



Registration of a Charge

Company name: **MONARCH AIRLINES LIMITED**

Company number: **00907593**

Received for Electronic Filing: **18/08/2017**



X6D3FKUW

Details of Charge

Date of creation: **15/08/2017**

Charge code: **0090 7593 0206**

Persons entitled: **AERGEN AIRCRAFT TWENTY TWO LIMITED**

Brief description:

Contains fixed charge(s).

Contains negative pledge.

Authentication of Form

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

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: **NORTON ROSE FULBRIGHT LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 907593

Charge code: 0090 7593 0206

The Registrar of Companies for England and Wales hereby certifies that a charge dated 15th August 2017 and created by MONARCH AIRLINES LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 18th August 2017 .

Given at Companies House, Cardiff on 22nd August 2017

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

Assignment of insurances and requisition proceeds

in respect of one (1) Airbus A321-231 aircraft, manufacturer's serial number 3575
and UK Registration Mark G-OZBU

Dated 15 August 2017

Monarch Airlines Limited
(Assignor)

Aergen Aircraft Twenty Two Limited
(Lessor)

I certify that, save for material
redacted pursuant to s.859G
of the Companies Act 2006,
this copy instrument is a correct copy
of the original instrument.

Sign & Dated *Norton Rose Fulbright*
17 August 2017 *LRP*

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Schedule 1 - Form of Notice of Assignment to Insurers

Schedule 2 - Form of Notice of Assignment of Requisition Proceeds

Assignment of insurances and requisition proceeds

Dated 15 August 2017

Between

Monarch Airlines Limited, a corporation organised and existing under the laws of England, company no. 907593, whose registered office is at Prospect House, Prospect Way, Luton, Bedfordshire, LU2 9NU, United Kingdom (the **Assignor**); and

Aergen Aircraft Twenty Two Limited, a private company limited by shares organised and existing under the laws of Ireland, whose registered office is at 25-28 North Wall Quay, Dublin 1, Ireland (the **Lessor**).

Recitals

Under the Lease, the Lessor has agreed to lease and the Lessee has agreed to take on lease the Aircraft.

It is a condition precedent to the leasing of the Aircraft under the Lease that the Assignor executes this Deed in favour of the Lessor as security for, inter alia, the obligations and liabilities of the Assignor thereunder.

It is agreed:

1 Interpretation

Except as otherwise defined herein, all terms defined in and rules of interpretation set out in the Lease (including definitions incorporated therein by reference to another document) shall have the same respective meanings and application when used herein.

Aircraft means the Airbus A321-231 aircraft bearing manufacturer's serial number 3575 and UK Registration Mark G-OZBU more particularly defined in the Lease.

Assigned Property means:

- (a) all of the right, title and interests, present and future, of the Assignor in and to the Insurances, but excluding any Insurances in respect of any third party liability (provided always that this Deed shall not constitute an assignment of any policy of insurance but only of the benefit of any right, title and interests thereunder insofar as the same relate to the Aircraft); and
- (b) all of the right, title and interest, present and future, of the Assignor in and to the Requisition Proceeds.

Beneficiaries means the Lessor, the Financiers (as defined in the Lease).

Compulsory Acquisition means in relation to the Aircraft, its requisition for title or other compulsory acquisition, confiscation, forfeiture, seizure, restraint or detention for any reason (but excluding requisition for use or hire), in any such case, by any Government Entity (whether de jure or de facto).

Government Entity means:

- (a) any national government, political subdivision, banking or monetary authority thereof or local jurisdiction therein;
- (b) any instrumentality, board commission, authority, department, organ, court or agency of any of the foregoing, however constituted; and
- (c) any association, organisation or institution of which any of the foregoing is a member or to whose jurisdiction any thereof is subject or in whose activities any of the above is a participant.

Lease means the aircraft operating lease agreement dated 1 February 2012 (as novated, amended, assigned, assumed, supplemented and modified from time to time) between the Lessor, as lessor, and the Assignor, as lessee, in respect of the Aircraft.

Requisition Proceeds means any proceeds of requisition (whether for title, use, hire or otherwise), confiscation, nationalisation, sequestration, detention or forfeiture or any Compulsory Acquisition of the Aircraft, any Engine or Part, in any such case, from any Government Entity (whether de jure or de facto).

Secured Obligations means any and all moneys liabilities and obligations (whether actual or contingent, whether now existing or hereafter arising, whether or not for the payment of money and including, without limitation, any obligation or liability to pay damages) from time to time owing to the Lessor, the Beneficiaries or any of them by the Assignor pursuant to the Lease, this Deed or any other Operative Document which is now or which may at any other time be due, owing or payable.

Security Assignment means the security assignment dated on or prior to the date hereof between the Lessor, as assignor, and Wells Fargo Bank, National Association (the **Security Trustee**), as assignee, relating to the Lease.

Security Period means the period commencing on the date hereof and terminating on the date upon which all of the Secured Obligations have been fully discharged.

2 Assignment

- 2.1 In order to secure the due payment and performance to the Lessor and each of the Beneficiaries of the Secured Obligations and the due and punctual performance by the Assignor of all terms, covenants and conditions applicable to the Assignor in the Lease or this Deed, the Assignor hereby assigns and agrees to assign by way of security and with full title guarantee the Assigned Property to and in favour of the Lessor.

2.2 The Security Interest constituted by this Deed shall be and remain in full force and effect until the end of the Security Period whereupon the Lessor will, upon the request of the Assignor (and at the cost and expense of the Assignor), discharge the Security Interest hereby constituted in respect of the Assigned Property and all filings and registrations (if any) in respect thereof capable of being discharged by the Lessor and will thereby reassign the Assigned Property to the Assignor free and clear of all Security Interests.

3 Continuing security

3.1 Throughout the Security Period, the Security Interest constituted by this Deed shall:

- (a) be a continuing security for the irrevocable payment, satisfaction and discharge in full of the Secured Obligations;
- (b) not be considered as satisfied or discharged or prejudiced by any intermediate payment, satisfaction or settlement of the whole or any part of the Secured Obligations or any other matter or thing whatsoever;
- (c) be in addition to and shall not operate so as in any way to prejudice or affect or be prejudiced or affected by any Security Interest, guarantee, indemnity or other right or remedy which the Lessor or any Beneficiary may now or at any time hereafter hold for or in respect of the Secured Obligations or any part thereof;
- (d) not be prejudiced by any time or indulgence granted to any person, or any abstention, failure or delay by the Lessor in perfecting or enforcing any Security Interest, securities, guarantees, rights or remedies that the Lessor may now or hereafter have from or against the Assignor or any other person, or any waiver, act, omission, unenforceability or invalidity of any such Security Interest, security, guarantee, right or remedy;
- (e) not be discharged, impaired or otherwise affected by any abstention, failure or delay by the Lessor to take or enforce any other security, guarantee or other assurance taken or agreed to be taken or given for all or any of the Secured Obligations under or pursuant to the Lease, this Deed, any Operative Document or otherwise;
- (f) not be discharged, impaired or otherwise affected by any amendment, modification, variation, supplement, novation, restatement or replacement of all or any part of the Secured Obligations or the Lease, this Deed or Operative Document;
- (g) not be discharged, impaired or otherwise affected by any release or exchange of any other security, guarantee or other assurance now or hereafter held by or enuring to the benefit of the Lessor or any other Beneficiary for all or any part of the Secured Obligations; and

(h) not be discharged, impaired or otherwise affected by any other act, fact, matter, event, circumstance, omission or thing (other than a discharge in accordance with the express terms of this Deed) which, but for this provision, might operate to impair or discharge the rights of the Lessor under this Deed or the rights of the Lessor or any other Beneficiary under the Lease, this Deed or any Operative Document or which, but for this provision, might constitute a legal or equitable discharge of the security hereby created.

3.2 This Deed and the Security Interest hereby constituted shall extend to and cover any sum, or sums of money or other obligations which shall from time to time constitute the balance of the Secured Obligations.

3.3 The Lessor need not before exercising any of the rights, powers or remedies conferred upon it by this Deed or by law:

- (a) take action or obtain judgment against the Assignor or any other person in any court or otherwise;
- (b) make or file a claim or proof in a winding-up, liquidation, bankruptcy, insolvency, dissolution, reorganisation or amalgamation of, or other analogous event of or with respect to, the Assignor or any other person; or
- (c) enforce or seek to enforce the payment or performance of, or the recovery of, any of the moneys, obligations and liabilities hereby secured or any other security, guarantee or other assurance for all or any of the Secured Obligations.

4 Covenants

4.1 The Assignor hereby covenants that it shall not knowingly do or permit to be done any act or thing which is likely to jeopardise the security interest afforded by this Deed (save as permitted by the Operative Documents).

4.2 Forthwith upon execution of this Deed, the Assignor shall deliver a notice of assignment to the Insurers in the form set out in schedule 1.

4.3 The Assignor hereby undertakes that it shall give notice or procure that such notice is given, of the assignment of the Requisition Proceeds to the relevant government or public or local authority immediately upon any requisition for title, confiscation, restraint, detention, forfeiture or compulsory acquisition or seizure or requisition for hire being effected in relation to the Aircraft by or under order of such government or public or local authority; and, where practicable, to deliver to the Lessor a copy of an acknowledgement of assignment, duly countersigned by or on behalf of the addressee(s) of such notice.

4.4 When the Insurances are effected with insurers who do not fulfil the requirements of Clause 19.1.3(a) of the Lease (so that 100% reinsurance is required to be effected pursuant to Clause 19.1.3(b) of the Lease), the Assignor shall procure that:

- (i) each insurer executes in favour of the Lessor an assignment by way of security of the reinsurances and in a form approved by the Lessor;
- (ii) each insurer serves notices of assignment on each reinsurer in a form approved by the Lessor; and
- (iii) each reinsurer executes and delivers to the Lessor acknowledgements of notice in a form approved by the Lessor.

- 4.5 The Assignor agrees that it shall remain liable under the Insurances to perform all the conditions and obligations (if any) provided in the Insurances to be observed and performed by it (including the obligation to pay premiums, calls, contributions or other sums payable in respect of the Insurances) and neither this Deed nor the receipt by the Lessor or any other party (other than the Assignor) of any payment pursuant thereto or hereto shall cause the Lessor or any other party (other than the Assignor) to be under any obligation or liability in any respect under any part of the Insurances for the performance or observance of any of the representations, warranties, conditions, covenants, agreements or other terms contained therein.
- 4.6 The Assignor covenants and undertakes that it shall not assign or otherwise dispose of or deal with the Assigned Property and shall not create or incur nor shall it agree to or acquiesce in the creation or incurrence by any other person of any Security Interest (other than Permitted Security Interests) over any of its rights title, benefit or interest under the Assigned Property or any amounts payable or which may become payable in respect thereof otherwise than as created by the Operative Documents.
- 4.7 The Assignor covenants and undertakes that it will not, except with the previous consent in writing of the Lessor and the Security Trustee, agree to or permit any variation of the Insurances (save where such variation is expressly permitted under the Operative Documents).
- 4.8 The Assignor covenants and undertakes that:
- (a) it will not at any time terminate the Insurances without the prior written consent of the Lessor; and
 - (b) provided that no Event of Default has occurred and is continuing, it will not at any time (otherwise than in compliance with the terms of the Operative Documents) exercise any rights or powers conferred on it by the Insurances or otherwise enjoyed in respect of the Requisition Proceeds in terms which would be in breach of the Operative Documents, it being understood that the exercise of such rights and powers by the Assignor after the occurrence of an Event of Default which has occurred and is continuing shall require the express written consent of the Security Trustee.

5 Representations

The Assignor represents to the Lessor as follows:

- (a) the Assignor has not assigned or otherwise disposed of or agreed to assign or otherwise dispose of any of its right, title or interest in or to the Assigned Property or any part thereof except in accordance with the Operative Documents or otherwise pursuant to any prior assignment which has as at the date of this Deed been reassigned to the Assignor and otherwise released and discharged;
- (b) the Assignor has full power and authority, and has taken all action necessary, to enter into this Deed and fulfil its obligations hereunder;
- (c) no notice, consent or permission is required to give effect to the assignment by the Assignor contemplated hereunder, except as provided in Clause 4.2 (Covenants); and
- (d) no governmental authorisation is required in connection with the execution, delivery and/or performance of this Deed by the Assignor.

6 Enforceability of security

The Lessor shall not be entitled to exercise any right or power arising (whether under law or pursuant to the provisions of this Deed) in respect of the Assigned Property and the same shall not be enforceable in respect of the Secured Obligations unless and until (i) a declaration that an Event of Default has occurred and which is continuing under the Lease or any of the other Operative Documents shall have been made in accordance with the terms of the Operative Documents or (ii) a default (however described) by the Lessee under the Lease or this Deed has occurred and is continuing.

7 Monies received

The parties hereto agree that all monies and proceeds received in respect of the Assigned Property shall be applied upon receipt:

- (i) firstly, in or towards discharge of any of the Secured Obligations as may be due and payable at the time of receipt in such order as the Lessor may determine;
- (ii) secondly, any balance to be held on suspension account pending the end of the Security Period and to be applied from time to time in or towards discharge of any Secured Obligations which become due and payable from time to time; and
- (iii) thirdly, at the end of the Security Period, any remaining balance shall be applied in the manner set out in Clause 19.5 of the Lease.

8 Further assurances and protection of security

- 8.1 The Assignor shall promptly at the request of the Lessor from time to time sign, seal, execute, acknowledge, deliver, file and register additional documents, instruments, agreements, certificates, consents and assurances and do such other acts and things reasonably necessary and from time to time to perfect the security granted by this Deed or to establish, maintain, protect, or preserve the rights of the Lessor under this Deed and the Security Interest and security intended to be constituted by this Deed.
- 8.2 The Lessor shall, without prejudice to its other rights and powers under this Deed, be entitled (but shall be under no obligation) at any time in consultation with the Assignor and as often as may be necessary after notice to the Assignor to take any such action as it in its absolute discretion thinks fit for the purpose of protecting the Security Interest and security constituted by this Deed.

9 Conditional discharge only

Any settlement or discharge between the Lessor and the Assignor shall be conditional upon no security or payment to the Lessor, the Beneficiaries, the Assignor or any other person being avoided or set aside or ordered to be refunded or reduced by virtue of any provision or enactment relating to bankruptcy, liquidation, winding-up, insolvency, dissolution, reorganisation, amalgamation or other analogous event or proceedings for the time being in force,

10 Successors and assigns

- 10.1 This Deed shall be binding upon and inure to the benefit of the Assignor, the Lessor and their respective successors and permitted assigns and permitted transferees.
- 10.2 The Assignor may not assign any of its rights or transfer or purport to transfer any of its obligations hereunder without the express prior written consent of the Lessor.
- 10.3 The Lessor may assign or otherwise transfer its rights hereunder as contemplated by the Security Assignment and the other Operative Documents and the Assignor hereby consents to any such assignment or other transfer.

11 Power of attorney

- 11.1 The Assignor, by way of security for the full and punctual payment, performance and discharge of the Secured Obligations, irrevocably appoints the Lessor to be its true and lawful attorney (with full power of substitution and delegation) to take any action which the Assignor is obliged to take under or pursuant to this Deed or entitled to take in respect of the Assigned Property provided that the authority conferred in this Clause 11.1 shall only be exercisable after the security constituted by this Deed shall have become enforceable.

- 11.2 The Assignor hereby unconditionally and irrevocably ratifies and confirms, and agrees to ratify and confirm, whatever any such attorney appointed pursuant to Clause 11.1 (Power of Attorney) shall do or purport to do in the exercise or purported exercise of all or any of the powers conferred pursuant to Clause 11.1 (Power of Attorney).
- 11.3 The Lessor shall not have any obligation to exercise any of the powers hereby conferred upon it or to make any demand or enquiry as to the nature or sufficiency of any payment received by it with respect to the Assigned Property. No action taken by or omitted to be taken by the Lessor in the proper exercise of the power conferred on it pursuant to Clause 11.1 (Power of Attorney) shall give rise to any defence, counterclaim or set-off in favour of the Assignor or otherwise affect any of the Secured Obligations.

12 Miscellaneous

- 12.1 This Deed may be executed in any number of counterparts, each of which when executed and delivered shall constitute an original, but all counterparts shall together constitute but one and the same instrument.
- 12.2 No failure to exercise, nor any delay in exercising, on the part of any party hereto, any right or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise thereof or the exercise of any other right or remedy. The rights and remedies herein provided are cumulative and not exclusive of any rights or remedies provided by law.
- 12.3 If, at any time, any provision hereof 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 hereof nor the legality, validity or enforceability of such provision under the law of any other jurisdiction shall in any way be affected or impaired thereby.
- 12.4 Any waiver or consent by the Lessor under this Deed must be in writing and may be given subject to any conditions thought fit by the Lessor. Any waiver or consent shall be effective only in the instance and for the purposes for which it is given.
- 12.5 All the rights and powers vested in the Lessor by this Deed may be exercised from time to time and as often as the Lessor may deem expedient.
- 12.6 No failure or delay on the part of the Lessor to exercise any right, power or remedy under the Lease, this Deed, the Operative Documents, the Operative Documents (as defined in any Other Lease) or any of them shall operate as a waiver thereof, nor shall any single or partial exercise by the Lessor of any right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy, nor shall the giving by the Lessor of any consent to any act which by the terms of this Deed requires such consent prejudice the right of the Lessor to withhold or give consent to the doing of any other similar act. The remedies provided in the Lease, this Deed and any Operative Documents are cumulative and are not exclusive of any remedies provided by law.

12.7 The provisions of this Deed shall not be varied otherwise than by an instrument in writing executed by or on behalf of both parties hereto.

13 Law

This Deed shall take effect under and be governed by and construed in accordance with the laws of England and Wales.

14 Jurisdiction

- 14.1 Each party hereto irrevocably agrees for the benefit of the other party that the courts of England shall have jurisdiction to hear and determine any suit, action or proceeding, and to settle any disputes, which may arise out of or in connection with this Deed and, for such purposes, irrevocably submits to the jurisdiction of such courts.
- 14.2 Each party hereto irrevocably waives any objection which it might now or hereafter have to the courts referred to in Clause 14.1 (Jurisdiction) being nominated as the forum to hear and determine any suit, action or proceeding, and to settle any disputes, which may arise out of or in connection with this Deed and agrees not to claim that any such court is not a convenient or appropriate forum.
- 14.3 The submission to the jurisdiction of the courts referred to in Clause 14.1 (Jurisdiction) shall not (and shall not be construed so as to) limit the right of one party to take proceedings against the other party in any other court of competent jurisdiction nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdiction (whether concurrently or not) if and to the extent permitted by applicable law.
- 14.4 To the extent that the Assignor may in any jurisdiction claim for itself or its assets immunity from suit, execution, attachment (whether in aid of execution, before judgment or otherwise) or other legal process and to the extent that in any such jurisdiction there may be attributed to itself or its assets such immunity (whether or not claimed), the Assignor hereby irrevocably agrees not to claim and hereby irrevocably waives such immunity to the full extent permitted by the laws of such jurisdiction.

Schedule 1 — Form of Notice of Assignment to Insurers

To: [Name of Insurer]

Dated: _____ 2012

Dear Sirs

One (1) Airbus A321-231 Aircraft msn 3575 and UK registration mark G-OZBU

- 1 We hereby give you notice that (i) by an Assignment of Insurance Proceeds dated on or about _____ 2017 between Monarch Airlines Limited (the **Lessee**) as assignor and Aergen Aircraft Twenty Two Limited (the **Lessor**) as assignee (a copy of which is attached hereto), the Lessee assigned absolutely by way of security to the Lessor all its rights, title and interest in and to the Assigned Property (as defined therein) and All insurance proceeds shall be paid in accordance with the terms contained in the certificate of insurance issued in respect of the Aircraft referred to above, and (ii) by a Security Agreement dated as of August 25, 2016 (as amended, supplemented or otherwise modified) among, *inter alios*, Aergen Finance No. 1 Holding Limited, Aergen Finance No. 1 Limited, Wells Fargo Bank, National Association (the **Security Trustee**) and the other parties named therein, the Lessor shall assign to the Security Trustee, as security, all of its rights, title and interest in, to and under the Aircraft, the Lease and each of the other Operative Documents (as defined in the Lease), including certain insurance proceeds.
- 2 This notice and the instructions contained herein cannot be amended or modified without the express written consent of the Security Trustee. Please acknowledge receipt of this notice by signing the enclosed acknowledgement of assignment.
- 3 This notice is governed by and shall be construed in accordance with the laws of England.

for and on behalf of
Aergen Aircraft Twenty Two Limited

for and on behalf of
Monarch Airlines Limited

Schedule 2 Form of Notice of Assignment of Requisition Proceeds

To: []

[Date]

One (1) Airbus A321-231 Aircraft msn 3575 and UK registration mark G-OZBU

We hereby give you notice that:

- 1 by an Assignment of Insurance Proceeds (the **Assignment of Insurance Proceeds**) dated _____ 2017, a copy of which is attached hereto, Monarch Airlines Limited (the **Lessee**) assigned absolutely by way of security to Aergen Aircraft Twenty Two Limited (the **Lessor**), as assignee, all of its right, title and interest in and to any moneys or other compensation receivable from any government (whether civil, military or de facto) or public or local authority in relation to the Aircraft or any part thereof in the event of its requisition for title, confiscation, restraint, detention, forfeiture or compulsory acquisition or seizure or requisition for hire by or under the order of any such government or public or local authority (the **Requisition Proceeds**); and
- 2 by a Security Agreement dated as of August 25, 2016 (as amended, supplemented or otherwise modified) among, *inter alios*, Aergen Finance No. 1 Holding Limited, Aergen Finance No. 1 Limited, Wells Fargo Bank, National Association (the **Security Trustee**) and the other parties named therein, the Lessor shall assign to the Security Trustee, as security, all of its rights, title and interest in, to and under the Aircraft, the Lease and each of the other Operative Documents (as defined in the Lease), including any Requisition Proceeds.

Unless otherwise defined therein, terms defined in the Assignment of Insurance Proceeds shall have the same meaning when used herein.

[Henceforth][*(or, where the Aircraft has been requisitioned for hire:)*]Upon notice from the Lessor that a Relevant Event has occurred and is continuing, which notice shall be conclusive for these purposes], all moneys that may be payable to us by you in relation to the Aircraft shall be paid to such account as the Lessor may direct.

This Notice is governed by and shall be construed in accordance with the laws of England.

This Notice and the instructions contained herein cannot be amended or modified without the express written consent of the Lessor.

for and on behalf of
Monarch Airlines Limited

for and on behalf of
Aergen Aircraft Twenty Two Limited

EXECUTION PAGE

ONE (1) AIRBUS A321-231 AIRCRAFT MSN 3575

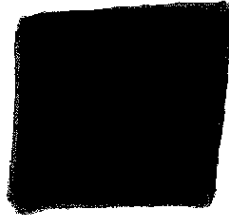
ASSIGNMENT OF INSURANCES AND REQUISITION PROCEEDS

The Assignor

Executed and Delivered as a Deed by)

Monarch Airlines Limited)

acting by:



Mike Smith
Director of Fleet &
External Affairs
Monarch Airlines Limited

its attorney in fact



In the presence of:

Name: *Oliver Woods*

Title: *Group Head of Legal
The Monarch Group
Prospect House, Luton Airport*

SIGNED AND DELIVERED as a Deed
for and on behalf of
AERGEN AIRCRAFT TWENTY TWO LIMITED
By its lawfully appointed attorney



in the presence of:

Witness signature:



Name:

EOEL ELLISON

Address:

17 UPPER MOUNT STREET DUBLIN 2.