



Registration of a Charge

Company name: **WHISTLES LIMITED**

Company number: **01514754**



X96LG7Z7

Received for Electronic Filing: **05/06/2020**

Details of Charge

Date of creation: **29/05/2020**

Charge code: **0151 4754 0036**

Persons entitled: **DRESS HOLDCO A LIMITED**

Brief description: **ALL CURRENT AND FUTURE LAND (INCLUDING ANY LEASEHOLD INTEREST ONLY TO THE EXTENT THAT SUCH LEASEHOLD INTEREST IS NOT PROHIBITED UNDER ITS TERMS FROM BEING CHARGED OR HAS BY VIRTUE OF OBTAINING LESSOR'S CONSENT PURSUANT TO CLAUSE 3.7(A) OF THE DEBENTURE CEASED TO BE A FLOATING CHARGE PROPERTY) AND INTELLECTUAL PROPERTY (TO THE EXTENT THAT ANY CONSENT OF A RELEVANT PERSON HAS BEEN OBTAINED) AND THE SPECIFIED INTELLECTUAL PROPERTY OWNED BY THE COMPANY, IN EACH CASE AS SPECIFIED (AND DEFINED) IN THE DEBENTURE REGISTERED BY THIS FORM MR01 (THE "DEBENTURE").FOR MORE DETAILS PLEASE REFER TO THE DEBENTURE.**

Contains fixed charge(s).

Contains floating charge(s) (floating charge covers all the property or undertaking of the company).

Contains negative pledge.

Authentication of Form

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: **RICHARD BEAZLEY**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 1514754

Charge code: 0151 4754 0036

The Registrar of Companies for England and Wales hereby certifies that a charge dated 29th May 2020 and created by WHISTLES LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 5th June 2020 .

Given at Companies House, Cardiff on 8th June 2020

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 29 May 2020

The companies listed in Schedule 1 (*The Chargors*)
as Chargors

DRESS HOLDCO A LIMITED
as Security Agent

DEBENTURE

**THIS DEBENTURE IS SUBJECT TO THE INTERCREDITOR AGREEMENT
(AS DEFINED BELOW)**



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THIS DEBENTURE is made on 29 May 2020

BETWEEN:

- (1) **THE COMPANIES** listed in Schedule 1 (*The Chargors*); and
- (2) **DRESS HOLDCO A LIMITED** a company registered under the laws of England and Wales with registration number 09379986, acting as security agent and trustee for the Secured Parties including any successor appointed by the Secured Parties pursuant to the Documents (the "**Security Agent**").

WITNESSES as follows:

1 **DEFINITIONS AND INTERPRETATION**

1.1 **Definitions**

Unless the context otherwise requires, words or expressions defined in the Subordinated Facility Agreement shall have the same meanings in this Debenture and this construction shall survive the termination of the Subordinated Facility Agreement. In addition, in this Debenture:

"**Act**" means the Companies Act 2006.

"**Assets**" means in relation to a Chargor, all its undertaking, property, assets, revenues and rights of every description, or any part of them.

"**Chargor**" means each company named in Schedule 1 (*The Chargors*) and (with effect from its accession) each other company which executes a Deed of Accession and Charge and any company which subsequently adopts the obligations of a Chargor.

"**Declared Default**" means at any time following the occurrence of an Event of Default which is continuing and:

- (a) the Lender gives notice under paragraph (b) of clause 15.16 (*Acceleration*) of the Subordinated Facility Agreement; or
- (b) having given notice under paragraph (d) of clause 15.16 (*Acceleration*) of the Subordinated Facility Agreement, the Lender makes a demand for the relevant amount as contemplated by those clauses,

unless such notice has been withdrawn or otherwise ceased to have effect.

"**Deed of Accession and Charge**" means a deed of accession and charge substantially in the form of Schedule 3 (Form of Deed of Accession and Charge for a New Chargor).

"**Default**" means a Default under and as defined in the Subordinated Facility Agreement.

"**Derivative Rights**" includes:

- (a) allotments, rights, money or property arising at any time in relation to any Investments by way of conversion, exchange, redemption, bonus, preference, option or otherwise;
- (b) dividends, distributions, interest and other income paid or payable in relation to any Investments; and
- (c) stock, shares and securities offered in addition to or substitution for any Investments.

"Document" means each of the Finance Documents, the Core Intercompany Loan Agreement and each of the Other Intercompany Loan Agreements.

"Event of Default" means an Event of Default under and as defined in the Subordinated Facility Agreement.

"Excluded Land" means:

- (a) any leasehold property with less than 25 years remaining on the applicable lease as at, and at any time after, the date of this Debenture and is not held under a Rack-rental Lease; or
- (b) any freehold or leasehold Land that has a market value of less than £1,000,000.

"Excluded Specified Investments" means any Chargor's shareholding in:

- (a) a non-wholly owned Subsidiary; or
- (b) a wholly owned Subsidiary that is not a Material Company.

"Financial Collateral" in relation to a Chargor, means any of its Assets comprising financial collateral within the meaning of the Financial Collateral Regulations.

"Financial Collateral Regulations" means the Financial Collateral Arrangements (No. 2) Regulations 2003, as amended.

"Fixed Security Asset" means an Asset for the time being comprised within an assignment created by Clause 3.1 (*Assignments*) or within a mortgage or fixed charge created by Clause 3.2 (*Fixed security*) or arising on crystallisation of a floating charge whether under Clause 4 (*Crystallisation*) or otherwise and includes all Assets assigned, mortgaged or charged by the equivalent provisions in any Deed of Accession and Charge.

"Floating Charge Asset" means an Asset for the time being comprised within the floating charge created by Clause 3.3 (*Creation of floating charge*) (or by the equivalent provision of any Deed of Accession and Charge) but, in relation to Assets situated in Scotland and charged by Clause 3.3(b) (or by the equivalent provision of any Deed of Accession and Charge) only in so far as concerns the floating charge over that Asset.

"Floating Charge Property" means any leasehold interests owned by a Chargor which that Chargor is prohibited or restricted under the terms of the lease from charging or for which third party or landlord consent is required and has not yet been obtained in accordance with Clause 3.7(a).

"Insurance Policy" means any contract or policy of insurance of any Chargor (including all cover notes) of whatever nature which are from time to time taken out by or on behalf of any Chargor or (to the extent of its interest) in which any Chargor has an interest at any time (excluding, for the avoidance of doubt, third party liability insurance and insurance in favour of employees).

"Intellectual Property" means patents (including supplementary protection certificates), utility models, registered and unregistered trade marks (including service marks), rights in passing off, copyright, database rights, domain names, registered and unregistered rights in designs (including in relation to semiconductor products) anywhere in the world and, in each case, any extensions and renewals of, and any applications for, such rights.

"Intellectual Property Rights" in relation to a Chargor, means all and any of its Intellectual Property and all other intellectual property rights, causes of action, interests and assets charged by it pursuant to paragraphs 3.2(b)(xi) to 3.2(b)(xiii) inclusive of Clause 3.2 (*Fixed security*) (or pursuant to the equivalent provisions in any Deed of Accession and Charge).

"Intercreditor Agreement" means the intercreditor agreement originally dated 16 January 2015 as amended on 16 November 2018 and 14 February 2020 and as most recently amended and restated on or about the date of this Debenture among Barclays Bank PLC as agent, Barclays Bank PLC, Lloyds Bank plc and National Westminster Bank Plc as arrangers and lenders, Dress Holdco A Limited as original subordinated creditor, TFG Brands (London) Limited as parent, TFG Brands (London) Limited and certain of its subsidiaries as original debtors, Barclays Bank PLC as security agent and Dress Holdco A Limited as subordinated security agent.

"Investments" means all shares, stock, debentures, debenture stock, bonds and other investments (as listed in Schedule 2, Part II of the Financial Services and Markets Act 2000), whether certificated or uncertificated and whether in registered or bearer form, including all depository interests representing any of them and including all rights and benefits of a capital nature accruing at any time in respect of any Investments by way of redemption, repayment, substitution, exchange, bonus or preference, option, rights or otherwise.

"Land" means (other than any Excluded Land):

- (a) freehold and leasehold, and any other estate in, land;
- (b) (outside England and Wales) immovable property;
- (c) all buildings and structures upon and all things affixed to Land (including trade and tenant's fixtures).

"Material Intellectual Property" means any Intellectual Property owned by a Chargor which is material in the context of its business and which is required by It in order to carry on its business as it is being conducted.

"New Chargor" means a member of the Group which becomes a Chargor under this Debenture in accordance with Clause 27 (*Accession of a New Chargor*).

"Party" means a party to this Debenture.

"Rack-rental Lease" means leasehold property which is held under a rack-rental lease and has no premium value.

"Receivables" in relation to a Chargor, means all sums of money receivable by it at any time consisting of or payable under or derived from any Asset described in Clause 3.2 (***Fixed security***) or described in the equivalent provision of any Deed of Accession and Charge.

"Receiver" means any receiver or receiver and manager appointed under Clause 17 (***Appointment of a Receiver or an Administrator***) including (where the context requires or permits) any substituted receiver or receiver and manager.

"Relevant System" has the meaning given to that term by the Uncertificated Securities Regulations 2001 and includes the CREST system and also any other system or facility (whether established in the United Kingdom or elsewhere) providing means for the deposit of, and clearance of transactions in, Investments.

"Secured Obligations" has the meaning given to it in the Subordinated Facility Agreement.

"Senior Debentures" means (i) the debenture dated 16 January 2015, made between, amongst others, Dress Holdco C Limited and the Senior Security Agent, to which acceded on 6 February 2015 each of Poppy Holdco Limited, Cameron Topco Limited, Phase Eight (Fashion & Designs) Limited, Phase Eight (UAE) Limited and Phase Eight (SE Asia) LTD (as new chargors) pursuant to a deed of accession and charge, to which acceded on 20 December 2016 Phase Eight (Germany) Limited (as new chargor), to which acceded on 27 October 2017 each of Whistles Limited, Whistles Holdings Limited and Whistles Acquisitions Limited (as new chargors) and to which acceded on 16 November 2018 each of Hobbs Fashion Holdings Limited, Hobbs Limited, Hobbs Holdings No.2 Limited, Hobbs Holdings No.4 Limited, Inhoco 2756 Limited and TFG Brands (London) Limited (as new chargors), and (ii) the debenture dated 14 February 2020 between the Chargors and the Senior Security Agent.

"Senior Discharge Date" means the date on which all Secured Sums (as defined in the Senior Debentures) have been paid in full.

"Specified Investments" means, (other than any Excluded Specified Investments), in relation to a Chargor, all Investments which at any time:

- (a) represent a holding in a Subsidiary of such Chargor or an undertaking which would be its subsidiary undertaking if in section 1162(2)(a) of the Act "30 per cent or more" were substituted for "a majority";
- (b) are held in the name of the Security Agent or its nominee or to its order; or
- (c) that Chargor has deposited certificates for with the Security Agent or which, if uncertificated, are held in an escrow or other account in favour of the Security Agent or its nominee.

"Subordinated Facility Agreement" means the subordinated term facility agreement dated on or about the date hereof and made between, amongst others, TFG Brands (London) Limited as borrower, Dress Holdco A Limited as Lender and the Security Agent, as amended and/or restated from time to time.

1.2 Interpretation

Unless the context otherwise requires, the interpretative provisions set out in the paragraphs below shall apply in this Debenture.

- (a) References to any Party shall be construed so as to include that Party's respective successors in title, permitted assigns and permitted transferees.
- (b) "**Including**" and "**in particular**" shall not be construed restrictively but shall mean respectively "including, without prejudice to the generality of the foregoing" and "in particular, but without prejudice to the generality of the foregoing".
- (c) A "**person**" includes any person, firm, company, corporation, government, state or agency of a state or any association, joint venture, trust or partnership (whether or not having separate legal personality) of two or more of the foregoing.
- (d) "**Property**" includes any interest (legal or equitable) in real or personal property and any thing in action.
- (e) "**Variation**" includes any variation, amendment, accession, novation, restatement, modification, assignment, transfer, supplement, extension, deletion or replacement however effected and "**vary**" and "**varied**" shall be construed accordingly.
- (f) "**Writing**" includes facsimile transmission legibly received except in relation to any certificate, notice or other document which is expressly required by this Debenture to be signed and "**written**" has a corresponding meaning.
- (g) Subject to Clause 31.4 (**Variations**), references to this Debenture or to any other document (including any Document) include references to this Debenture or such other document as varied in any manner from time to time, even if changes are made to the composition of the parties to this Debenture or such other document or to the nature or amount of any facilities made available under such other document and, in addition, references to this Debenture shall include (with effect from the date on which it comes into force) each Deed of Accession and Charge executed pursuant to it.
- (h) References to uncertificated Investments are to Investments the title to which can be transferred by means of an electronic or other entry in a Relevant System and references to certificated Investments are to Investments which are not uncertificated Investments.
- (i) The singular shall include the plural and vice versa and any gender shall include the other genders.
- (j) Clauses, paragraphs and Schedules shall be construed as references to clauses and paragraphs of, and Schedules to, this Debenture.
- (k) Any reference to any statute or statutory instrument or any section of it shall be deemed to include a reference to any statutory modification or re-enactment of it for the time being in force in relation to the particular circumstances.
- (l) Headings in this Debenture are inserted for convenience and shall not affect its interpretation.

- (m) A Default (other than an Event of Default) is "**continuing**" if it has not been remedied or waived and an Event of Default is "**continuing**" if it has not been remedied or waived in writing.

1.3 **Conflict of terms**

If any conflict arises between the covenants and undertakings in Clause 11 (***Land***) and Clause 12 (***Intellectual Property Rights***) and the covenants and undertakings in clause 14 (***General undertakings***) of the Subordinated Facility Agreement, the covenants and undertakings given in the Subordinated Facility Agreement shall prevail.

1.4 **Intercreditor Agreement**

The rights and obligations of the Parties under this Debenture shall at all times be subject to the terms of the Intercreditor Agreement.

2 **COVENANT TO PAY**

2.1 **Covenant to pay**

Each Chargor (as primary obligor and not merely as surety) covenants with the Security Agent (as trustee for the Secured Parties) that it will, on the Security Agent's written demand, pay or discharge the Secured Obligations applicable to that Chargor when due at the times and in the manner provided in the relevant Document.

2.2 **Proviso**

The covenants contained in this clause and the security created by this Debenture shall not extend to or include any liability or sum which would otherwise cause any such covenant or security to be unlawful or prohibited by any applicable law.

2.3 **Demands**

- (a) The making of one demand shall not preclude the Security Agent from making any further demands.
- (b) Any third party dealing with the Security Agent or any Receiver shall not be concerned to see or enquire as to the validity of any demand under this Debenture.

3 **CREATION OF SECURITY**

3.1 **Assignments**

Each Chargor, with full title guarantee (subject to the Security created by that Chargor in the Senior Debentures), as security for the payment or discharge of all Secured Obligations applicable to that Chargor, assigns and agrees to assign absolutely to the Security Agent (as trustee for the Secured Parties) all of its rights, title and interest from time to time in respect of any sums payable to it pursuant to the Insurance Policies.

3.2 **Fixed security**

Each Chargor, with full title guarantee (subject to the Security created by that Chargor in the Senior Debentures), as security for the payment or discharge of all

Secured Obligations applicable to that Chargor, charges to the Security Agent (as trustee for the Secured Parties):

- (a) by way of legal mortgage all Land in England and Wales now vested in it registered at the Land Registry;
- (b) by way of fixed charge:
 - (i) all other Land which is now, or in the future becomes, its property (including any leasehold interest only to the extent that such leasehold interest is not prohibited under its terms from being charged or has by virtue of obtaining lessor's consent pursuant to Clause 3.7(a) ceased to be a Floating Charge Property);
 - (ii) all interests and rights in or relating to Land or the proceeds of sale of Land now or in the future belonging to it (including any leasehold interest only to the extent that such leasehold interest is not prohibited under its terms from being charged or such leasehold interest has by virtue of obtaining lessor's consent pursuant to Clause 3.7(a) ceased to be a Floating Charge Property);
 - (iii) all plant and machinery now or in the future attached to any Land which, or an interest in which, is charged by it under the preceding provisions of this Clause 3.2 (*Fixed security*);
 - (iv) all rental and other income and all debts and claims now or in the future due or owing to it under or in connection with any lease, agreement or licence relating to Land;
 - (v) all Specified Investments which are now its property, including all proceeds of sale derived from them;
 - (vi) all Specified Investments in which that Chargor may in the future acquire any interest (legal or equitable), including all proceeds of sale derived from them;
 - (vii) all Derivative Rights of a capital nature now or in the future accruing or offered in respect of its Specified Investments;
 - (viii) all Derivative Rights of an income nature now or in the future accruing or offered at any time in respect of its Specified Investments;
 - (ix) all insurance or assurance contracts or policies now or in the future held by or otherwise benefiting it which relate to Fixed Security Assets or which are now or in the future deposited by it with the Security Agent, together with all its rights and interests in such contracts and policies (including the benefit of all claims arising and all money payable under them) apart from any claims which are otherwise subject to a fixed charge or assignment (at law or in equity) in this Debenture;
 - (x) all its goodwill and uncalled capital for the time being;
 - (xi) all Intellectual Property presently belonging to it, including its interest in any Intellectual Property to which it is not absolutely

entitled or to which it is entitled together with others (to the extent that any consent of a relevant person has been obtained);

- (xii) all Intellectual Property that may be acquired by or belong to it in the future, including any such Intellectual Property to which it is not absolutely entitled or to which it is entitled together with others (to the extent that any consent of a relevant person has been obtained);
- (xiii) the benefit of all agreements and licences now or in the future entered into or enjoyed by it relating to the use or exploitation of any Intellectual Property in any part of the world to the extent that they are able to be charged under this clause;
- (xiv) all its rights now or in the future in relation to trade secrets, confidential information and knowhow in any part of the world to the extent that they are able to be charged under this clause;
- (xv) all its rights and causes of action in respect of infringement(s) (past, present or future) of the rights referred to in subparagraphs (b)(ix) to (xiii) inclusive of this clause;
- (xvi) all trade debts now or in the future owing to it;
- (xvii) all other debts now or in the future owing to it, excluding those arising on fluctuating accounts with other members of the Group;
- (xviii) the benefit of all instruments, guarantees, charges, pledges and other security and all other rights and remedies available to it in respect of any Fixed Security Asset except to the extent that such items are for the time being effectively assigned under Clause 3.1 (**Assignments**);
- (xix) any beneficial interest, claim or entitlement it has in any pension fund now or in the future;
- (xx) all rights, money or property accruing or payable to it now or in the future under or by virtue of a Fixed Security Asset except to the extent that such rights, money or property are for the time being effectively assigned or charged by fixed charge under the foregoing provisions of this Debenture; and
- (xxi) the benefit of all licences, consents and authorisations held in connection with its business or the use of any Asset and the right to recover and receive all compensation which may be payable in respect of them to the extent that they are able to be charged under this clause.

3.3 **Creation of floating charge**

Each Chargor, with full title guarantee (subject to the Security created by that Chargor in the Senior Debentures), charges to the Security Agent (as trustee for the Secured Parties) as security for the payment or discharge of all Secured Obligations applicable to that Chargor, by way of floating charge:

- (a) all its Assets, except to the extent that such Assets are for the time being effectively assigned by way of security by virtue of

Clause 3.1 (***Assignments***) or charged by any fixed charge contained in Clause 3.2 (***Fixed security***), including any Assets comprised within a charge which is reconverted under Clause 4.4 (***Reconversion***); and

- (b) without exception, all its Assets in so far as they are for the time being situated in Scotland.

3.4 Notices of Assignment

- (a) The Chargors shall within 1 Business Day of the date of the Debenture (or, if acceding to this Debenture, on the date of the relevant Deed of Accession and Charge) give notice to the insurers (and any broker) of the security over the Insurance Policies and their proceeds created by this Debenture substantially in the form set out at Schedule 3 (***Forms of Notice of Assignment***).
- (b) The Borrower shall use reasonable endeavours to request the execution and delivery to the Security Agent of acknowledgments by the addressees of the notices delivered to them pursuant to paragraph (a) above.

3.5 Priority

- (a) Any fixed Security created by a Chargor and subsisting in favour of the Security Agent shall (save as the Security Agent may otherwise declare at or after the time of its creation) have priority over the floating charge created by Clause 3.3 (***Creation of floating charge***).
- (b) Any Security created in the future by a Chargor (except in favour of the Security Agent) shall be expressed to be subject to this Debenture and shall rank in order of priority behind the charges created by this Debenture (except to the extent mandatorily preferred by law).

3.6 Application to the Land Registry

Each Chargor

- (a) in relation to each register of title of any present and future Land of that Chargor which is charged to the Security Agent under this Debenture or pursuant to Clause 9 (***Further Assurance***), consents to the Security Agent (or its solicitors) at any time submitting to the Land Registry any and all of the following, at any time:
 - (i) a form AP1 (***application to change the register***) in respect of the security created by this Debenture;
 - (ii) a form AN1 (***application to enter an agreed notice***) in respect of the security created by this Debenture;
 - (iii) a form RX1 (***application to register a restriction***) in the following terms:

"No disposition of the registered estate by the proprietor of the registered estate is to be registered without a written consent signed by the proprietor for the time being of the charge dated [date] in favour of [Chargee] referred to on the charges register, or their conveyancer."; and

- (iv) a form CH2 (*application to enter an obligation to make further advances*); and
- (b) covenants to submit an application to the appropriate Land Registry for the first registration of any unregistered Land in England and Wales mortgaged by Clause 3.2 (*Fixed security*) at its own expense, immediately following its execution of this Debenture.

3.7 Lessor's consent

- (a) Each Chargor shall use reasonable endeavours (provided that the relevant Chargor is satisfied that such endeavours will not involve placing commercial relationships with third parties in jeopardy) to obtain any lessor's consent required for the creation of the charges envisaged by paragraphs (a) and (b) of Clause 3.2 (*Fixed security*) over all leasehold Land with a term of 25 years or more to run as soon as possible (including in relation to the Floating Charge Properties), keep the Security Agent informed of the progress of its negotiations with the lessor and provide the Security Agent with a copy of each consent promptly after its receipt.
- (b) If, notwithstanding paragraph (a) above, such lessor's consent cannot be obtained in relation to any leasehold interest, that interest shall be subject to a floating charge under Clause 3.3 (*Creation of floating charge*) and shall be designated as a Floating Charge Property until such lessor's consent has been obtained, at which point that interest shall no longer be designated as a Floating Charge Property but shall instead be subject to a charge under Clause 3.2(a) and (b), (*Fixed security*) as appropriate.
- (c) If any charge created in paragraphs (a) and (b) of Clause 3.2 (*Fixed security*) or Clause 3.3 (*Creation of floating charge*) breaches the terms of any lease under which the relevant Chargor holds any leasehold property, such breach shall not in turn constitute a breach of any of the representations and warranties given by any Chargor in the Documents.
- (d) If, despite the relevant Chargor's endeavours under paragraph (a) of this Clause 3.7 (*Lessor's consent*), any lessor of any leasehold property takes, or threatens to take, proceedings for forfeiture of a lease on the grounds that its consent had not been obtained to the creation of a charge over that leasehold interest in this Debenture, the Security Agent will (if so requested by such Chargor) release the floating security constituted by this Debenture over that lease.

3.8 Intellectual Property consent

- (a) If consent or a waiver is required for the charging of Intellectual Property under paragraphs (b)(xi) to (b)(xiii) of Clause 3.2 (*Fixed security*) and if such Intellectual Property is Material Intellectual Property (but not in respect of Intellectual Property that is not Material Intellectual Property) the Security Agent (acting reasonably) may make a written request to the relevant Chargor for such consent or waiver to be obtained and if such request is made the Chargor shall use reasonable endeavours to obtain the consent or waiver as soon as possible, keep the Security Agent informed of the progress of its negotiations and provide the Security Agent with a copy of each consent promptly after its receipt.
- (b) If any charge created in Clause 3.2 (*Fixed security*) or Clause 3.3 (*Creation of floating charge*) over Intellectual Property of the Chargor breaches the

terms of any such Intellectual Property, such breach shall not in turn constitute a breach of any of the representations and warranties given by any Chargor in the Documents.

4 **CRYSTALLISATION**

4.1 **Crystallisation by notice**

The floating charge created by each Chargor in Clause 3.3 (***Creation of floating charge***) may, subject to Clause 4.5 (***Moratorium Assets***) and the terms of the Intercreditor Agreement, be crystallised into a fixed charge by notice in writing given at any time by the Security Agent to the relevant Chargor (or to the Borrower on its behalf) if:

- (a) a Declared Default has occurred;
- (b) an Declared Default (under, and as defined in, the Senior Facility Agreement) has occurred;
- (c) a Default under clause 15.5 (***Insolvency***) or clause 15.6 (***Insolvency Proceedings***) of the Subordinated Facility Agreement has occurred and is continuing;
- (d) a Default under clause 26.6 (***Insolvency***) or clause 26.7 (***Insolvency Proceedings***) of the Senior Facility Agreement has occurred and is continuing;
- (e) the Security Agent in good faith considers that any of the Assets expressed to be charged to the Security Agent by this Debenture may be in jeopardy or in danger of being seized or sold pursuant to any form of legal process where such Assets have an aggregate value in excess of £500,000; or
- (f) a circumstance envisaged by paragraph (a) of Clause 4.2 (***Automatic crystallisation***) occurs and the Security Agent acting reasonably considers that such crystallisation is desirable in order to protect the priority of its security.

Such crystallisation shall take effect over the Floating Charge Assets or class of Assets specified in the notice. If no Floating Charge Assets are specified, it shall take effect over all Floating Charge Assets of the relevant Chargor.

4.2 **Automatic crystallisation**

If, without the Security Agent's prior written consent:

- (a) any Chargor, in contravention of any Document, resolves to take or takes any step to:
 - (i) charge or otherwise encumber any of its Floating Charge Assets;
 - (ii) create a trust over any of its Floating Charge Assets; or
 - (iii) dispose of any Floating Charge Asset in contravention of any Document; or
- (b) any person resolves to take or takes any step to seize or sell any Floating Charge Asset pursuant to any form of legal process;

- (c) an Event of Default under clause 15.5 (*Insolvency*) or clause 15.6 (*Insolvency proceedings*) of the Subordinated Facility Agreement has occurred and is continuing; or
- (d) an Event of Default under clause 26.6 (*Insolvency*) or clause 26.7 (*Insolvency Proceedings*) of the Senior Facility Agreement has occurred and is continuing;

then the floating charge created by Clause 3.3 (*Creation of floating charge*) shall, subject to Clause 4.5 (*Moratorium Assets*) and the terms of the Intercreditor Agreement, be automatically and instantly crystallised (without the necessity of notice) into a fixed charge over such Floating Charge Asset or, in the case of paragraph (c) above into a fixed charge over all Floating Charge Assets of the relevant Chargor.

4.3 **Future Floating Charge Assets**

Except as otherwise stated in any notice given under Clause 4.1 (*Crystallisation by notice*) or unless the crystallisation relates to all its Floating Charge Assets, prospective Floating Charge Assets acquired by any Chargor after crystallisation has occurred under Clause 4.1 (*Crystallisation by notice*) or Clause 4.2 (*Automatic crystallisation*) shall become subject to the floating charge created by Clause 3.3 (*Creation of floating charge*), so that the crystallisation shall be effective only as to the specific Floating Charge Assets affected by the crystallisation.

4.4 **Reconversion**

Any charge which has crystallised under Clause 4.1 (*Crystallisation by notice*) or Clause 4.2 (*Automatic crystallisation*) may, by notice in writing given at any time by the Security Agent to the relevant Chargor (or to the Borrower on its behalf), be reconverted into a floating charge in relation to the Assets specified in such notice.

4.5 **Moratorium Assets**

The floating charge created by each Chargor in Clause 3.3 (*Creation of floating charge*) may not be converted into a fixed charge on Assets for which a moratorium is in force if and for so long as such conversion would breach paragraph 13 and/or paragraph 43 of Schedule A1 of the Insolvency Act 1986.

5 **TITLE DOCUMENTS, INSURANCE POLICIES AND TRANSFERS**

5.1 **Documents**

Subject to the rights of any prior chargee and except as otherwise expressly agreed in writing by the Security Agent, each Chargor shall:

- (a) within one Business Day of the Senior Discharge Date, deposit with the Security Agent, and the Security Agent shall be entitled to retain during the continuance of the security created by this Debenture, all deeds and documents of title relating to all its Land, certificates of registration and certificates constituting or evidencing Specified Investments (other than share certificates and stock transfer forms in respect of shares issued by a company incorporated outside of England and Wales);
- (b) promptly notify the Security Agent where any Excluded Specified Investment ceases to be an Excluded Specified Investment and as soon as

reasonably practicable, execute and deliver to the Security Agent all deeds and documents of title relating to such Specified Investments; and

- (c) execute and deliver to the Security Agent at the Security Agent's request such documents and transfers and give such instructions and perform such other acts as the Security Agent may reasonably require at any time to constitute or perfect an equitable or legal charge (at the Security Agent's option) over its Specified Investments, including any eligible to participate in a Relevant System.

5.2 Insurance

- (a) Each Chargor shall:
 - (i) maintain at all times adequate and sufficient insurance policies and comply with the material terms of all such insurance policies, including any stipulations or restrictions as to use or operation of any asset, and shall not do or permit anything which may make any insurance policy void or voidable;
 - (ii) make notifications to insurers of any claims or prospective claims in accordance with the provisions of the relevant insurance policy and diligently pursue the making of recoveries from insurers.
- (b) Each Chargor shall request that the members of the Group shall punctually make all premium and other payments necessary for effecting or maintaining such insurances and on demand shall produce to the Security Agent the receipts of such payments.
- (c) If any default shall at any time be made in effecting or maintaining such insurance or in producing any such receipt to the Security Agent on demand pursuant to the Transaction Security Documents, the Security Agent (acting reasonably) may take out or renew such insurances in such sums as the Security Agent may think expedient and all money expended by the Security Agent under this provision shall be recoverable by the Security Agent under clause 11 (*Fees, Costs and expenses*) of the Subordinated Facility Agreement.

6 COLLECTION OF RECEIVABLES

6.1 No derogation

While a Declared Default is continuing and except as expressly permitted by the Documents and the Senior Finance Documents and subject to Clause 6.2 (*Factored debts*), no Chargor shall purport, without the Security Agent's prior written consent, to charge, factor, discount, assign, postpone, subordinate, release or waive its rights in respect of any Receivable in favour of any person or do or omit to do anything which might delay or prejudice its full recovery, other than in relation to the commutation of Receivables with its customers in the ordinary course of trade.

6.2 Factored debts

If the Security Agent releases, waives or postpones its rights in respect of any Receivable to enable a Chargor to factor or discount them to any person (the "**factor**"), the charges created by this Debenture shall in all other respects remain in full force and effect. In particular, all amounts becoming due to such Chargor

from the factor and any Receivables reassigned, or due to be reassigned to such Chargor, shall be subject to the relevant fixed charge created by this Debenture, subject only to any defences or rights of set-off which the factor may have against such Chargor.

6.3 **Information**

While a Declared Default is continuing, each Chargor shall deliver to the Security Agent such particulars as to the amount and nature of its Receivables as the Security Agent may from time to time reasonably require.

7 **NEGATIVE PLEDGE AND OTHER RESTRICTIONS**

No Chargor shall, without the prior written consent of the Security Agent (except as expressly permitted by, or created under, the Documents or the Senior Finance Documents):

- (a) create, or agree or attempt to create, or permit to subsist, any Security or any trust over any of its Assets; or
- (b) sell, assign, lease, license or sub-license, or grant any interest in, any of its Assets, or part with possession or ownership of them, or purport or agree to do so.

8 **RIGHT OF APPROPRIATION**

8.1 The Parties acknowledge and intend that the charges over each Chargor's Financial Collateral provided under or pursuant to this Debenture will each constitute a "security financial collateral arrangement" for the purposes of the Financial Collateral Regulations.

8.2 The Security Agent may, on or at any time after the security constituted by this Debenture becomes enforceable, by notice in writing to the relevant Chargor appropriate with immediate effect all or any of its Financial Collateral hereby charged which is subject to a security financial collateral arrangement (within the meaning of the Financial Collateral Regulations) and apply it in or towards the discharge of the Secured Obligations applicable to that Chargor, whether such Assets are held by the Security Agent or otherwise.

8.3 The value of any Financial Collateral appropriated under Clause 8.1 shall be:

- (a) in the case of cash, its face value at the time of appropriation; and
- (b) in the case of financial instruments or other financial collateral, their market value at the time of appropriation as determined (after appropriation) by the Security Agent acting reasonably by reference to a public index or other applicable generally recognised source or such other process as the Security Agent acting reasonably may select, including an independent valuation carried out by an independent firm of accountants or valuers appointed by the Security Agent,

as converted, where necessary, into sterling at a market rate of exchange prevailing at the time of appropriation selected by the Security Agent.

8.4 The Security Agent will account to the relevant Chargor for any amount by which the value of the appropriated Assets exceeds the Secured Obligations applicable to that Chargor then due and the Chargors shall remain liable to the Security Agent

for any amount by which the value of the appropriated Assets is less than those Secured Obligations then due.

- 8.5 Each Chargor agrees that the method of valuing Financial Collateral under Clause 8.3 is commercially reasonable.

9 **FURTHER ASSURANCE**

The provisions of clause 25.35 (***Further assurance***) of the Senior Facility Agreement (taking into account the changes contemplated by clause 14.1.1 (***Definitions and interpretation***) of the Subordinated Facility Agreement being made to such clause) shall apply as if set out in full in this Debenture.

10 **CONTINUING SECURITY**

Without prejudice to any release of Security created under this Debenture or as permitted by the Documents and the Senior Finance Documents, this Debenture shall be a continuing security for the Secured Parties, notwithstanding any intermediate payment or settlement of accounts or other matter whatever, and shall be in addition to and shall not prejudice or be prejudiced by any right of set-off, combination, lien or other rights exercisable by any Secured Party as banker against any Chargor or any security, guarantee, indemnity and/or negotiable instrument now or in the future held by any Secured Party.

11 **LAND**

11.1 **Positive Covenants:** Each Chargor covenants that it shall:

- (a) punctually pay the rents reserved by and observe and perform in all material respects the other material covenants, agreements or obligations on its part to be observed and performed which are contained in any lease, agreement for lease, tenancy agreement or licence to occupy relating to any Land and, to the extent that it makes commercial sense to do so, enforce the observance and performance by the landlord or licensor of its material obligations under any such document;
- (b) notify the Security Agent promptly following its acquisition of any Land; and
- (c) if, at any time and from time to time, a Chargor has any interest in any Land which is registered at the Land Registry, but which is not Excluded Land at that time, and which (for any reason) is also not subject to a legal mortgage under this Debenture or under any Deed of Accession and Charge at that time, the relevant Chargor will, to the extent required to do so by (and in accordance with) Clause 9 (***Further Assurance***), promptly execute and deliver to the Security Agent a supplemental legal mortgage, in the agreed terms, over that Land as security for the relevant Secured Obligations.

11.2 **Negative covenants:** No Chargor shall (without the prior written consent of the Security Agent):

- (a) enter into any onerous or restrictive obligation affecting its Land or create or permit to arise any overriding interest or any easement or right whatever in or over it which, in each case, would be reasonably likely to materially and adversely affect its value or the value of the Security constituted by this Debenture over it; or

- (b) share the occupation of any Land with any other person (or agree to do so) to the extent that to do so would materially adversely affect (i) the value of such Land; or (ii) the interests of the Secured Parties,

other than as notified to the Security Agent prior to the date of this Debenture.

11.3 **Consolidation of Mortgages**

Section 93 of the Law of Property Act 1925, dealing with the consolidation of mortgages, shall not apply to this Debenture.

12 **INTELLECTUAL PROPERTY RIGHTS**

12.1 **Positive Covenants**

Each Chargor shall promptly file and register in or with such patent, trade mark or other intellectual property register or authority as may be available for the purpose (in the United Kingdom or elsewhere) in such name as may be required by the law of the place of registration such of the following as may be capable of filing or registration there, if so requested by the Security Agent:

- (a) all licences of Intellectual Property granted to or acquired by it; and
- (b) all future assignments, mortgages and/or charges of Intellectual Property made pursuant to this Debenture,

and maintain or renew such filings and registrations where applicable.

12.2 **Negative covenants**

Without the prior written consent of the Security Agent or other than as expressly permitted by the Documents or the Senior Finance Documents, no Chargor shall:

- (a) other than in the ordinary course of trade, sell, assign, lease, license, sub-license or grant any interest in its Intellectual Property Rights relating to Material Intellectual Property, or purport or agree to do so or part with possession or ownership of them, or allow any third party access to, or the right to use or exploit, any Intellectual Property Rights;
- (b) other than in the ordinary course of trade, enter into any contract or arrangement for supply or otherwise whereby any third party obtains any assignment of or any right or licence in relation to any its Intellectual Property Rights relating to Material Intellectual Property on the occurrence or non-occurrence of any future event or circumstance whatever;
- (c) amend the specification of any registered trade mark included in its Intellectual Property Rights relating to Material Intellectual Property or authorise or knowingly permit any third party to register any trade mark which is the same as or confusingly similar to any such trade mark in respect of goods or services which are the same as or similar to the goods or services for which such trade mark is registered to the extent that it would be reasonably likely to materially and adversely affect its value or the value of the security constituted by this Debenture; or
- (d) amend the specification or drawings referred to in any granted patent to the extent that it would be reasonably likely to materially and adversely affect its value or the value of the security constituted by this Debenture.

13 **SPECIFIED INVESTMENTS**

13.1 **Voting and other rights**

Each Chargor undertakes not to exercise any voting or other rights in a way which would be reasonably likely to materially prejudice the value of its Specified Investments or otherwise to jeopardise the Security constituted by this Debenture over them.

13.2 **Before Enforcement**

Unless and until the occurrence of a Declared Default:

- (a) all voting and other rights attaching to Specified Investments belonging to a Chargor including all Derivative Rights shall continue to be exercised by such Chargor for so long as it remains their registered owner and such Chargor shall not permit any person other than such Chargor, the Security Agent or the Security Agent's nominee to be registered as holder of such Specified Investments or any part of them; and
- (b) if Specified Investments belonging to a Chargor are registered in the name of the Security Agent or the Security Agent's nominee, all voting and other rights attaching to them including all Derivative Rights shall be exercised by the Security Agent or the Security Agent's nominee in accordance with instructions in writing from time to time received from such Chargor and, in the absence of any such instructions, the Security Agent or the Security Agent's nominee shall not exercise any such rights.

13.3 **After Enforcement**

At any time after the occurrence of a Declared Default:

- (a) the Security Agent may exercise (but is not obliged to exercise) in the name of a Chargor or otherwise and without any further consent or authority on the part of any Chargor, all voting and other rights attaching to the Specified Investments as it sees fit for the purpose of protecting the interests of each Secured Party in relation to the Secured Obligations, including any rights to nominate or remove a director as if the Security Agent were the sole beneficial owner of the Specified Investments;
- (b) all Derivative Rights shall, if received by a Chargor or its nominee, be held on trust for and forthwith paid or transferred to the Security Agent; and
- (c) each Chargor shall (and shall procure that its nominees shall) accept short notice for and attend any meeting of the holders of any Specified Investments, appoint proxies and exercise voting and other rights and powers exercisable by the holders of the Specified Investments as the Security Agent may direct from time to time as it sees fit for the purpose of protecting the interests of each Secured Party in relation to the Secured Obligations.

For the avoidance of doubt, unless and until the Security Agent takes any step to exercise any voting rights or powers attaching to the Specified Investments after becoming entitled (but not obliged) to do so under this Clause, all such powers and rights remain with the relevant Chargor.

13.4 **Negative covenants**

Each Chargor covenants with the Security Agent that it will not, without the prior written consent of the Security Agent (other than as permitted by the Documents and the Senior Finance Documents) consent to its Specified Investments being consolidated, sub-divided or converted or any rights attached to them being varied.

14 **OPENING OF NEW ACCOUNTS**

14.1 **Creation of new account**

On receiving notice that any Chargor has granted Security over or otherwise encumbered or disposed of any of its Assets in contravention of any Document, a Secured Party may rule off all its accounts and open new accounts with such Chargor.

14.2 **Credits to new account**

If a Secured Party does not open a new account immediately on receipt of such notice, it shall nevertheless be treated as if it had done so on that day. From that day, all payments made by the Chargor to that Secured Party shall be treated as having been credited to a new account and shall not operate to reduce the amount owing from the Chargor to such Secured Party at the time when it received such notice.

15 **POWERS OF SALE, LEASING AND ACCEPTING SURRENDERS**

15.1 **Section 103 of the LPA**

Section 103 of the Law of Property Act 1925 shall not apply to this Debenture, and the statutory power of sale shall arise on, and be exercisable at any time after, the execution of this Debenture. However, the Security Agent shall not exercise such power of sale until this Debenture has become enforceable.

15.2 **Powers of sale extended**

The statutory powers of sale, leasing and accepting surrenders exercisable by the Security Agent by virtue of this Debenture are extended so as to authorise the Security Agent (whether in its own name or that of the Chargor concerned) to:

- (a) grant a lease of any Land vested in a Chargor or in which it has an interest on such terms and conditions as the Security Agent shall think fit; and
- (b) sever any fixtures from Land vested in a Chargor and sell them separately.

16 **ENFORCEMENT**

The Security created by this Deed will become enforceable at any time on or after:

- (a) the occurrence of a Declared Default; or
- (b) a request has been made by the Borrower and/or Chargor to the Security Agent that it exercise any of its powers under this Deed (including, but not limited to, the appointment of a Receiver or an administrator under Clause 17.1(b) (*Appointment of a Receiver or an Administrator*) below).

17 **APPOINTMENT OF A RECEIVER OR AN ADMINISTRATOR**

17.1 **Appointment:** Paragraph 14 of Schedule B1 to the Insolvency Act 1986 shall apply to this Debenture and the floating charges contained in this Debenture. Subject to the Intercreditor Agreement, at any time after:

- (a) the occurrence of a Declared Default; or
- (b) a request has been made by the Borrower and/or a Chargor to the Security Agent for the appointment of a Receiver or an administrator over its Assets or in respect of a Chargor,

this Debenture shall become enforceable and, notwithstanding the terms of any other agreement between such Chargor and any Secured Party, the Security Agent may (unless precluded by law) appoint in writing any person or persons to be a receiver or a receiver and manager (or receivers or receivers and managers) of all or any part of the Assets of such Chargor or, an administrator or administrators of such Chargor, as the Security Agent may choose in its entire discretion.

17.2 **Power to act separately**

Where more than one Receiver or administrator is appointed, the appointees shall have power to act separately unless the Security Agent shall specify to the contrary.

17.3 **Receiver's remuneration**

The Security Agent may from time to time determine the remuneration of a Receiver.

17.4 **Removal of Receiver**

The Security Agent may (subject to section 45 of the Insolvency Act 1986) remove a Receiver from all or any of the Assets of which he is the Receiver.

17.5 **Further appointments of a Receiver**

Such an appointment of a Receiver shall not preclude:

- (a) the Security Agent from making any subsequent appointment of a Receiver over all or any Assets over which a Receiver has not previously been appointed or has ceased to act; or
- (b) the appointment of an additional Receiver to act while the first Receiver continues to act.

17.6 **Receiver's agency**

The Receiver shall be the agent of the relevant Chargor (which shall be solely liable for his acts, defaults and remuneration) unless and until such Chargor goes into liquidation, after which time he shall act as principal and shall not become the agent of the Security Agent or any other Secured Party.

18 **POWERS OF A RECEIVER**

The Receiver may exercise, in relation to each Chargor over whose Assets he is appointed, all the powers, rights and discretions set out in Schedules 1 and 2 to the

Insolvency Act 1986 and in particular, by way of addition to and without limiting such powers, the Receiver may, with or without the concurrence of others:

- (a) sell, lease, let, license, grant options over and vary the terms of, terminate or accept surrenders of leases, licences or tenancies of, all or any of the Assets of the relevant Chargor, without the need to observe any of the provisions of Sections 99 and 100 of the Law of Property Act 1925, in such manner and generally on such terms and conditions as he shall think fit in his absolute and unfettered discretion and any such sale or disposition may be for cash, Investments or other valuable consideration (in each case payable in a lump sum or by instalments) and carry any such transactions into effect in the name of and on behalf of such Chargor;
- (b) promote the formation of a Subsidiary of the relevant Chargor with a view to such Subsidiary purchasing, leasing, licensing or otherwise acquiring interests in all or any of the Assets of such Chargor;
- (c) sever any fixtures from Land and/or sell them separately;
- (d) exercise all voting and other rights attaching to Investments owned by the relevant Chargor;
- (e) arrange for the purchase, lease, licence or acquisition of all or any Assets of the relevant Chargor by any Subsidiary contemplated by paragraph (b) above on a basis whereby the consideration may be for cash, Investments, shares of profits or sums calculated by reference to profits or turnover or royalties or licence fees or otherwise, whether or not secured on the assets of such Subsidiary and whether or not such consideration is payable or receivable in a lump sum or by instalments over such period as the Receiver may think fit;
- (f) make any arrangement or compromise with any Secured Party or others as he shall think fit;
- (g) make and effect all repairs, renewals and improvements to the Assets of the relevant Chargor and effect, renew or increase insurances on such terms and against such risks as he shall think fit;
- (h) appoint managers, officers and agents for the above purposes at such remuneration as the Receiver may determine;
- (i) redeem any prior encumbrance and settle and pass the accounts of the encumbrancer and any accounts so settled and passed shall (subject to any manifest error) be conclusive and binding on the relevant Chargor and the money so paid shall be deemed an expense properly incurred by the Receiver;
- (j) pay the proper administrative charges of any Secured Parties in respect of time spent by their agents and employees in dealing with matters raised by the Receiver or relating to the receivership of the relevant Chargor;
- (k) commence and/or complete any building operations upon any Land of the relevant Chargor and apply for and obtain any planning permissions, building regulation consents or licences, in each case as he may in his absolute discretion think fit;

- (l) take all steps necessary to effect all registrations, renewals, applications and notifications as the Receiver may in his discretion think prudent to maintain in force or protect any of the relevant Chargor's Intellectual Property Rights; and
- (m) do all such other acts and things as may be considered by the Receiver to be incidental or conducive to any of the above matters or powers or otherwise incidental or conducive to the preservation, improvement or realisation of the relevant Assets.

19 **POWER OF ATTORNEY**

19.1 **Appointment of attorney**

Each Chargor, by way of security and to more fully secure the performance of its obligations under this Debenture, hereby irrevocably appoints the Security Agent and/or agent/nominee (whether or not a Receiver or administrator has been appointed) and any Receiver separately to be its attorney (with full power to appoint substitutes and to delegate) with power in its name and on its behalf, and as its act and deed or otherwise to:

- (a) do anything which that Chargor is obliged to do (but has not done within five Business Days of being notified in writing by the Security Agent of such failure and being requested to comply) in accordance with this Debenture, including to execute and deliver and otherwise perfect any agreement, assurance, deed, instrument or document; and
- (b) following a Declared Default that is continuing, enable the Security Agent or any such nominee and/or Receiver to exercise (or to delegate) all or any of the rights conferred on it by this Debenture or by statute in relation to this Debenture or the Assets charged, or purported to be charged, by it.

19.2 **Ratification**

Each Chargor ratifies and confirms whatever any attorney does or purports to do pursuant to his appointment under this clause.

19.3 **Sums recoverable**

All sums expended by the Security Agent, any nominee and/or any Receiver under this Clause 19 (*Power of Attorney*) shall be recoverable from each Chargor under clause 11 (*Fees, Costs and expenses*) of the Subordinated Facility Agreement.

20 **OTHER POWERS EXERCISABLE BY THE SECURITY AGENT**

20.1 **Receiver's powers**

All powers of a Receiver conferred by this Debenture may be exercised by the Security Agent after this Debenture has become enforceable. In that event, paragraph (i) of Clause 18 (*Powers of a Receiver*) shall be read and construed as if the words "be charged on the Assets of the relevant Chargor" were substituted for the words "be deemed an expense properly incurred by the Receiver".

20.2 **Receipt of debts**

At any time after a Declared Default has occurred and is continuing the Security Agent or any manager, officer, nominee or agent of the Security Agent is hereby irrevocably empowered to:

- (a) receive all trade debts and other debts and claims which may be assigned to the Security Agent pursuant to this Debenture and/or under any other Transaction Security Document;
- (b) on payment give an effectual discharge for them and on non-payment to take and institute (if the Security Agent in its sole discretion so decides) all steps and proceedings either in the name of the relevant Chargor or in the name of the Security Agent for their recovery; and
- (c) agree accounts and make allowances and give time to any surety.

Each Chargor ratifies and confirms whatever the Security Agent or any manager or officer of the Security Agent shall do or purport to do under this Clause.

20.3 **Security Agent's powers**

The Security Agent shall have no liability or responsibility to any Chargor arising out of the exercise or non-exercise of the powers conferred on it by this Clause 20 (*Other powers exercisable by the Security Agent*), except for gross negligence or wilful default.

20.4 **No duty of enquiry**

The Security Agent need not enquire as to the sufficiency of any sums received by it in respect of any debt or claim or make any claim or take any other action to collect in or enforce them.

21 **APPLICATION OF MONEY RECEIVED BY THE SECURITY AGENT OR A RECEIVER**

21.1 **Order of priority**

Any money received or realised under the powers conferred by this Debenture shall, subject to the terms of the Intercreditor Agreement, be paid or applied in accordance with clause 16.9 (*Application of proceeds*) of the Subordinated Facility Agreement.

21.2 **Suspense account**

Until all the Secured Obligations have been unconditionally and irrevocably paid and discharged in full, the Security Agent may place and keep to the credit of a suspense account any money received from or realised in respect of any Chargor's liability under this Debenture. The Security Agent shall have no intermediate obligation to apply such money in or towards the discharge of any of the Secured Obligations. Amounts standing to the credit of any such suspense account shall bear interest at a rate considered by the Security Agent in good faith to be a fair market rate.

21.3 **Discretion to apply**

Until all Secured Obligations have been unconditionally and irrevocably paid and discharged in full, the Security Agent may refrain from applying or enforcing any other moneys, security or rights held by it in respect of the Secured Obligations or may apply and enforce such moneys, security or rights in such manner and in such order as it shall decide in its unfettered discretion.

22 **PROTECTION OF THIRD PARTIES**

22.1 **No duty to enquire**

No purchaser from, or other person dealing with, the Security Agent, its nominee or any Receiver or administrator appointed under this Debenture shall be concerned to enquire whether any of the powers which the Security Agent has exercised or purported to exercise has arisen or become exercisable, or whether this Debenture has become enforceable, or whether any nominee, Receiver or administrator has been validly appointed, or whether any event or cause has happened to authorise the Security Agent, any nominee or a Receiver or administrator to act or as to the propriety or validity of the exercise or purported exercise of any such power, and the title of such a purchaser and the position of such a person shall not be impeachable by reference to any of those matters.

22.2 **Receipt**

The receipt of the Security Agent shall be an absolute and a conclusive discharge to a purchaser and shall relieve him of any obligation to see to the application of any money paid to or by the direction of the Security Agent.

23 **PROTECTION OF THE SECURITY AGENT, ANY NOMINEE AND RECEIVER**

23.1 **Limitation**

Neither the Security Agent nor any nominee nor Receiver shall be liable in respect of any Liability which arises out of the exercise or the purported exercise of, or the failure to exercise, any of their respective powers under or by virtue of this Debenture, except if and in so far as such Liability results from its own gross negligence or wilful default.

23.2 **Entry into possession**

Without prejudice to the generality of Clause 23.1 (*Limitation*), neither the Security Agent, any nominee nor any Receiver shall be liable to account as mortgagee in possession or otherwise for any sum not actually received by it or him respectively. If and whenever the Security Agent, or any nominee enters into possession of any Assets, it shall be entitled at any time at its discretion to go out of possession.

24 **SECURITY AGENT**

24.1 **Security Agent as trustee**

The Security Agent declares itself to be a trustee of this Debenture (and any other Security created in its favour pursuant to this Debenture) for the Secured Parties. The retirement of the person for the time being acting as Security Agent and the appointment of a successor shall be effected in the manner provided for at clause 16 (*Role of the Security Agent*) of the Subordinated Facility Agreement.

24.2 **Trustee Act 2000**

The Parties agree that the Security Agent shall not be subject to the duty of care imposed on trustees by the Trustee Act 2000.

24.3 **No partnership**

Nothing in this Debenture shall constitute or be deemed to constitute a partnership between any of the Secured Parties and the Security Agent.

25 **SET-OFF**

25.1 **Right**

After the occurrence of an Event of Default that is continuing, subject to the terms of the Intercreditor Agreement a Secured Party may (but is not obliged to) retain any money standing to the credit of any Chargor with such Secured Party in any currency upon any account or otherwise (whether or not in such Chargor's name) as cover for any Secured Obligations and/or at any time or times without notice to such Chargor combine or consolidate all or any of such money with all or such part of the Secured Obligations due or owing by it as such Secured Party may select and such Secured Party may purchase with any such money any other currency required to effect such combination or consolidation.

26 **TRANSFER BY A SECURED PARTY**

- (a) Subject to the Intercreditor Agreement, any Secured Party may at any time assign and transfer all or any of its rights in relation to this Debenture to any person to whom it is permitted to transfer any of its rights under the relevant Document or otherwise grant an interest in them to any person.
- (b) The Security Agent may assign and transfer all of its rights and obligations under this Debenture to any replacement Security Agent appointed in accordance with clause 16 (***Role of the Security Agent***) of the Subordinated Facility Agreement. Upon such assignment and transfer becoming effective, the replacement Security Agent shall be, and be deemed to be, acting as agent and trustee for each of the Secured Parties (including itself) for the purposes of this Debenture in replacement of the previous Security Agent.

27 **ACCESSION OF A NEW CHARGOR**

27.1 **Method**

Any member of the Group may, if required to do so as a result of becoming a "Guarantor" (under, and as defined in, the Subordinated Facility Agreement in accordance with the terms of the Subordinated Facility Agreement, become a party to this Debenture, by delivering to the Security Agent in form and substance satisfactory to it:

- (a) a Deed of Accession and Charge; and
- (b) certified extracts from the minutes of a meeting of its Board of Directors evidencing the due authorisation and execution of the Deed of Accession and Charge and any other conditions precedent required by the Documents.

27.2 **New Chargor bound**

The New Chargor shall become a Chargor under this Debenture with effect from the time when the Deed of Accession and Charge takes effect, at which point:

- (a) the New Chargor shall become bound by all the terms of this Debenture and shall assume the same obligations as "Chargor" as if it were an original party to this Debenture; and
- (b) the other Chargors shall assume the same obligations in respect of the New Chargor as if it were an original party to this Debenture.

28 **RELEASE OF SECURITY**

28.1 **Redemption**

Subject to Clause 28.2 (***Avoidance of Payments***), if all Secured Obligations have been unconditionally and irrevocably paid in full and none of the Secured Parties are under any further actual or contingent liability to make advances or provide other financial accommodation to any person under any Document, the Security Agent will (at the request and cost of the Chargors), promptly execute and do all such reasonable acts as may be necessary to release the Assets from the Security constituted by this Debenture. Such release shall not prejudice the rights of the Security Agent under clause 11 (***Fees, Costs and expenses***) of the Subordinated Facility Agreement.

28.2 **Avoidance of Payments**

If the Security Agent considers in good faith that any amount received in payment or purported payment of the Secured Obligations is capable of being avoided or reduced by virtue of any insolvency, bankruptcy, liquidation or other similar laws, the liability of each Chargor under this Debenture and the Security constituted by this Debenture shall continue and such amount shall not be considered to have been irrevocably paid.

29 **THIRD PARTY RIGHTS**

29.1 **Directly enforceable rights**

Pursuant to the Contracts (Rights of Third Parties) Act 1999:

- (a) the provisions of Clause 25 (***Set-Off***), and Clause 26 (***Transfer by a***) shall be directly enforceable by a Secured Party;
- (b) the provisions of Clause 16 (***Enforcement***) to Clause 23 (***Protection of the Security Agent, any Nominee and Receiver***) inclusive shall be directly enforceable by any nominee or Receiver; and
- (c) the provisions of Clause 22 (***Protection of Third Parties***) shall be directly enforceable by any purchaser.

29.2 **Exclusion of Contracts (Rights of Third Parties) Act 1999**

Save as otherwise expressly provided in Clause 29.1 (***Directly enforceable rights***), no person other than a Party shall have any right by virtue of either the Contracts (Rights of Third Parties) Act 1999 or any other provision of English law under which

rights might accrue to persons other than a party to enforce any term (express or implied) of this Debenture.

29.3 Rights of the Parties to vary

The Parties (or the Borrower, on behalf of the Chargors, and the Security Agent (on behalf of the Secured Parties)) may by agreement vary any term of this Debenture (including this Clause 29 (*Third Party Rights*)) without the necessity of obtaining any consent from any other person.

30 JOINT AND SEPARATE LIABILITY

All covenants, agreements, representations and warranties on the part of the Chargors contained in this Debenture are given by them jointly and separately and shall be construed accordingly.

31 FORBEARANCE, SEVERABILITY, VARIATIONS AND CONSENTS

31.1 Delay etc

All rights, powers and privileges under this Debenture shall continue in full force and effect, regardless of any Secured Party, nominee or Receiver exercising, delaying in exercising or omitting to exercise any of them.

31.2 Severability

No provision of this Debenture shall be avoided or invalidated by reason only of one or more other provisions being invalid or unenforceable.

31.3 Illegality, invalidity, unenforceability

Any provision of this Debenture which is or becomes illegal, invalid or unenforceable shall be ineffective only to the extent of such illegality, invalidity and unenforceability, without invalidating the remaining provisions of this Debenture.

31.4 Variations

No variation of this Debenture shall be valid and constitute part of this Debenture, unless such variation shall have been made in writing and signed by the Security Agent (on behalf of the Secured Parties) and the Borrower (on behalf of the Chargors) or by all Parties.

31.5 Consents

Save as otherwise expressly specified in this Debenture, any consent of the Security Agent may be given absolutely or on any terms and subject to any conditions as the Security Agent may determine in its entire discretion.

32 COUNTERPARTS

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

33 **NOTICES**

33.1 **Communications in writing**

Any communication to be made under or in connection with this Debenture shall be made in writing and, unless otherwise stated, may be made by fax, letter or email.

33.2 **Addresses**

The address, fax number and email (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with this Debenture is:

(a) in the case of a Chargor, that of the Borrower as identified in the Subordinated Facility Agreement; and

(b) in the case of a Security Agent, that notified with its name below,

or any substitute address, fax number, email address or department or officer as a Chargor may notify to the Security Agent (or the Security Agent may notify to the the Chargors if a change is made by the Security Agent) by not less than five Business Days' notice.

33.3 **Delivery**

33.3.1 Any communication or document made or delivered by one person to another under or in connection with this Debenture will only be effective:

(a) if by way of fax, when received in legible form; or

(b) if by way of letter, when it has been left at the relevant address or five Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address,

and, if a particular department or officer is specified as part of its address details provided under Clause 33.2 (**Addresses**), if addressed to that department or officer.

33.3.2 Any communication or document to be made or delivered to the Security Agent will be effective only when actually received by the Security Agent and then only if it is expressly marked for the attention of the department or officer identified with the Security Agent's signature below (or any substitute department or officer as the Security Agent shall specify for this purpose).

33.3.3 Any email communication as specified in this Clause 33.3 (**Delivery**) will be effective only when actually received (or made available) in readable form and in the case of any email communication made by a Chargor to the Security Agent only if it is addressed in such a manner as the Security Agent shall specify for this purpose.

33.3.4 Any communication or document made or delivered to the Borrower in accordance with this Clause 33.3 (**Delivery**) will be deemed to have been made or delivered to each of the Chargors.

33.3.5 Any communication or document which becomes effective, in accordance with Clause 33.3.1 to Clause 33.3.4, after 5.00 pm in the place of receipt shall be deemed only to become effective on the following day.

33.4 **Notification of details**

Promptly upon changing its address, email address or fax number, the Security Agent shall notify the Chargors of such change.

34 **SECURITY AGENT**

The provisions of clause 16 (***Role of the Security Agent***) of the Subordinated Facility Agreement shall apply to the Security Agent's rights, obligations and duties under this Debenture as if set out in this Debenture in full.

35 **GOVERNING LAW**

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

36 **ENFORCEMENT**

36.1 **Jurisdiction**

36.1.1 The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Debenture (including a dispute relating to the existence, validity or termination of this Debenture or any non-contractual obligation arising out of or in connection with this Debenture) (a "**Dispute**").

36.1.2 The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.

36.1.3 This Clause 36.1 (***Jurisdiction***) is for the benefit of the Security Agent only. As a result, the Security Agent shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Security Agent may take concurrent proceedings in any number of jurisdictions.

This Debenture has been executed by the Chargors as a deed and signed by the Security Agent and it shall take effect on the date stated at the beginning of this document.

Schedule 1
The Chargors

	Name of Chargor	Registration Number	Jurisdiction of incorporation
1.	TFG Brands (London) Limited	09379971	England and Wales
2.	Hobbs Limited	01577740	England and Wales
3.	Dress Holdco C Limited	09380036	England and Wales
4.	Dress Holdco 4 Limited	09365004	England and Wales
5.	Poppy Holdco Limited	07474419	England and Wales
6.	Cameron Topco Limited	07211380	England and Wales
7.	Phase Eight (Fashion & Designs) Limited	01735454	England and Wales
8.	Phase Eight (Germany) Limited	08118652	England and Wales
9.	Phase Eight (UAE) Limited	08260882	England and Wales
10.	Phase Eight (SE Asia) Ltd	08645675	England and Wales
11.	Whistles Limited	01514754	England and Wales
12.	Whistles Holdings Limited	06473609	England and Wales
13.	Whistles Acquisitions Limited	06473583	England and Wales
14.	Hobbs Fashion Holdings Limited	07299448	England and Wales
15.	Hobbs Holdings No.2 Limited	05266446	England and Wales
16.	Hobbs Holdings No.4 Limited	05270891	England and Wales
17.	Inhoco 2756 Limited	04585764	England and Wales

Schedule 2
Form of Deed of Accession and Charge for a New Chargor

THIS DEED OF ACCESSION AND CHARGE is made on 20[]**

BETWEEN:

- (1) [*****INSERT THE NAME OF THE NEW CHARGOR*****] (registered in [England and Wales] under number [***]) (the "**New Chargor**");
- (2) **TFG BRANDS (LONDON) LIMITED** (registered in England and Wales under number 09379971) (the "**Borrower**"); and
- (3) **DRESS HOLDCO A LIMITED** a company registered under the laws of England and Wales with registration number 09379986, acting as security agent and trustee for the Secured Parties including any successor appointed by the Secured Parties pursuant to the Documents (the "**Security Agent**").

WHEREAS:

- (A) This Deed is supplemental to a Debenture (the "**Principal Deed**") dated [***insert date***] between (1) the [***Identify original Chargors***] and (2) the Security Agent as agent and trustee for the Secured Parties named in the Principal Deed (the "**Beneficiaries**").

[***Note: Set out details of any previous Deed of Accession and Charge.***]

- (B) The New Chargor has agreed, on the terms contained in the Principal Deed, to charge in favour of the Security Agent (acting as security agent and trustee for the Secured Parties), all of its property, undertaking and assets to secure the Core Secured Obligations, and to accede to the Principal Deed.

THIS DEED WITNESSES as follows:

1 DEFINITIONS AND INTERPRETATION

- 1.1 **Incorporation:** Words and phrases defined in the Principal Deed and principles of interpretation provided for in the Principal Deed shall, unless the context otherwise requires or unless otherwise re-defined below, have the same meaning and shall apply (as the case may be) in this Deed.

- 1.2 **Additional Definitions:** In this Deed:

"Excluded Land" means:

- (a) any leasehold property with less than 25 years remaining on the applicable lease as at, and at any time after, the date of this Debenture and is not held under a Rack-rental Lease; or
- (b) any freehold or leasehold Land that has a market value of less than £1,000,000; or
- (c) [insert details of any specific Land to be excluded].

"Floating Charge Property" means any leasehold interests owned by a Chargor which that Chargor is prohibited under the terms of the lease from charging or for

which landlord consent is required and has not yet been obtained in accordance with Clause 3.7(a) (Lessor's consent).

"Intellectual Property" means patents (including supplementary protection certificates), utility models, registered and unregistered trade marks (including service marks), rights in passing off, copyright, database rights, domain names, registered and unregistered rights in designs (including in relation to semiconductor products) anywhere in the world (which may now or in the future subsist) and, in each case, any extensions and renewals of, and any applications for, such rights.

"Land" means (other than any Excluded Land):

- (a) freehold and leasehold, and any other estate in, land;
- (b) (outside England and Wales) immovable property; and
- (c) all buildings and structures upon and all things affixed to Land (including trade and tenant's fixtures).

2 **ACCESSION BY THE NEW CHARGOR TO THE PRINCIPAL DEED**

2.1 **Accession**

The New Chargor agrees to be bound by the terms of the Principal Deed and to perform all its obligations (whether as Chargor or otherwise) under the Principal Deed with effect from the date of this Deed as if it had been an original party to the Principal Deed as a Chargor.

2.2 **Covenant to pay**

The New Chargor (as primary obligor and not merely as surety) covenants with the Security Agent that it will, on the Security Agent's written demand, pay or discharge the Core Secured Obligations at the times and in the manner provided in the relevant Document.

2.3 **Proviso**

The covenants contained in this Clause and the security created by this Deed shall not extend to or include any liability or sum which would otherwise cause any such covenant or security to be unlawful or prohibited by any applicable law.

2.4 **Borrower's agreement to the accession**

The Borrower (on behalf of itself and the other members of the Group which are parties to the Principal Deed) hereby agrees to the New Chargor's accession.

3 **ASSIGNMENTS**

Each New Chargor, with full title guarantee, as security for the payment or discharge of all Core Secured Obligations, assigns absolutely to the Security Agent (as trustee for the Beneficiaries) all of its rights, title and interest from time to time in respect of any sums payable to it pursuant to the Insurance Policies.

4 **FIXED SECURITY**

Each New Chargor, with full title guarantee, as security for the payment or discharge of all Core Secured Obligations, charges to the Security Agent (as trustee for the Beneficiaries):

- (a) by way of legal mortgage all Land in England and Wales now vested in it registered at the Land Registry, in each case as described in Schedule 1 (***Registered Land to be Mortgaged***) to this Deed;
- (b) by way of fixed charge:
 - (i) all other Land which is now, or in the future becomes, its property (including any leasehold interest only to the extent that such leasehold interest is not prohibited under its terms from being charged or has by virtue of obtaining lessor's consent pursuant to Clause 3.7(a) of the Principal Deed ceased to be a Floating Charge Property);
 - (ii) all interests and rights in or relating to Land or the proceeds of sale of Land now or in the future belonging to it (including any leasehold interest only to the extent that such leasehold interest is not prohibited under its terms from being charged or such leasehold interest has by virtue of obtaining lessor's consent pursuant to Clause 3.7(a) of the Principal Deed ceased to be a Floating Charge Property);
 - (iii) all plant and machinery now or in the future attached to any Land which, or an interest in which, is charged by it under the preceding provisions of this Clause 4;
 - (iv) all rental and other income and all debts and claims now or in the future due or owing to it under or in connection with any lease, agreement or licence relating to Land;
 - (v) all Specified Investments which are now its property, including all proceeds of sale derived from them;
 - (vi) all Specified Investments in which that New Chargor may in the future acquire any interest (legal or equitable), including all proceeds of sale derived from them;
 - (vii) all Derivative Rights of a capital nature now or in the future accruing or offered in respect of its Specified Investments;
 - (viii) all Derivative Rights of an income nature now or in the future accruing or offered at any time in respect of its Specified Investments;
 - (ix) all insurance or assurance contracts or policies now or in the future held by or otherwise benefiting it which relate to Fixed Security Assets or which are now or in the future deposited by it with the Security Agent, together with all its rights and interests in such contracts and policies (including the benefit of all claims arising and all money payable under them) apart from any claims which are otherwise subject to a fixed charge or assignment (at law or in equity) in this Deed;

- (x) all its goodwill and uncalled capital for the time being;
- (xi) all Intellectual Property presently belonging to it, including its interest in any Intellectual Property to which it is not absolutely entitled or to which it is entitled together with others (to the extent that any consent of a relevant person has been obtained);
- (xii) all Intellectual Property that may be acquired by or belong to it in the future, including any such Intellectual Property to which it is not absolutely entitled or to which it is entitled together with others (to the extent that any consent of a relevant person has been obtained);
- (xiii) the benefit of all agreements and licences now or in the future entered into or enjoyed by it relating to the use or exploitation of any Intellectual Property in any part of the world to the extent that they are able to be charged under this clause;
- (xiv) all its rights now or in the future in relation to trade secrets, confidential information and knowhow in any part of the world to the extent that they are able to be charged under this clause;
- (xv) all its rights and causes of action in respect of infringement(s) (past, present or future) of the rights referred to in subparagraphs (b)(ix) to (xiii) inclusive of this clause;
- (xvi) all trade debts now or in the future owing to it;
- (xvii) all other debts now or in the future owing to it, excluding those arising on fluctuating accounts with other members of the Group;
- (xviii) the benefit of all instruments, guarantees, charges, pledges and other security and all other rights and remedies available to it in respect of any Fixed Security Asset except to the extent that such items are for the time being effectively assigned under Clause 3 (***Assignments***) of this Deed;
- (xix) any beneficial interest, claim or entitlement it has in any pension fund now or in the future;
- (xx) all rights, money or property accruing or payable to it now or in the future under or by virtue of a Fixed Security Asset except to the extent that such rights, money or property are for the time being effectively assigned or charged by fixed charge under the foregoing provisions of this Deed; and
- (xxi) the benefit of all licences, consents and authorisations held in connection with its business or the use of any Asset and the right to recover and receive all compensation which may be payable in respect of them to the extent that they are able to be charged under this clause.

5 CREATION OF FLOATING CHARGE

- 5.1 Each Chargor, with full title guarantee, charges to the Security Agent (as trustee for the Beneficiaries) as security for the payment or discharge of all Core Secured Obligations, by way of floating charge:

- (a) all its Assets, except to the extent that such Assets are for the time being effectively assigned by way of security by virtue of Clause 3 (***Assignments***) of this Deed or charged by any fixed charge contained in Clause 4 (***Fixed Security***) of this Deed, including any Assets comprised within a charge which is reconverted under Clause 4.4 (***Reconversion***) of the Principal Deed; and
- (b) without exception, all its Assets in so far as they are for the time being situated in Scotland.

5.2 The parties agree (without limitation to the general nature of the New Chargor's accession to the Principal Deed contained in Clause 2 (***Accession by the New Chargor to the Principal Deed***)) that the crystallisation provisions contained in Clause 4 of the Principal Deed shall equally apply to the floating charge contained in this Deed as if set out in full in this Deed.

6 **NEGATIVE PLEDGE AND OTHER RESTRICTIONS**

Without the prior written consent of the Security Agent, except as specifically permitted by the Subordinated Facility Agreement, the New Chargor shall not:

- (a) create, or agree or attempt to create, or permit to subsist, any Security or any trust over any of its Assets; or
- (b) sell, assign, lease, license or sub-license, or grant any interest in, any of its Fixed Security Assets, or part with possession or ownership of them, or purport or agree to do so.

7 **RIGHT OF APPROPRIATION**

7.1 The parties acknowledge and intend that the charges over the New Chargor's Financial Collateral provided under or pursuant to this Deed will each constitute a "security financial collateral arrangement" for the purposes of the Financial Collateral Regulations.

7.2 The Security Agent may, on or at any time after the security constituted by this Deed becomes enforceable, by notice in writing to the New Chargor appropriate with immediate effect all or any of its Financial Collateral hereby charged which is subject to a security financial collateral arrangement (within the meaning of the Financial Collateral Regulations) and apply it in or towards the discharge of the Core Secured Obligations, whether such Assets are held by the Security Agent or otherwise.

7.3 The value of any Financial Collateral appropriated under Clause 7.2 shall be:

- (a) in the case of cash, its face value at the time of appropriation; and
- (b) in the case of financial instruments or other financial collateral, their market value at the time of appropriation as determined (after appropriation) by the Security Agent by reference to a public index or other applicable generally recognised price source or such other process as the Security Agent may select, including a valuation carried out by an independent firm of accountants or valuers appointed by the Security Agent;
- (c) as converted, where necessary, into sterling at a market rate of exchange prevailing at the time of appropriation selected by the Security Agent.

7.4 The Security Agent will account to the New Chargor for any amount by which the value of the appropriated Assets exceeds the Core Secured Obligations and the New Chargor shall remain liable to the Security Agent for any amount by which the value of the appropriated Assets is less than the Core Secured Obligations.

7.5 The New Chargor agrees the method of valuing Financial Collateral under Clause 7.3 is commercially reasonable.

8 APPLICATION TO THE LAND REGISTRY

The New Chargor:

- (a) in relation to each register of title of any present and future Land of the New Chargor which is charged to the Security Agent under this Deed, consents to the Security Agent (or its solicitors) at any time submitting to the Land Registry:
 - (i) a form AP1 (application to change the register) in respect of the security created by this Deed;
 - (ii) a form AN1 (application to enter an agreed notice) in respect of the security created by this Deed;
 - (iii) a form RX1 (application to register a restriction) in the following terms:

"No disposition of the registered estate by the proprietor of the registered estate is to be registered without a written consent signed by the proprietor for the time being of the charge dated [date] in favour of [Chargee] referred to on the charges register or their conveyancer."; and
 - (iv) a form CH2 (application to enter an obligation to make further advances); and
- (b) covenants to submit an application to the appropriate Land Registry for the first registration of any unregistered Land in England and Wales mortgaged by Clause 3.2 (***Fixed security***) at its own expense, immediately following its execution of this Deed.

9 POWER OF ATTORNEY

9.1 **Appointment of attorney:** The New Chargor, by way of security and to more fully secure the performance of its obligations under this Deed, hereby irrevocably appoints the Security Agent (whether or not a Receiver or administrator has been appointed) and any Receiver separately, to be its attorney (with full power to appoint substitutes and to delegate) with power in its name and on its behalf, and as its act and deed or otherwise to:

- (a) do anything which the New Chargor is obliged to do (but after request by the Security Agent has not done) in accordance with this Deed, including to execute and deliver and otherwise perfect any agreement, assurance, deed, instrument or document;
- (b) give any instruction under the rules and practices of a Relevant System; and

- (c) enable the Security Agent or any such Receiver to exercise (or to delegate) all or any of the rights conferred on it by this Deed or by statute in relation to this Deed or the Assets charged, or purported to be charged, by it.

9.2 **Ratification**

The New Chargor ratifies and confirms whatever any attorney does or purports to do pursuant to its appointment under this Clause.

9.3 **Sums recoverable**

All sums expended by the Security Agent or any Receiver under this Clause shall be recoverable from the New Chargor under Clause 19.3 (***Sums recoverable***) of the Principal Deed.

10 **NOTICES**

All notices or demands to be given or made pursuant to this Deed shall be given or made in the manner set out in Clause 33 (***Notices***) of the Principal Deed.

11 **COUNTERPARTS**

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

12 **GOVERNING LAW**

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

13 **ENFORCEMENT**

13.1 **Jurisdiction**

13.1.1 The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute relating to the existence, validity or termination of this Deed or any non-contractual obligation arising out of or in connection with this Deed) (a "**Dispute**").

13.1.2 The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.

13.1.3 This Clause paragraph 13.1 (***Jurisdiction***) is for the benefit of the Security Agent only. As a result, the Security Agent shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Security Agent may take concurrent proceedings in any number of jurisdictions.

13.2 [*****Service of process**]: Without prejudice to any other mode of service allowed under any relevant law, the New Chargor:

- (a) irrevocably appoints [*****the Borrower*****] as its agent for service of process in relation to any proceedings before the English courts in connection with this Deed; and

- (b) agrees that failure by a process agent to notify it of the process will not invalidate the proceedings concerned.***]

14 **DOCUMENT**

This Deed is a Document.

THIS DEED OF ACCESSION AND CHARGE has been executed by the New Chargor and the Borrower as a deed and signed by the Security Agent and it has been delivered and shall take effect on the date stated at the beginning of this document.

SCHEDULE 1 TO DEED OF ACCESSION AND CHARGE
Registered land to be mortgaged

Name of Chargor/ Registered Proprietor	Description of Property	Title Number

The address for service of the Security Agent in the case of registered land 55 Kimber Road, London SW18 4NX (Attention: Catherine Lambert)

Note: Incorporate here full details of all Land to be mortgaged under Clause 3.2 (***Fixed security***) and which is registered at the Land Registry (this may include leases with at least 25 years left to run). Any title numbers must be set out here.

EXECUTION

The New Chargor

Executed as a Deed by [***insert name
of New Chargor***] (pursuant to a
resolution of its Board of Directors) acting
by

Director

Director/Secretary

The Borrower

Executed as a Deed by **TFG BRANDS
(LONDON) LIMITED** (pursuant to a
resolution of its Board of Directors) acting
by

Director

Director/Secretary

The Security Agent

Signed by for and on behalf of **DRESS
HOLDCO A LIMITED:**

Authorised Signatory

Address details:

Schedule 3
Forms of Notice of Assignment

Part 1
Form of Notice of Assignment of Insurance Policies

To: [*Insurer*]

[*Insurance broker*]

2020

Dear Sirs,

[Identify the relevant insurance policy(ies) (the "Policies")]

We refer to a Debenture (the "**Debenture**") dated 2020 made between, inter alios, Dress Holdco A Limited (the "**Security Agent**") and ourselves. Terms defined in the Debenture are to have the same meanings in this letter. In addition, the term "**Existing Debenture**" means the debenture 14 February 2020, made between, amongst others, Barclays Bank PLC, as security agent (the "**Senior Security Agent**") and ourselves.

We hereby give you notice that we have charged to the Security Agent for the benefit of itself and certain other banks and financial institutions (the "**Beneficiaries**") all our rights, title and interest from time to time in respect of any sums payable to us pursuant to the Policies (including the benefit of all claims arising and all money payable under them) as security for certain obligations owed by us to the Beneficiaries under the Debenture [, subject to the Security created by us over our rights, title and interest from time to time in respect of any sums payable to us pursuant to the Policies in the Existing Debenture [(as notified to you in a notice dated [***])]] . [No rights, title or interest in respect of the Policies or any sums payable under the Policies relating to any other entity covered by the Policies is assigned pursuant to this notice, other than our rights to receive proceeds under the Policies.]

We further notify you that:

1. you may continue to deal with us in relation to the Policies until you receive written notice to the contrary from the Security Agent stating that a Declared Default has occurred and is continuing (a "**Default Notice**");
2. you are authorised to disclose information in relation to the Policies to the Security Agent on request; and
3. the provisions of this notice may only be revoked with the written consent of the Security Agent.

Please sign and return the enclosed copy of this notice to the Security Agent (with a copy to us) by way of confirmation that:

- (a) you agree to act in accordance with the provisions of this notice;
- (b) you have not received notice that we have assigned our rights under the Policies to a third party or created any other charge or interest (whether by way of security or otherwise) in the Policies in favour of a third party [(other than in favour of the Senior Security Agent, including a notice dated [***] sent by [***name of Chargor***] pursuant to the Existing Debenture)];

- (c) following receipt of a Default Notice, you will hold to the order of the Security Agent all monies to which we are entitled under the Policies and pay or release all or any part of the monies to which we are entitled under the policies in accordance with the written instructions given to you by the Security Agent from time to time; and
- (d) following receipt of a Default Notice, you will comply with the terms of any written notice or instructions in any way relating to or purporting to relate to the Policies, the sums payable thereunder or the debts represented thereby, which you receive from the Security Agent from time to time without reference to or further authority from ourselves and without any enquiry by you as to the justification for or validity of such notice or instruction.

The instructions and authorisations contained in this letter shall remain in full force and effect until we and the Security Agent together give you notice in writing revoking them.

This letter and all non contractual obligations arising in any way whatsoever out of or in connection with this letter shall be governed by, construed and take effect in accordance with English law.

Please confirm your acknowledgement of this Notice by signing the acknowledgements set out at the foot of the enclosed duplicate hereof and by returning the same to Bryan Cave Leighton Paisner LLP, Governor's House, 5 Laurence Pountney Hill, London, EC4R 0HH Ref (TFG Brands) marked to the attention of Derek Hrydziuszko and to Dress Holdco A Limited marked for the attention of Catherine Lambert at 55 Kimber Road, London SW18 4NX

[Redacted signature area]

[Intentionally left blank]

Signed

.....

Authorised Signatory

for and on behalf of

[***Chargor(s)***]

Part 2
Form of Acknowledgement

To: Bryan Cave Leighton Paisner LLP
Governor's House,
5 Laurence Pountney Hill
London EC4R 0HH

Ref:

To: Dress Holdco A Limited
55 Kimber Road
London SW18 4NX

For the attention of: Catherine Lambert

We, [*** insurer / insurance broker ***] hereby acknowledge receipt of a notice of assignment from [*** Chargor ***] of which the attached is a copy (the "**Notice of Assignment**") and confirm the matters set out in paragraphs (a) to (d) of the Notice of Assignment.

For and on behalf of

.....

[*** Insurer / Insurance broker ***]

Dated:

EXECUTION PAGES

The Chargors

Executed as a Deed by **TFG Brands (London) Limited** acting by two directors

)
)
)

Director

)
)
)

3322D0AD98EC4EB...
Director

Executed as a Deed by **Dress Holdco 4 Limited** acting by two directors


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Executed as a Deed by **Dress Holdco C Limited** acting by two directors

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Director

Executed as a Deed by **Poppy Holdco Limited** acting by two directors

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Executed as a Deed by **Cameron Topco Limited** acting by two directors

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Director

Executed as a Deed by **Phase Eight (Fashion & Designs) Limited** acting by two directors

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Executed as a Deed by **Phase Eight
(Germany) Limited** acting by two
directors

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Executed as a Deed by **Phase Eight
(UAE) Limited** acting by two directors

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Executed as a Deed by **Phase Eight (SE
Asia) LTD** acting by two directors

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Executed as a Deed by **Whistles Limited**
acting by two directors

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Executed as a Deed by **Whistles Holdings Limited** acting by two directors

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Director

Executed as a Deed by **Whistles Acquisitions Limited** acting by two directors

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Executed as a Deed by **Hobbs Fashion Holdings Limited** acting by two directors

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Executed as a Deed by **Hobbs Limited** acting by two directors

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Executed as a Deed by **Hobbs Holdings No.2 Limited** acting by two directors

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Director

Executed as a Deed by **Hobbs Holdings
No.4 Limited** acting by two director

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Director

Executed as a Deed by **Inhoco 2756
Limited** acting by two directors

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Director

THE SECURITY AGENT

Signed by a duly authorised signatory
for and on behalf of
Dress Holdco A Limited

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Authorised Signatory

Address details:



Email: 

Attention: Catherine Lambert