the Nominees and that obligation will be deemed to be incorporated in this Security Agreement as if set out in this Security Agreement.
- (b) The Nominees consent to an application being made to HM Land Registry to enter the obligation to make further advances on the Charges Register of any registered land forming part of the Security Assets.

#### **5.6 Statutory overreaching**

For the purposes of sections 2(1)(ii) and 27 of the Law of Property Act 1925, the Nominees direct the Lender to apply the capital arising on or in connection with this Security Agreement to the Borrower.

### **6. FURTHER ASSURANCE**

#### **6.1 Further assurance**

- (a) The covenant set out in Section 2(1)(b) of the Law of Property (Miscellaneous Provisions) Act 1994 shall extend to include the obligations set out in paragraph (b) below.
- (b) The Nominees shall promptly, at their own cost, take all such action (including filings, registrations and notarisations and applying for relief against forfeiture) and execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Lender may specify (and in such form as the Lender may require) in favour of the Lender or its nominee(s) to:
  - (i) create, perfect, protect and/or maintain the Security created or intended to be created in respect of the Security Assets in accordance with the

rights vested in it under this Agreement (which may include the execution by the Nominees of a mortgage, charge or assignment over all or any of the assets constituting, or intended to constitute, Security Assets) or for the exercise of any of the rights, powers and remedies of the Lender provided by or pursuant to this Security Agreement or by law;

- (ii) confer on the Lender Security over any asset or undertaking of the Nominees located in any jurisdiction outside England and Wales equivalent or similar to the security intended to be conferred by or pursuant to this Security Agreement; and/or
- (iii) in the event that the Loan Agreement has not been repaid in full on the Termination Date, facilitate the realisation of the Security Assets.

## **7. ENFORCEMENT OF SECURITY**

On and at any time after:

- (a) the Termination Date, in the event that the Borrower has failed to repay the Loan Agreement in full; or
- (b) the occurrence of any event or the receipt by the Lender of any information or the coming to the attention of the Lender of any other matter or thing whatsoever which causes the Lender to believe (acting reasonably) that:
  - (i) this has or is reasonably likely to have a material adverse effect on the validity or enforceability of, or the effectiveness or ranking of the Security granted or purported to be granted pursuant to this Security Agreement;
  - (ii) all or any part of the Security Assets is in danger of seizure, distress or other legal process; or
  - (iii) all or any part of the Security created by or pursuant to this Security Agreement is otherwise for any reason whatsoever in jeopardy; or
- (c) a request from the Nominees to the Lender that they exercise any of their powers under this Security Agreement,

the Security created by or pursuant to this Security Agreement is, immediately enforceable and the Lender may, without notice to the Nominees or prior authorisation from any court, in its absolute discretion:

- (i) enforce all or any part of that Security (at the times, in the manner and on the terms it thinks fit) and take possession of and hold or dispose of all or any part of the Security Assets (at the times, in the manner and on the terms it thinks fit (including whether for cash or non-cash consideration)); and
- (ii) whether or not it has appointed a Receiver, exercise all or any of the rights, powers, authorities and discretions conferred by the Law of Property Act 1925 (as varied or extended by this Security Agreement)

on mortgagees and by this Security Agreement on any Receiver or otherwise conferred by law on mortgagees or Receivers.

## **8. EXTENSION OF POWERS AND RIGHT OF APPROPRIATION**

### **8.1 Extension of powers**

The power of sale or other disposal conferred on the Lender and on any Receiver by this Security Agreement shall operate as a variation and extension of the statutory power of sale under Section 101 of the Law of Property Act 1925 and such power shall arise (and the Secured Liabilities shall be deemed due and payable for that purpose) on execution of this Security Agreement.

### **8.2 Restrictions**

The restrictions contained in Sections 93 and 103 of the Law of Property Act 1925 shall not apply to this Security Agreement or to the exercise by the Lender of its right to consolidate all or any of the security created by or pursuant to this Security Agreement with any other security in existence at any time or to its power of sale, which powers may be exercised by the Lender without notice to the Nominees on or at any time after this Security Agreement has become enforceable in accordance with Clause 7 (*Enforcement of Security*).

### **8.3 Power of leasing**

- (a) The statutory powers of leasing may be exercised by the Lender at any time on or after this Security Agreement has become enforceable in accordance with Clause 7 (*Enforcement of Security*) and the Lender and any Receiver may make any lease or agreement for lease, accept surrenders of leases and grant options on such terms as it shall think fit, without the need to comply with Sections 99 and 100 of the Law of Property Act 1925.
- (b) For the purposes of Sections 99 and 100 of the Law of Property Act 1925, the expression "Mortgagor" will include any incumbrancer deriving title under the Nominees and neither Sub-section (18) of Section 99 nor Sub-section (12) of Section 100 of the Law of Property Act 1925 will apply.
- (c) The Nominees shall not have, at any time during the Security Period, the power pursuant to Section 99 of the Law of Property Act 1925 to make any lease in respect of any Real Property without the prior written consent of the Lender.

## **9. APPOINTMENT OF RECEIVER OR ADMINISTRATOR**

### **9.1 Appointment and removal**

After the Security created by or pursuant to this Security Agreement has become enforceable in accordance with Clause 7 (*Enforcement of security*), the Lender may by deed or otherwise (acting through an authorised officer of the Lender):

- (a) without prior notice to the Nominees:

- (i) appoint one or more persons to be a Receiver of the whole or any part of the Security Assets; or
  - (ii) appoint two or more Receivers of separate parts of the Security Assets; or
  - (iii) remove (so far as it is lawfully able) any Receiver so appointed; or
  - (iv) appoint another person(s) as an additional or replacement Receiver(s); or
  - (v) appoint one or more persons to be an administrator of the Nominees pursuant to paragraph 14 of Schedule B1 of the Insolvency Act 1986; and
- (b) appoint one or more persons to be an administrator of the Nominees pursuant to paragraph 12 of Schedule B1 of the Insolvency Act 1986.

## 9.2 Capacity of Receivers

Each person appointed to be a Receiver pursuant to Clause 9.1 (*Appointment and removal*) shall be:

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

## 9.3 Statutory powers of appointment

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

## 10. POWERS OF RECEIVERS

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

- (a) all the powers conferred by the Law of Property Act 1925 on mortgagors and on mortgagees in possession and on receivers appointed under that Act;

- (b) all the powers of an administrative receiver set out in Schedule 1 to the Insolvency Act 1986 (whether or not the Receiver is an administrative receiver);
- (c) all the powers and rights of an absolute owner and power to do or omit to do anything which the Nominees themselves could do or omit to do; and
- (d) the power to do all things (including bringing or defending proceedings in the name or on behalf of the Nominees) which seem to the Receiver to be incidental or conducive to:
  - (i) any of the functions, powers, authorities or discretions conferred on or vested in him;
  - (ii) the exercise of any rights, powers and remedies of the Lender provided by or pursuant to this Security Agreement or by law (including realisation of all or any part of the assets in respect of which that Receiver was appointed); or
  - (iii) bringing to his hands any assets of the Nominees forming part of, or which when got in would be, Security Assets.

## **11. APPLICATION OF MONEYS**

All moneys received or recovered and any non-cash recoveries made or received by the Lender or any Receiver pursuant to this Security Agreement or the powers conferred by it shall (subject to the claims of any person having prior rights thereto and by way of variation of the provisions of the Law of Property Act 1925) be applied first in the payment or other discharge of the costs, charges and expenses incurred and payments made by the Receiver, the payment or other discharge of his remuneration and the discharge of any liabilities incurred by the Receiver in, or incidental to, the exercise of any of his powers, and thereafter shall be applied by the Lender in repayment of the amounts outstanding under the Loan Agreement.

## **12. PROTECTION OF PURCHASERS**

### **12.1 Consideration**

The receipt of the Lender or any Receiver shall be conclusive discharge to a purchaser and, in making any sale or disposal of any of the Security Assets or making any acquisition, the Lender or any Receiver may do so for such consideration (whether cash or non-cash), in such manner and on such terms as it thinks fit.

### **12.2 Protection of purchasers**

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

### **13. POWER OF ATTORNEY**

#### **13.1 Appointment and powers**

The Nominees by way of security irrevocably appoint the Lender and any Receiver severally to be its attorney and in its name, on its behalf and as its act and deed to execute, deliver and perfect all documents and do all things which the attorney may consider to be required or desirable for:

- (i) carrying out any obligation imposed on the Nominees by this Security Agreement or any other agreement binding on the Nominees to which the Lender is party (including the execution and delivery of any deeds, charges, assignments or other security and any transfers of the Security Assets and perfecting and/or releasing the security created or intended to be created in respect of the Security Assets); and
- (ii) enabling the Lender and any Receiver to exercise, or delegate the exercise of, any of the rights, powers and authorities conferred on them by or pursuant to this Security Agreement or by law (including, after this Security Agreement has become enforceable in accordance with Clause 7 (*Enforcement of security*), the exercise of any right of a legal or beneficial owner of the Security Assets).

#### **13.2 Ratification**

The Nominees shall ratify and confirm all things done and all documents executed by any attorney in the exercise or purported exercise of all or any of his powers.

### **14. EFFECTIVENESS OF SECURITY**

#### **14.1 Continuing security**

- (a) The Security created by or pursuant to this Security Agreement shall remain in full force and effect as a continuing security for the Secured Liabilities unless and until discharged by the Lender in writing.
- (b) No part of the Security from time to time intended to be constituted by this Security Agreement will be considered satisfied or discharged by an intermediate payment, discharge or satisfaction of the whole or any part of the Secured Liabilities.

#### **14.2 Cumulative rights**

The Security created by or pursuant to this Security Agreement shall be cumulative, in addition to and independent of every other Security which the Lender may at any time hold for the Secured Liabilities or any other obligations or any rights, powers and remedies provided by law and shall operate as an independent security notwithstanding any receipt, release or discharge endorsed on or given in respect of or under any such other Security. No prior Security held by the Lender over the whole or any part of the Security Assets shall merge into the Security constituted by this Security Agreement.



#### **14.3 No prejudice**

The Security created by or pursuant to this Security Agreement shall not be prejudiced by any unenforceability or invalidity of any other agreement or document or by any time or indulgence granted to the Nominees or any other person, by the Lender or by any other thing which might otherwise prejudice that Security.

#### **14.4 Remedies and Waivers**

No failure on the part of the Lender to exercise, nor any delay on its part in exercising, any right, power or remedy under this Security Agreement, shall operate as a waiver of that right, power or remedy or, power constitute an election to affirm this Security Agreement. No election to affirm this Security Agreement on the part of the Lender shall be effective unless it is in writing. The rights, powers and remedies provided in this Agreement are cumulative and not exclusive of any provided by law. No single or partial exercise of any right, power or remedy shall preclude any further or other exercise of that or any other right or remedy.

#### **14.5 No liability**

None of the Lender, its nominee(s) nor any Receiver shall be liable

- (a) to account as a mortgagee or mortgagee in possession; or
- (b) for any loss arising by reason of taking any action permitted by this Security Agreement or any neglect or default in connection with the Security Assets or taking possession of or realising all or any part of the Security Assets,

except in the case of gross negligence or wilful default upon its part.

#### **14.6 Partial invalidity**

If, at any time, any provision of this Security Agreement is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions of this Security Agreement nor of such provision under the laws of any other jurisdiction shall in any way be affected or impaired thereby and, if any part of the security intended to be created by or pursuant to this Security Agreement is invalid, unenforceable or ineffective for any reason, that shall not affect or impair any other part of the security.

#### **14.7 Chargor intent**

The Nominees expressly confirm that they intend that the Security created under this Security Agreement and the rights and remedies arising thereunder, shall extend from time to time to any (however fundamental and of whatsoever nature, and whether or not more onerous) variation, increase, extension or addition of or to the Loan Agreement and/or any facility or amount made available thereunder for the purposes of or in connection with any of the following: acquisitions of any nature; increasing working capital; enabling investor distributions to be made; carrying out restructurings; refinancing existing facilities; refinancing any other indebtedness; making facilities available to new Nominees; any other variation or extension of the purposes for which

any such facility or amount might be made available from time to time; and any fees, costs and/or expenses associated with any of the foregoing.

#### **14.8 Immediate recourse**

The Nominees waive any right they may have of first requiring the Lender (or any trustee or agent on its behalf) to proceed against or enforce any other rights or Security or claim payment from any other person before claiming from the Nominees under this Security Agreement. This waiver applies irrespective of any law or any provision of this Security Agreement to the contrary.

#### **14.9 Indemnity**

The Nominees shall, notwithstanding any release or discharge of all or any part of the Security created by or pursuant to this Security Agreement, indemnify the Lender, its agents, attorneys and any Receiver against any action, proceeding, claims, losses, liabilities and costs which it may sustain as a consequence of any breach by the Nominees of the provisions of this Security Agreement, the exercise or purported exercise of any of the rights and powers conferred on them by this Security Agreement or otherwise relating to the Security Assets.

### **15. PRIOR SECURITY INTERESTS**

- (a) In the event of any action, proceeding or step being taken to exercise any powers or remedies conferred by any prior ranking Security against any of the Security Assets or in case of exercise by the Lender or any Receiver of any power of sale under this Security Agreement, the Lender may redeem such prior Security or procure the transfer thereof to itself.
- (b) The Lender may settle and agree the accounts of the prior Security and any accounts so settled and agreed will be conclusive and binding on the Nominees.
- (c) All principal moneys, interest, costs, charges and expenses of and incidental to any redemption or transfer will be paid by the Nominees to the Lender on demand together with accrued interest thereon as well as before judgment.

### **16. SUBSEQUENT SECURITY INTERESTS**

If the Lender at any time receives or is deemed to have received notice of any subsequent Security, assignment or transfer affecting all the Security Assets or any part of the Security Assets which is prohibited by the terms of this Agreement or the Loan Agreement, all payments thereafter by or on behalf of the Nominees to the Lender will (in the absence of any express contrary appropriation by the Nominees) be credited or treated as having been credited to a new account of the Nominees and not as having been applied in reduction of the Secured Liabilities at the time that notice was received.

### **17. SUSPENSE ACCOUNTS**

All moneys received, recovered or realised by the Lender under this Security Agreement (including the proceeds of any conversion of currency) may in the discretion of the Lender be credited to any interest bearing suspense or impersonal account(s) maintained with a bank, building society, financial institution or other person as it

considers appropriate (including itself) for so long as it may think fit (the interest being credited to the relevant account) pending their application from time to time at the Lender's discretion, in or towards the discharge of any of the Secured Liabilities and save as provided herein no party will be entitled to withdraw any amount at any time standing to the credit of any suspense or impersonal account referred to above.

## **18. RELEASE OF SECURITY**

### **18.1 Release of Security**

Upon the expiry of the Security Period, the Lender shall, at the request and cost of the Nominees, release and cancel the security constituted by this Security Agreement and procure the reassignment to the Nominees of the property and assets assigned to the Lender pursuant to this Security Agreement, in each case without recourse to, or any representation or warranty by, the Lender or any of its nominees.

### **18.2 Clawback**

If the Lender considers that any amount paid or credited to it is capable of being avoided or reduced by virtue of any bankruptcy, insolvency, liquidation or similar laws, the liability of the Nominees under this Security Agreement and the Security constituted by that document will continue and such amount will not be considered to have been irrevocably discharged.

## **19. DISCRETION AND DELEGATION**

### **19.1 Discretion**

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

### **19.2 Delegation**

Each of the Lender and any Receiver shall have full power to delegate (either generally or specifically) the powers, authorities and discretions conferred on it by this Security Agreement (including the power of attorney) on such terms and conditions as it shall see fit which delegation shall not preclude either the subsequent exercise, any subsequent delegation or any revocation of such power, authority or discretion by the Lender or the Receiver itself.

## **20. TRANSFERS**

The Nominees may not assign or otherwise transfer any of their rights and obligations under this Security Agreement.

## **21. SUCCESSORS**

### **21.1 Lender successors**

This Security Agreement shall remain in effect despite any amalgamation or merger (however effected) relating to the Lender, and references to the Lender shall include

any transferee, assignee or successor in title of the Lender and any person who, under the laws of its jurisdiction of incorporation or domicile, has assumed the rights and obligations of the Lender under this Security Agreement or to which, under such laws, those rights and obligations have been transferred.

#### 21.2 **Disclosure**

The Lender shall be entitled to disclose such information concerning the Nominees or any other person and this Security Agreement as the Lender considers appropriate to any actual or proposed direct or indirect successor or to any person to whom information may be required to be disclosed by applicable law.

### 22. **GOVERNING LAW**

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

### 23. **JURISDICTION**

#### 23.1 **English courts**

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

#### 23.2 **Convenient Forum**

The Nominees agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly that the Nominees will not argue to the contrary.

#### 23.3 **Exclusive Jurisdiction**

Notwithstanding Clause 23.1 (*English courts*), the Lender may take proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law the Lender may take concurrent proceedings in any number of jurisdictions.

**THIS SECURITY AGREEMENT** has been executed as, and is intended to take effect as, a deed by the Nominees and has been signed by the Lender on the date written on the first page of this Security Agreement.

EXECUTION PAGE

Nominees

Executed as a deed by HE2 N1  
HAYDOCK LIMITED  
acting by  
a director

)  
)  
)  
)  
)



DAVID RUDGE Director

in the presence of:

Witness's signature:



Witness's name:

PRISCILA SANTOS  
3<sup>rd</sup> Floor

Witness's address:

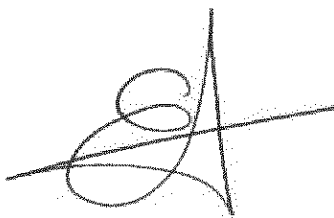
11-12 St James Square  
London  
SW1Y 4LB

Witness's occupation:

ASSISTANT MANAGER

Executed as a deed by HE2 N2  
HAYDOCK LIMITED  
acting by  
a director

)  
)  
)  
)  
)



EUGENIA SCHROEDER Director

in the presence of:

Witness's signature:



Witness's name:

HANNAH DOWE  
3<sup>rd</sup> Floor

Witness's address:

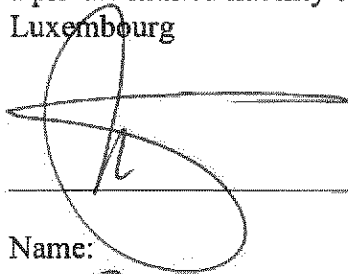
11-12 St James Square  
London  
SW1Y 4LB

Witness's occupation:

SENIOR ASSOCIATE

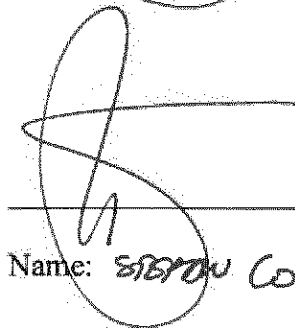
**Lender**

Signed for and on behalf of **EU INDUSTRIAL CLUB** )  
**II SCS** a common limited partnership of the Grand Duchy )  
of Luxembourg acting through and represented by its )  
general partner **HE MANAGEMENT II S.À R.L.** )  
a private limited liability of the Grand Duchy of )  
Luxembourg )



\_\_\_\_\_  
**Manager**

Name:



\_\_\_\_\_  
**Manager**

Name: *EURO CONTROLS*