



**Registration of a Charge**

Company name: **DEVON AND CORNWALL SECURITIES LIMITED**

Company number: **01712730**



X68YX8E1

Received for Electronic Filing: **20/06/2017**

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**Details of Charge**

Date of creation: **09/06/2017**

Charge code: **0171 2730 0049**

Persons entitled: **SHAWBROOK BANK LIMITED**

Brief description:

**Contains fixed charge(s).**

**Contains floating charge(s) .**

**Contains negative pledge.**

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**Authentication of Form**

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

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**Authentication of Instrument**

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

Certified by:

**TRAVERS SMITH LLP**



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

Company number: 1712730

Charge code: 0171 2730 0049

The Registrar of Companies for England and Wales hereby certifies that a charge dated 9th June 2017 and created by DEVON AND CORNWALL SECURITIES LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 20th June 2017 .

Given at Companies House, Cardiff on 21st June 2017

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



**Companies House**



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

**TRAVERS SMITH**

**EXECUTION VERSION**

**DATED 9 JUNE 2017**

**DEVON AND CORNWALL SECURITIES LIMITED**

**AS CHARGOR**

**IN FAVOUR OF**

**SHAWBROOK BANK LIMITED**

**AS LENDER**

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**SUPPLEMENTAL DEBENTURE**

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**THIS DEBENTURE** is dated

9 JUNE 2017 and made between:

- (1) **DEVON AND CORNWALL SECURITIES LIMITED**, a company incorporated in England and Wales (registered number 01712730) with its registered office at 8 Fore Street, Camelford, Cornwall PL32 9PG (the **Chargor**) in favour of:
- (2) **SHAWBROOK BANK LIMITED** as lender (the **Lender**).

## **RECITALS**

- (A) Pursuant to a debenture dated 18 November 2013 (the "**Original Debenture**") the Chargor created security interests over all of its assets as security for, amongst other things, the present and future obligations and liabilities of the Chargor or Devon & Cornwall Holdings Ltd. under or pursuant to the Finance Documents.
- (B) The Facility Agreement has been amended and restated by an amendment and restatement agreement dated on or around the date of this Debenture between, among others, the Chargor and the Lender (the "**Amendment and Restatement Agreement**").
- (C) The Chargor and the Lender each consider that the security interests created by the Chargor under the Original Debenture secure payment of the Secured Obligations (as defined below), but enter into this Debenture in case they do not.

**IT IS AGREED** as follows:

## **1. DEFINITIONS AND INTERPRETATION**

### **1.1 Definitions**

Terms defined in the Facility Agreement shall have the same meaning when used in this Debenture or any Mortgage unless otherwise defined herein or therein (as applicable) and in addition the following words and expressions where used in this Debenture or any Mortgage shall have the meanings given to them below:

**Account** means any credit balance from time to time on any account (including without limitation the Collections Account and the Operating Account) opened or maintained by the Chargor with the Account Bank, the Lender or any other financial institution (and any replacement account or subdivision or sub-account of that account) and all Related Rights.

**Account Bank** means Barclays Bank PLC.

**Act** means the Law of Property Act 1925.

**Blocked Account** means the Collections Account (and any renewal or redesignation of such account) and any other Account that may from time to time be agreed between the Lender and the Chargor to be a Blocked Account.

**Charged Intellectual Property** means any and all Intellectual Property owned by the Chargor now or in the future including without limitation those rights listed in Schedule 2 (*Details of Intellectual Property*).

**Charged Property** means all the assets and undertaking of the Chargor which from time to time are the subject of the Security created or expressed to be created in favour of the Lender by or pursuant to this Debenture and any Mortgage.

**Collateral Rights** means all rights, powers and remedies of the Lender provided by or pursuant to this Debenture or any Mortgage or by law.

**Collections Account** means the sterling bank account of the Chargor with the Account Bank in England with account name Devon and Cornwall Securities Limited, account number 30601861 and sort code 20-74-20 and/or any other account with the Account Bank which is designated by the Chargor and the Lender as the "Collections Account", as the same may be redesignated or renumbered from time to time.

**Customer** means, in relation to a Mortgage Loan, the person named as entering into such Mortgage Loan and to whom such Mortgage Loan is advanced.

**Derivative Assets** means all assets derived from any of the Shares including all allotments, accretions, offers, rights, dividends, interest, income, benefits and advantages whatsoever at any time accruing, offered or arising in respect of or incidental to any of the Shares and all stocks, shares, rights, money or property accruing or offered at any time by way of conversion, redemption, bonus, preference, exchange, purchase, substitution, option, interest or otherwise in respect thereof.

**Enforcement Event** means the occurrence of an event which results in the Security created by or pursuant to this Debenture becoming enforceable in accordance with Clause 15.1 (*Enforcement*).

**Excluded Property** means the freehold property of the Chargor being the land and buildings on the west side of Vinery Lane Elburton registered at HM Land Registry under title number DN179112.

**Event of Default** has the meaning given to that term in the Facility Agreement.

**Facility Agreement** means the facility agreement dated 18 November 2013, as amended on 12 March 2015, 9 March 2016, 21 July 2016 and on 19 September 2016 and as amended and restated by the Amendment and Restatement Agreement on or around the date of this Debenture and made between the Chargor as borrower and Shawbrook Bank Limited as lender.

**Insurance Policy** means any policy of insurance (including, without limitation, key-man insurance, life insurance or assurance) in which the Chargor may from time to time have an interest.

**Intellectual Property** means all patents, rights in inventions, trade marks, service marks, designs, business names, domain names, geographical indications, copyrights (including rights in computer software), registered designs, design rights, moral rights, database rights, rights in confidential information and know how, trade names, trade dress, formulas, trade secrets and other intellectual property rights and interests, whether registered or unregistered and including all applications for and the right to apply for the same, and any interests (including by way of licence or covenant not to sue) which may subsist anywhere in the world.

**Investments** means:

- (a) any stocks, shares, debentures, bonds, coupons, negotiable instruments, securities and certificates of deposit (but not including the Shares);
- (b) all interests in collective investment schemes; and
- (c) all warrants, options and other rights to subscribe for or acquire any of the investments described in paragraphs (a) and (b) above,

in each case whether held directly by or to the order of the Chargor or by any trustee, nominee, fiduciary or clearance system on its behalf and all Related Rights (including all rights against any such trustee, nominee, fiduciary or clearance system).

**Monetary Claims** means any book and other debts and monetary claims (other than Accounts) owing to the Chargor and any proceeds of such debts and claims (including any claims or sums of money deriving from or in relation to any Intellectual Property, any Investment, the proceeds of any Insurance Policy, any court order or judgment, any contract or agreement to which the Chargor is a party and any other assets, property, rights or undertaking of the Chargor).

**Mortgage** means a mortgage or charge in respect of any of the Real Property granted by the Chargor in favour of the Lender in accordance with Clause 6 (*Further Assurance*) substantially in the form of Schedule 5 (*Form of Mortgage*).

**Mortgage Loan** means a loan:

- (a) made to a person by the Chargor; and
- (b) made subject to the Mortgage Loan Documentation.

**Mortgage Loan Documentation** means each of the following documents in respect of each Mortgage Loan:

- (a) the application forms completed by the relevant Customer;
- (b) the lending agreement(s) pursuant to which the Mortgage Loan was to be made available;



- (c) the Valuation;
  - (d) the Mortgage Security; and
  - (e) the case summary prepared by the Chargor and/or the relevant Customer,
- (and each a "**Mortgage Loan Document**").

**Mortgage Property** means a property against which a Mortgage Loan is secured.

**Mortgage Security** means, in relation to a Mortgage Loan, the legal mortgage or legal charge executed by a Customer as security for such Mortgage Loan (and any other security therefor including, without limitation, any guarantee or insurance) in favour of the Chargor.

**Operating Account** means the sterling bank account of the Chargor with the Account Bank in England with account name Devon and Cornwall Securities Limited 2 Account, account number 8399057502 and sort code 20-74-20 and/or any other account with the Account Bank which is designated by the Chargor and the Lender as the "Operating Account", as the same may be redesignated or renumbered from time to time.

**Permitted Security** has the meaning given to it in the Facility Agreement.

**Real Property** means:

- (a) any freehold, leasehold or immovable property (excluding the Excluded Property but including the freehold and leasehold property in England and Wales specified in Schedule 1 (*Details of Real Property*) (if any)); and
- (b) any buildings, fixtures, fittings, fixed plant or machinery from time to time situated on or forming part of such freehold or leasehold property,

and includes all Related Rights.

**Receiver** means a receiver or receiver and manager or (where permitted by law) administrative receiver of the whole or any part of the Charged Property and that term will include any appointee made under a joint and/or several appointment.

**Related Rights** means, in relation to any asset (including the Shares, the Derivative Assets and the Investments):

- (a) the proceeds of sale of any part of that asset;
- (b) all rights under any licence, agreement for sale or agreement for lease in respect of that asset;
- (c) all rights, benefits, claims, contracts, warranties, remedies, Security, indemnities or covenants for title in respect of that asset; and

(d) any monies and proceeds paid or payable in respect of that asset.

**Secured Obligations** means all obligations covenanted to be discharged by the Chargor in Clause 2.1 (*Covenant to pay*).

**Security** means a mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.

**Shares** means all of the shares in the capital of any limited liability company incorporated in England and Wales, in each case held by, to the order or on behalf of the Chargor from time to time.

**Specific Contracts** means all Mortgage Loan Documentation and any other document

**Subordination Deed** means the subordination deed dated 18 November 2013 and made between, among others, the Chargor, the Shareholders and the Lender.

**Tangible Moveable Property** means any plant, machinery, office equipment, computers, vehicles and other chattels (excluding any for the time being forming part of the Chargor's stock in trade or work in progress) and all Related Rights.

**Valuation** means a valuation of a Mortgage Property by a valuer instructed by the Chargor in relation to a Mortgage Loan.

## 1.2 Interpretation

In this Debenture or, as applicable, any Mortgage:

- 1.2.1 the rules of interpretation contained in clause 1.2 (*Construction*) of the Facility Agreement shall apply to the construction of this Debenture and any Mortgage;
- 1.2.2 any reference to the the **Chargor**, or the **Lender** shall be construed so as to include its or their (and any subsequent) successors and any permitted transferees in accordance with their respective interests; and
- 1.2.3 references in this Debenture to any Clause or Schedule shall be to a clause or schedule contained in this Debenture.

## 1.3 Third party rights

- 1.3.1 Unless expressly provided to the contrary in this Debenture a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 (the **Third Parties Act**) to enforce or enjoy the benefit of any term of this Debenture.
- 1.3.2 Notwithstanding any term of this Debenture, the consent of any person who is not a Party is not required to rescind or vary this Debenture at any time.

## **1.4 Inconsistency**

**1.4.1** In the event of any inconsistency arising between any of the provisions of this Debenture or any Mortgage and the Subordination Deed, the provisions of the Subordination Deed shall prevail.

**1.4.2** To the extent that the provisions of this Debenture are inconsistent with those of any Mortgage, the provisions of that Mortgage shall prevail.

## **1.5 Disposition of property**

The terms of the other Finance Documents and of any side letters between the Parties in relation to the Finance Documents are incorporated into this Debenture and any Mortgage to the extent required for any purported disposition of the Real Property contained in this Debenture or any Mortgage to be a valid disposition in accordance with Section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.

## **1.6 Incorporation of provisions into any Mortgage**

Clauses 1.2 (*Interpretation*), 6.1 (*Further assurance: general*), 6.3 (*Implied covenants for title*), 15 (*Enforcement of security*), 16 (*Extension and variation of the Act*), 17 (*Appointment of Receiver or administrator*), 18 (*Powers of Receiver*), 21 (*Power of attorney*), 30 (*Governing Law*) and 31 (*Jurisdiction*) of this Debenture are incorporated into any Mortgage as if expressly incorporated into that Mortgage, as if references in those clauses to this Debenture were references to that Mortgage and as if all references in those clauses to Charged Property were references to the assets of the Chargor from time to time charged in favour of, or assigned (whether at law or in equity) to, the Lender by or pursuant to that Mortgage.

## **1.7 Mortgage**

It is agreed that each Mortgage is supplemental to this Debenture.

## **1.8 Deed**

It is intended that this Debenture takes effect as a deed notwithstanding the fact that a party may only execute this document under hand.

## **1.9 Second-ranking Security**

**1.9.1** All Security under this Debenture is created in addition to and does not affect the Security created by the Original Debenture.

**1.9.2** Where this Debenture purports to create a first fixed security interest, that security interest will be a second ranking security interest ranking subject to the equivalent security interest created by the Original Debenture until such time as the security interest created by the Original Debenture ceases to have effect. All

references in this Debenture to "full title guarantee" shall be qualified by reference to the Original Debenture.

**1.9.3** Where a right or asset has been assigned (subject to a proviso for re-assignment on redemption) under the Original Debenture and the same asset or right is expressed to be assigned again under this Debenture, that second assignment will take effect as a fixed charge over the right or asset and will only take effect as an assignment if the relevant security interest created by the Original Debenture ceases to have effect at a time when this Debenture still has effect.

## **2. PAYMENT OF SECURED OBLIGATIONS**

### **2.1 Covenant to pay**

The Chargor hereby covenants with the Lender that it shall discharge all obligations, as and when they fall due in accordance with their terms, which the Borrower or the Parent may at any time have to the Lender under or pursuant to the Finance Documents (as amended and restated by the Amendment and Restatement Agreement) and including this Debenture and any Mortgage) including any liabilities in respect of any further advances made under the Finance Documents, whether present or future, actual or contingent (and whether incurred solely or jointly and whether as principal or as surety or in some other capacity). The Chargor shall pay to the Lender when due and payable every sum at any time owing, due or incurred by the Chargor to the Lender in respect of any such liabilities, **provided that** neither such covenant nor the Security constituted by this Debenture or any Mortgage shall extend to or include any liability or sum which would, but for this proviso, cause such covenant or Security to be unlawful or prohibited by any applicable law.

### **2.2 Interest on demands**

If the Chargor fails to pay any sum on the due date for payment of that sum the Chargor shall pay interest on any such sum (before and after any judgment and to the extent interest at a default rate is not otherwise being paid on such sum) from the date of demand until the date of payment calculated on a daily basis at the rate determined by and in accordance with the provisions of clause 10.3 (*Default interest*) of the Facility Agreement.

## **3. FIXED CHARGES, ASSIGNMENTS AND FLOATING CHARGE**

### **3.1 Fixed charges**

The Chargor hereby charges with full title guarantee in favour of the Lender as security for the payment and discharge of the Secured Obligations, by way of first fixed charge all the Chargor's right, title and interest from time to time in and to each of the following assets in each case both present and future:

**3.1.1** the Real Property;

- 3.1.2 the Tangible Moveable Property;
- 3.1.3 the Accounts;
- 3.1.4 the Charged Intellectual Property;
- 3.1.5 any goodwill and rights in relation to the uncalled capital of the Chargor;
- 3.1.6 the Investments and all Related Rights;
- 3.1.7 the Shares, all dividends, interest and other monies payable in respect of the Shares and all other Related Rights (whether derived by way of redemption, bonus, preference, option, substitution, conversion or otherwise); and
- 3.1.8 all Monetary Claims other than any claims which are otherwise subject to a fixed charge or assignment (at law or in equity) pursuant to this Debenture and all Related Rights.

### **3.2 Assignments**

The Chargor hereby assigns with full title guarantee to the Lender as security for the payment and discharge of the Secured Obligations, subject to a proviso for re-assignment on redemption, all the Chargor's right, title and interest from time to time in and to each of the following assets in each case both present and future:

- 3.2.1 the proceeds of any Insurance Policy; and
- 3.2.2 each of the Specific Contracts,

and, in each case, all Related Rights.

### **3.3 Floating charge**

3.3.1 The Chargor hereby charges with full title guarantee in favour of the Lender as security for the payment and discharge of the Secured Obligations by way of first floating charge all present and future assets and undertaking of the Chargor, other than:

- (a) any asset which is situated in England and Wales and which is validly and effectively charged under the laws of England and Wales by way of fixed security created under this Debenture in favour of the Lender as security for the Secured Obligations; and
- (b) the Excluded Property.

3.3.2 The floating charge created by this Clause 3.3 shall be deferred in point of priority to all fixed security validly and effectively created by the Chargor

under the Finance Documents in favour of the Lender as security for the Secured Obligations.

- 3.3.3** Paragraph 14 of Schedule B1 to the Insolvency Act 1986 applies to the floating charge created pursuant to this Clause 3.3.

## **4. CRYSTALLISATION OF FLOATING CHARGE**

### **4.1 Crystallisation: by notice**

The Lender may at any time by notice in writing to the Chargor convert the floating charge created by Clause 3.3 (*Floating charge*) with immediate effect into a fixed charge as regards any property or assets specified in the notice if:

- 4.1.1** an Event of Default has occurred and is continuing; or
- 4.1.2** the Lender reasonably considers that any of the Charged Property may be in jeopardy or in danger of being seized or sold pursuant to any form of legal process; or
- 4.1.3** the Lender reasonably considers that it is necessary in order to protect the priority of the Security.

### **4.2 Crystallisation: automatic**

Notwithstanding Clause 4.1 (*Crystallisation: by notice*) and without prejudice to any law which may have a similar effect, the floating charge will automatically be converted (without notice) with immediate effect into a fixed charge as regards all the assets subject to the floating charge if:

- 4.2.1** the Chargor creates or attempts to create any Security (other than any Permitted Security) over any of the Charged Property; or
- 4.2.2** the Chargor disposes or attempts to dispose of all or any of its assets (other than as expressly permitted under the Facility Agreement); or
- 4.2.3** any person levies or attempts to levy any distress, execution or other process against any of the Charged Property; or
- 4.2.4** a resolution is passed or an order is made for the winding-up, dissolution, administration or re-organisation of the Chargor or an administrator is appointed to the Chargor; or
- 4.2.5** the first floating charge created by the Original Debenture over such assets is crystallised; or

- 4.2.6** any person (who is entitled to do so) gives notice of its intention to appoint an administrator to the Chargor or files such a notice with the court.

## **5. PERFECTION OF SECURITY**

### **5.1 Notices of assignment and charge**

The Chargor shall deliver to the relevant counterparty (with a copy to the Lender):

- 5.1.1** in respect of each Insurance Policy the proceeds of which are assigned pursuant to Clause 3.2 (*Assignments*), a notice of assignment substantially in the form set out in Schedule 3 (*Form of Notice of Assignment of Insurances*) duly executed by it promptly following execution of this Debenture or promptly upon the Chargor entering into a new Insurance Policy and in each case within 1 Business Day of the same;
- 5.1.2** in respect of each Specific Contract assigned pursuant to Clause 3.2 (*Assignments*), a notice of assignment substantially in the form set out in Schedule 4 (*Form of Notice of Assignment of Specific Contract*) duly executed by it:
- (a) in respect of any Specific Contract which is a Mortgage Loan Document, immediately following a request by the Lender after the occurrence of an Event of Default which is continuing; and
  - (b) in respect of any Specific Contract which is not Mortgage Loan Document, promptly following execution of this Debenture or promptly upon the Chargor entering into that Specific Contract and in each case within 1 Business Day of the same; and
- 5.1.3** in respect of all leases relating to Real Property mortgaged or charged pursuant to Clause 3.1 (*Fixed charges*) or any Mortgage, a notice of charge substantially in the form set out in Schedule 6 (*Form of Notice of Charge*) promptly following execution of this Debenture or promptly upon the Chargor entering into a lease relating to Real Property and in each case within 1 Business Day of the same,

and in each case the Chargor shall use all reasonable endeavours to procure that each notice is acknowledged promptly by the relevant counterparty.

### **5.2 Notices of charge: Accounts**

- 5.2.1** The Chargor shall, immediately following execution of this Debenture in respect of any Account (other than a Blocked Account) which is open on the date of this Debenture and promptly upon and in any event within 1 Business Day of the request of the Lender from time to time in respect of any Account

(other than a Blocked Account) opened following the date of this Debenture, deliver to the relevant bank or financial institution with which that Account is opened or maintained (with a copy to the Lender) a notice of charge substantially in the form set out in Schedule 7 (*Form of Notice of Charge of Account (other than a Blocked Account)*) or such other form as the Lender shall agree or require duly executed by or on behalf of the Chargor and shall use all reasonable endeavours to ensure that such notice is acknowledged by the relevant bank or financial institution with which that Account is opened or maintained.

**5.2.2** The Chargor shall, immediately following execution of this Debenture in respect of any Blocked Account which is open on the date of this Debenture and promptly upon and in any event within 1 Business Day of the request of the Lender from time to time in respect of any Blocked Account opened following the date of this Debenture, deliver to the relevant bank or financial institution with which that Account is opened or maintained (with a copy to the Lender) a notice of charge substantially in the form set out in Schedule 8 (*Form of Notice of Charge of Blocked Account*) or such other form as the Lender shall agree or require duly executed by or on behalf of the Chargor and shall use all reasonable endeavours to ensure that such notice is acknowledged by the relevant bank or financial institution with which that Account is opened or maintained.

### **5.3 Real Property: delivery of documents of title**

**5.3.1** The Chargor shall (save where already delivered pursuant to the Original Debenture), immediately following execution of this Debenture, deliver to the Lender, and the Lender shall be entitled to hold and retain, all deeds, certificates and other documents of title relating to any Real Property specified in Schedule 1 (*Details of Real Property*).

**5.3.2** The Chargor shall (save where already delivered pursuant to the Original Debenture), promptly following the acquisition by the Chargor of any interest in any other Real Property, deliver to the Lender, and the Lender shall be entitled to hold and retain, all deeds, certificates and other documents of title relating to such Real Property.

### **5.4 Note of Mortgage**

In the case of any Real Property, title to which is or will be registered under the Land Registration Act 2002, which is acquired by or on behalf of the Chargor after execution of this Debenture, the Chargor shall promptly notify the Lender of the title number(s) and, contemporaneously with the making of an application to the Land Registry for the registration of the Chargor as the Registered Proprietor of such property, apply to the Chief



Land Registrar to enter a notice of any Mortgage on the Charges Register of such Real Property.

## **5.5 Further advances**

**5.5.1** Subject to the terms of the Facility Agreement, each Lender is under an obligation to make further advances to the Chargor and that obligation will be deemed to be incorporated into this Debenture as if set out in this Debenture.

**5.5.2** The Chargor consents to an application being made to the Chief Land Registrar to enter the obligation to make further advances on the Charges Register of any registered land forming part of the Charged Property.

## **5.6 Application to the Land Registry**

The Chargor consents to an application being made to the Chief Land Registrar to enter the following restriction in the Proprietorship Register of any property which is, or is required to be, registered and which forms part of the Real Property:

"No [disposition *or specify type of disposition*] of the registered estate by the proprietor of the registered estate, or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction, is to be registered without a written consent signed by the proprietor for the time being of the debenture dated [●] in favour of Shawbrook Bank Limited of [address] referred to in the charges register [or their conveyancer *or specify appropriate details*]."

## **5.7 Delivery of share certificates**

**5.7.1** The Chargor shall (save where already delivered pursuant to the Original Debenture), on the date of this Debenture or on, or promptly after, the date on which any Shares are issued or transferred to it after the date of this Debenture, deposit with the Lender:

- (a) all certificates or other documents of title to such Shares; and
- (b) stock transfer forms in such form as the Lender shall require with the name of the transferee, the consideration and the date kept blank but otherwise duly completed and executed by or on behalf of the Chargor in relation to such Shares.

**5.7.2** The Chargor shall (save where already delivered pursuant to the Original Debenture), promptly upon the accrual, offer or issue of any Derivative Assets, notify the Lender of that occurrence and promptly deliver to the Lender:

- (a) all certificates or other documents of title representing such Derivative Assets; and

- (b) such stock transfer forms or other instruments of transfer with the name of the transferee, the consideration and the date left blank but otherwise duly completed and executed by or on behalf of the Chargor) in respect of such Derivative Assets as the Lender may request.

## **5.8 Registration of Intellectual Property**

Without prejudice to the generality of any other clause in this Debenture, the Chargor shall at any time or times, if requested by the Lender, promptly and at its own expense, execute all such documents and do all acts that the Lender may reasonably require to record the interest of the Lender in any registers in the world relating to any registered Charged Intellectual Property.

## **6. FURTHER ASSURANCE**

### **6.1 Further assurance: general**

**6.1.1** The covenant set out in Section 2(1)(b) of the Law of Property (Miscellaneous Provisions) Act 1994 shall extend to include the obligations set out in sub-Clause 6.1.2.

**6.1.2** The Chargor shall promptly enter into a Mortgage over any future acquired Real Property.

### **6.2 Necessary action**

The Chargor shall at its own expense take all such action as is available to it (including making all filings and registrations) as may be necessary for the purpose of the creation, perfection, protection, confirmation or maintenance of any Security created or intended to be created in favour of the Lender or any Receiver or administrator by or pursuant to this Debenture and any Mortgage.

### **6.3 Implied covenants for title**

The obligations of the Chargor under this Debenture and any Mortgage shall be in addition to the covenants for title deemed to be included in this Debenture and any Mortgage by virtue of Part 1 of the Law of Property (Miscellaneous Provisions) Act 1994.

### **6.4 Value of security**

The Chargor shall not do or cause or permit to be done anything which may in any way depreciate, jeopardise or otherwise prejudice the value of the Security created or intended to be created by this Debenture.

## **7. NEGATIVE PLEDGE AND DISPOSALS**

### **7.1 Security**

The Chargor shall not (and shall not agree to) at any time during the subsistence of this Debenture or any Mortgage, create or permit to subsist any Security over all or any part of the Charged Property other than Permitted Security.

### **7.2 No disposal of interests**

The Chargor shall not (and shall not agree to) at any time during the subsistence of this Debenture or any Mortgage, except as expressly permitted pursuant to the Facility Agreement or by this Clause 7 (including, without limitation, any Permitted Disposal or the application of any cash in accordance with clause 22 (*Accounts*) of the Facility Agreement):

**7.2.1** execute any conveyance, transfer, lease or assignment of, or other right to use or occupy, all or any part of the Charged Property; or

**7.2.2** create any legal or equitable estate or other interest in, or over, or otherwise relating to, all or any part of the Charged Property; or

**7.2.3** (a) grant or vary, or accept any surrender, or cancellation or disposal of, any lease, tenancy, licence, consent or other right to occupy in relation to any of the Charged Property or (b) allow or grant any person any licence or right to use or occupy or to become entitled to assert any proprietary interest in, or right over, the Charged Property, which may, in each case, adversely affect the validity, enforceability or value of any of the Charged Property or the ability of the Lender to exercise any of the Collateral Rights; or

**7.2.4** assign or otherwise dispose of any interest in any Account and no right, title or interest in relation to any Account maintained with the Lender, or the credit balance standing to any such Account shall be capable of assignment or other disposal; or

**7.2.5** lend or otherwise dispose of, or grant any rights (whether of pre-emption or otherwise) over, all or any part of the Investments or any Related Rights.

## **8. SHARES AND INVESTMENTS**

### **8.1 Shares: before an Enforcement Event**

Prior to the occurrence of an Enforcement Event, the Chargor shall:

**8.1.1** pay all dividends, interest and other monies arising from the Shares and/or Related Rights into an Account; and

**8.1.2** be entitled to exercise all voting rights in relation to the Shares **provided that** the Chargor shall not exercise such voting rights in any manner inconsistent with the Security created or intended to be created by this Debenture or which is in breach of any Finance Document, or otherwise permit or agree to any (a) variation of the rights attaching to or conferred by any of the Shares or (b) increase in the issued share capital of any company whose Shares are charged pursuant to this Debenture, which in the opinion of the Lender would prejudice the value of, or the ability of the Lender to realise the Security created by, this Debenture.

## **8.2 Shares: after an Enforcement Event**

Upon the occurrence of an Enforcement Event, the Lender may at its discretion (in the name of the Chargor or otherwise and without any further consent or authority from the Chargor):

**8.2.1** exercise (or refrain from exercising) any voting rights in respect of the Shares;

**8.2.2** apply all dividends, interest and other monies arising from the Shares in accordance with Clause 19 (*Application of Monies*);

**8.2.3** transfer the Shares into the name of such nominee(s) of the Lender as it shall require; and

**8.2.4** exercise (or refrain from exercising) the powers and rights conferred on or exercisable by the legal or beneficial owner of the Shares, including the right, in relation to any company whose shares or other securities are included in the Charged Property, to concur or participate in:

- (a) the reconstruction, amalgamation, sale or other disposal of such company or any of its assets or undertaking (including the exchange, conversion or reissue of any shares or securities as a consequence of such event);
- (b) the release, modification or variation of any rights or liabilities attaching to such shares or securities; and
- (c) the exercise, renunciation or assignment of any right to subscribe for any shares or securities,

in each case in such manner and on such terms as the Lender may think fit, and the proceeds of any such action shall form part of the Charged Property.

## **8.3 Investments and Shares: payment of calls**

The Chargor shall pay when due all calls or other payments which may be or become due in respect of any of the Investments and Shares or any Related Rights, and in any case of default by the Chargor in such payment, the Lender may, if it thinks fit, make such payment

on behalf of the Chargor in which case any sums paid by the Lender shall be reimbursed by the Chargor to the Lender on demand and shall carry interest from the date of payment by the Lender until reimbursed at the rate and in accordance with Clause 2.2 (*Interest on demands*).

#### **8.4 Investments: delivery of documents of title**

After the occurrence of an Enforcement Event, the Chargor shall, promptly on the request of the Lender, deliver to the Lender, and the Lender shall be entitled to retain, all of the Investments and any certificates and other documents of title representing the Investments to which the Chargor (or its nominee(s)) is or becomes entitled together with any other document which the Lender may reasonably request (in such form and executed as the Lender may reasonably require) with a view to perfecting or improving its Security over the Investments or to registering any Investment in its name or the name of any nominee(s).

#### **8.5 Investments: exercise of rights**

The Chargor shall not exercise any of its rights and powers in relation to any of the Investments in any manner which, in the opinion of the Lender, would prejudice the value of, or the ability of the Lender to realise, the Security created by this Debenture.

#### **8.6 No restrictions on transfer**

The Chargor shall:

**8.6.1** ensure that the Shares and Related Rights are at all times free from any restriction on transfer (whether under any relevant constitutional documents or otherwise) by the Lender (or its nominee(s)) to perfect or enforce the Security conferred or intended to be conferred by this Debenture; and

**8.6.2** procure that the board of directors of the Chargor approves any transfer of any of the Shares and Related Rights desired to be made by the Lender in the exercise of the rights, powers and remedies conferred upon it by this Debenture or by law.

#### **8.7 Communications**

The Chargor shall notify the Lender of the contents of any communication or document received by it in relation to any of the Shares and Related Rights.

#### **8.8 Variation of rights**

The Chargor shall not, by the exercise of any voting rights or otherwise, permit or agree to any proposed compromise, arrangement, capital reorganisation, conversion, exchange, repayment or takeover offer affecting or in respect of any of the Shares or Related Rights.

## **8.9 Obligations generally**

The Chargor shall comply with every covenant (whether restrictive or otherwise), obligation and provision on its part to be complied with (and use its best endeavours to procure compliance by each other party thereto with every covenant, obligation and provision on the part of each such other party to be complied with) contained in any document affecting the Shares and Related Rights or their use and enjoyment.

## **9. ACCOUNTS**

### **9.1 Accounts: notification and variation**

The Chargor, during the subsistence of this Debenture:

**9.1.1** shall deliver to the Lender on the date of this Debenture (and, if any change occurs thereafter, on the date of such change), details of each Account maintained by it with any bank or financial institution;

**9.1.2** shall maintain each Account; and

**9.1.3** shall not, without the Lender's prior written consent, such consent not to be unreasonably withheld or delayed (save where there would be in the Lender's reasonable opinion a materially adverse effect on the Security created under any Finance Document or where contrary to the terms of the Facility Agreement) in the case of any Account other than a Blocked Account, permit or agree to any variation of the rights attaching to any Account or close any Account.

### **9.2 Accounts: operation before an Event of Default**

Prior to the occurrence of an Event of Default which is continuing, the Chargor:

**9.2.1** shall be entitled to receive, withdraw or otherwise transfer any credit balance from time to time on any Account (other than a Blocked Account), subject to the terms of the Facility Agreement; and

**9.2.2** shall not be entitled to receive, withdraw or otherwise transfer any credit balance from time to time on any Blocked Account except with the prior consent of the Lender.

### **9.3 Accounts: operation after an Event of Default**

After the occurrence of an Event of Default which is continuing, the Chargor shall not be entitled to receive, withdraw or otherwise transfer any credit balance from time to time on any Account except with the prior consent of the Lender.

#### **9.4 Accounts: application of monies**

Upon the occurrence of an Event of Default which is continuing or the Security constituted by this Debenture otherwise becoming enforceable pursuant to Clause 15.1 (*Enforcement*), the Lender shall be entitled without notice to apply, transfer or set-off any or all of the credit balances from time to time on any Account in or towards the payment or other satisfaction of all or part of the Secured Obligations in accordance with Clause 19 (*Application of Monies*).

#### **9.5 Accounts: representations**

The Chargor represents to the Lender on the date of this Debenture and on each day prior to the release of the Security constituted by this Debenture in accordance with Clause 23.1 (*Redemption of security*)) that:

- 9.5.1** each Account is the subject of an appropriate mandate in form and content reasonably satisfactory to the Lender which shall be irrevocable until such time as each of the Lender and the Chargor shall otherwise agree;
- 9.5.2** no party (other than the Account Bank) has any rights of set-off or counterclaim in respect of any Account; and
- 9.5.3** none of the Accounts is the subject of any claim, assertion, right, action or other restriction or arrangement of whatever nature which does or may impinge upon the ownership of the Accounts by the Chargor (other than any rights of set-off or counterclaim held by the Account Bank in respect of any Account).

### **10. MONETARY CLAIMS**

#### **10.1 Dealing with Monetary Claims**

The Chargor shall not, at any time during the subsistence of this Debenture, unless otherwise expressly permitted pursuant to the Facility Agreement, without the prior written consent of the Lender:

- 10.1.1** deal with the Monetary Claims except by getting in and realising them in a prudent manner (on behalf of the Lender) and paying the proceeds of those Monetary Claims into an Account or as the Lender may require (and such proceeds shall be held upon trust by the Chargor for the Lender prior to such payment in); or
- 10.1.2** factor or discount any of the Monetary Claims or enter into any agreement for such factoring or discounting.

## **10.2 Release of Monetary Claims: before an Enforcement Event**

Prior to the occurrence of an Enforcement Event, the proceeds of the realisation of the Monetary Claims shall (subject to any restriction on the application of such proceeds contained in this Debenture, the Facility Agreement), upon such proceeds being credited to an Account (other than a Blocked Account), be released from the fixed charge created pursuant to Clause 3.1 (*Fixed charges*) and the Chargor shall be entitled to withdraw such proceeds from such Account **provided that** such proceeds shall continue to be subject to the floating charge created pursuant to Clause 3.3 (*Floating charge*) and the terms of this Debenture.

## **10.3 Release of Monetary Claims: after an Enforcement Event**

After the occurrence of an Enforcement Event and except with the prior written consent of the Lender, the Chargor shall not be entitled to withdraw or otherwise transfer the proceeds of the realisation of any Monetary Claims standing to the credit of any Account.

## **11. INTELLECTUAL PROPERTY**

### **11.1 Intellectual Property: undertakings**

The Chargor shall at all times during the subsistence of this Debenture comply with clause 23.28 (*Intellectual Property*) of the Facility Agreement in respect of the Charged Intellectual Property.

## **12. INSURANCES**

### **12.1 Insurance: undertakings**

The Chargor shall at all times during the subsistence of this Debenture keep the Charged Property insured in accordance with clause 23.24 (*Insurance*) of the Facility Agreement.

### **12.2 Insurance: default**

If the Chargor defaults in complying with Clause 12.1 (*Insurance: undertakings*), the Lender may effect or renew any such insurance on such terms, in such name(s) and in such amount(s) as it reasonably considers appropriate, and all monies reasonably expended by the Lender in doing so shall be reimbursed by the Chargor to the Lender on demand and shall carry interest from the date of payment by the Lender until reimbursed at the rate specified in Clause 2.2 (*Interest on demands*).

### **12.3 Application of insurance proceeds**

All monies which are not paid directly by the insurers to the Lender and are received by the Chargor under any Insurance Policies relating to the Charged Property shall (subject to the rights and claims of any person having prior rights to such monies):



- 12.3.1 prior to the occurrence of an Enforcement Event, be applied in accordance with the terms of the Facility Agreement; and
- 12.3.2 after the occurrence of an Enforcement Event, be held by the Chargor on trust for the Lender pending payment to the Lender for application in accordance with Clause 19 (*Application of Monies*) and the Chargor waives any right it may have to require that any such monies are applied in reinstatement of any part of the Charged Property.

### **13. REAL PROPERTY**

#### **13.1 Property: notification**

The Chargor shall immediately notify the Lender of any contract, conveyance, transfer or other disposition or the acquisition by the Chargor (or its nominee(s)) of any Real Property.

#### **13.2 Lease covenants**

The Chargor shall, in relation to any lease, agreement for lease or other right to occupy to which all or any part of the Charged Property is at any time subject:

- 13.2.1 pay the rents (if the lessee) and observe and perform in all material respects the covenants, conditions and obligations imposed (if the lessor) on the lessor or, (if the lessee) on the lessee; and
- 13.2.2 not do any act or thing whereby any lease or other document which gives any right to occupy any part of the Charged Property becomes or may become subject to determination or any right of re-entry or forfeiture prior to the expiration of its term.

#### **13.3 General property undertakings**

The Chargor shall:

- 13.3.1 repair and keep in good and substantial repair and condition all the Real Property at any time forming part of the Charged Property;
- 13.3.2 not at any time without the prior written consent of the Lender sever or remove any of the fixtures forming part of the Real Property or any of the plant or machinery (other than stock in trade or work in progress) on or in the Charged Property (except for the purpose of any necessary repairs or replacement of it); and
- 13.3.3 comply with and observe and perform (a) all applicable requirements of all planning and environmental legislation, regulations and bye-laws relating to the Real Property, (b) any conditions attaching to any planning permissions relating to or affecting the Real Property and (c) any notices or other orders

made by any planning, environmental or other public body in respect of all or any part of the Real Property.

#### **13.4 Entitlement to remedy**

If the Chargor fails to comply with any of the undertakings contained in this Clause 13, the Lender shall be entitled (with such agents, contractors and others as it sees fit), to do such things as may, in the reasonable opinion of the Lender, be required to remedy such failure and all monies spent by the Lender in doing so shall be reimbursed by the Chargor to the Lender on demand with interest from the date of payment by the Lender until reimbursed in accordance with Clause 2.2 (*Interest on demands*).

### **14. SPECIFIC CONTRACTS**

#### **14.1 Amendments**

The Chargor shall not at any time during the subsistence of this Debenture make or agree to make any amendments, variations or modifications to the Specific Contracts or waive any of its rights under the Specific Contracts, without the prior written consent of the Lender save as expressly permitted pursuant to the terms of the Facility Agreement.

#### **14.2 Dealings with Mortgage Loans and Mortgage Loan Documentation**

For the avoidance of doubt, prior to the occurrence of an Enforcement Event, the Chargor shall be entitled to do all things necessary to enforce its rights in relation to any Mortgage Loan pursuant to the relevant Mortgage Loan Documentation, including (without limitation) the development, sale or letting of any Property and the pursuit of the Customer in respect of any personal obligations it may have to the Chargor.

### **15. ENFORCEMENT OF SECURITY**

#### **15.1 Enforcement**

At any time after the occurrence of an Event of Default which is continuing, or if the Chargor requests the Lender to exercise any of its powers under this Debenture or any Mortgage, or if a petition or application is presented for the making of an administration order in relation to the Chargor, or if any person who is entitled to do so gives written notice of its intention to appoint an administrator of the Chargor or files such a notice with the court, the Security created by or pursuant to this Debenture is immediately enforceable and the Lender may, without notice to the Chargor or prior authorisation from any court, in its absolute discretion:

**15.1.1** enforce all or any part of that Security (at the times, in the manner and on the terms it thinks fit) and take possession of and hold or dispose of all or any part of the Charged Property and the Lender (or its nominee(s)) shall have an immediate and absolute power of sale or other disposition over the Charged

Property (including, without limitation, the power to execute, seal, deliver or otherwise complete any transfers or other documents required to vest any of the Shares and/or Related Rights in the Lender, any of its nominees or in any purchaser of any of the Shares and/or Related Rights); and

**15.1.2** whether or not it has appointed a Receiver, exercise all or any of the powers, authorities and discretions conferred by the Act (as varied or extended by this Debenture and each Mortgage) on mortgagees and by this Debenture and each Mortgage on any Receiver or otherwise conferred by law on mortgagees or Receivers.

## **15.2 No liability as mortgagee in possession**

Neither the Lender nor any of its nominees nor any Receiver shall be liable to account as a mortgagee in possession in respect of all or any part of the Charged Property or be liable for any loss upon realisation or for any neglect, default or omission in connection with the Charged Property to which a mortgagee or mortgagee in possession might otherwise be liable, and in particular the Lender (or its nominee(s)) or any Receiver shall not be liable for any loss occasioned by any exercise or non-exercise of rights attached to the Shares or the Related Rights or by any failure to report to the Chargor any notice or other communication received in respect of the Shares.

## **15.3 Right of appropriation**

To the extent that any of the Charged Property constitutes "financial collateral" and this Debenture and the obligations of the Chargor hereunder constitute a "security financial collateral arrangement" (in each case as defined in, and for the purposes of, the Financial Collateral Arrangements (No. 2) Regulations 2003 (SI 2003 No. 3226) (the **Regulations**)) the Lender shall have the right to appropriate all or any part of such financial collateral in or towards discharge of the Secured Obligations. For this purpose, the parties agree that the value of such financial collateral so appropriated shall be (a) in the case of cash, the amount standing to the credit of each of the Accounts, together with any accrued but unposted interest, at the time the right of appropriation is exercised; and (b) in the case of Investments and/or Shares, the market price of such Investments and/or Shares determined by the Lender by reference to a public index or by such other process as the Lender may select, including independent valuation. In each case, the parties agree that the method of valuation provided for in this Debenture shall constitute a commercially reasonable method of valuation for the purposes of the Regulations.

## **15.4 Effect of moratorium**

The Lender shall not be entitled to exercise its rights under Clause 15.1 (*Enforcement*), Clause 17.1 (*Appointment and removal*) (other than Clause 17.1.5) or Clause 4 (*Crystallisation of Floating Charge*) where the right arises as a result of an Event of Default occurring solely due to any person obtaining or taking steps to obtain a moratorium pursuant to Schedule A1 of the Insolvency Act 1986.

## **16. EXTENSION AND VARIATION OF THE ACT**

### **16.1 Extension of powers**

The power of sale or other disposal conferred on the Lender, its nominee(s) and any Receiver by this Debenture and each Mortgage shall operate as a variation and extension of the statutory power of sale under Section 101 of the Act and such power shall arise (and the Secured Obligations shall be deemed due and payable for that purpose) on execution of this Debenture and each Mortgage.

### **16.2 Restrictions**

The restrictions contained in Sections 93 and 103 of the Act shall not apply to this Debenture and each Mortgage or to the exercise by the Lender of its right to consolidate all or any of the Security created by or pursuant to this Debenture and each Mortgage with any other Security in existence at any time or to its power of sale, which powers may be exercised by the Lender without notice to the Chargor on or at any time after the occurrence of an Enforcement Event.

### **16.3 Power of leasing**

The statutory powers of leasing may be exercised by the Lender at any time on or after the occurrence of an Enforcement Event and the Lender and any Receiver may make any lease or agreement for lease, accept surrenders of leases and grant options on such terms as it shall think fit, without the need to comply with any restrictions imposed by Sections 99 and 100 of the Act.

### **16.4 Transfer of Security**

**16.4.1** At any time after the occurrence of an Enforcement Event, the Lender may:

- (a) redeem any prior Security against any Charged Property; and/or
- (b) procure the transfer of any such Security to itself; and/or
- (c) settle and pass the accounts of the prior mortgagee or chargee; any accounts so settled and passed will be, in the absence of manifest error, conclusive and binding on the Chargor.

**16.4.2** The Chargor shall pay to the Lender immediately on demand the costs and expenses incurred by the Lender in taking any action contemplated by Clause 16.4.1, including the payment of any principal or interest.

## **16.5      Suspense account**

If the Security created by this Debenture is enforced at a time when no amount is due under the Finance Documents but at a time when amounts may or will become due, the Lender (or any Receiver) may pay the proceeds of any recoveries effected by it into a suspense account.

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

### **17.1      Appointment and removal**

At any time after the occurrence of an Enforcement Event or if requested to do so by the Company, the Lender may by deed or otherwise (acting through an authorised officer of the Lender), without prior notice to the Chargor:

- 17.1.1**      appoint one or more persons to be a Receiver of the whole or any part of the Charged Property;
- 17.1.2**      appoint two or more Receivers of separate parts of the Charged Property;
- 17.1.3**      remove (so far as it is lawfully able) any Receiver so appointed;
- 17.1.4**      appoint another person(s) as an additional or replacement Receiver(s); and
- 17.1.5**      appoint one or more persons to be an administrator of the Chargor.

### **17.2      Capacity of Receivers**

Each person appointed to be a Receiver pursuant to Clause 17.1 (*Appointment and removal*) shall be:

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

### **17.3      Statutory powers of appointment**

The powers of appointment of a Receiver shall be in addition to all statutory and other powers of appointment of the Lender under the Act (as extended by this Debenture and each Mortgage) or otherwise and such powers shall remain exercisable from time to time by the Lender in respect of any part of the Charged Property. Except as provided in Clause 15.4 (*Effect of moratorium*), any restriction imposed by law on the right of a mortgagee to

appoint a receiver (including under section 109(1) of the Act) does not apply to this Debenture.

## **18. POWERS OF RECEIVER**

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

- 18.1.1** all the powers conferred by the Act on mortgagors and on mortgagees in possession and on receivers appointed under the Act;
- 18.1.2** all the powers of an administrative receiver set out in Schedule 1 to the Insolvency Act 1986 (whether or not the Receiver is an administrative receiver);
- 18.1.3** all the powers and rights of an absolute owner and power to do or omit to do anything which the Chargor itself could do or omit to do; and
- 18.1.4** the power to do all things (including bringing or defending proceedings in the name or on behalf of the Chargor) which seem to the Receiver to be incidental or conducive to (a) any of the functions, powers, authorities or discretions conferred on or vested in him or (b) the exercise of the Collateral Rights (including realisation of all or any part of the Charged Property) or (c) bringing to his hands any assets of the Chargor forming part of, or which when got in would be, Charged Property.

## **19. APPLICATION OF MONIES**

All monies received or recovered by the Lender, its nominee(s) or any Receiver pursuant to this Debenture and each Mortgage or the powers conferred by it shall (subject to the claims of any person having prior rights thereto and by way of variation of the provisions of the Act) be applied first in the payment of the costs, charges and expenses incurred and payments made by the Receiver, the payment of his remuneration and the discharge of any liabilities incurred by the Receiver in, or incidental to, the exercise of any of his powers, and thereafter shall be applied by the Lender (notwithstanding any purported appropriation by the Chargor) in accordance with clause 8.1 (*Order of application*) of the Subordination Deed.

## **20. PROTECTION OF PURCHASERS**

### **20.1 Consideration**

The receipt of the Lender, its nominee(s) or any Receiver shall be conclusive discharge to a purchaser and, in making any sale or disposal of any of the Charged Property or making any acquisition, the Lender, its nominee(s) or any Receiver may do so for such consideration, in such manner and on such terms as it thinks fit.

### **20.2 Protection of purchasers**

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

## **21. POWER OF ATTORNEY**

### **21.1 Appointment and powers**

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

**21.1.1** carrying out any obligation imposed on the Chargor by this Debenture (including the completion, execution and delivery of any Mortgages, deeds, charges, assignments or other Security and any transfers of the Charged Property); and

**21.1.2** enabling the Lender and any Receiver to exercise, or delegate the exercise of, any of the rights, powers, authorities and discretions conferred on them by or pursuant to this Debenture or any Mortgage or by law (including the exercise of any right of a legal or beneficial owner of the Charged Property) and (without prejudice to the generality of the foregoing) to execute as a deed or under hand and deliver and otherwise perfect any deed, assurance, agreement, instrument or act which it may reasonably deem proper in or for the purpose of exercising any of such rights, powers, authorities and discretions.

### **21.2 Ratification**

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

### **21.3 Lender's power to remedy breaches**

If at any time the Chargor fails to perform any of the covenants contained in this Debenture it shall be lawful for the Lender, but the Lender shall have no obligation, to take such action on behalf of the Chargor (including, without limitation, the payment of money) as may in the Lender's reasonable opinion be required to ensure that such covenants are performed. Any losses, costs, charges and expenses incurred by the Lender in taking such action shall be reimbursed by the Chargor on demand.

## **22. EFFECTIVENESS OF SECURITY**

### **22.1 Continuing security**

**22.1.1** The Security created by or pursuant to this Debenture and any Mortgage shall remain in full force and effect as a continuing security for the Secured Obligations unless and until the Secured Obligations have been irrevocably and unconditionally discharged in full and the Lender have no further obligation to make any advance available to the Chargor pursuant to any Finance Document.

**22.1.2** No part of the Security from time to time intended to be constituted by this Debenture will be considered satisfied or discharged by any intermediate payment, discharge or satisfaction of the whole or any part of the Secured Obligations.

### **22.2 Cumulative rights**

The Security created by or pursuant to this Debenture and any Mortgage and the Collateral Rights shall be cumulative, in addition to and independent of every other Security which the Lender may at any time hold for the Secured Obligations or any other obligations or any rights, powers and remedies provided by law. No prior Security held by the Lender over the whole or any part of the Charged Property shall merge into the Security constituted by this Debenture and any Mortgage.

### **22.3 No prejudice**

The Security created by or pursuant to this Debenture and any Mortgage and the Collateral Rights shall not be prejudiced by any unenforceability or invalidity of any other agreement or document or by any time or indulgence granted to the Chargor or any other person, or the Lender or by any other thing which might otherwise prejudice that Security or any Collateral Right.

### **22.4 Remedies and waivers**

No failure on the part of the Lender to exercise, or any delay on its part in exercising, any Collateral Right shall operate as a waiver of that Collateral Right, nor shall any single or



partial exercise of any Collateral Right preclude any further or other exercise of that or any other Collateral Right.

## **22.5 No liability**

None of the Lender, its nominee(s) or any Receiver shall be liable by reason of (a) taking any action expressly permitted by this Debenture or any Mortgage or (b) any neglect or default in connection with the Charged Property or (c) taking possession of or realising all or any part of the Charged Property.

## **22.6 Partial invalidity**

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

## **22.7 Waiver of defences**

The obligations of the Chargor under this Debenture and each Mortgage will not be affected by an act, omission, matter or thing which, but for this Clause, would reduce, release or prejudice any of its obligations under this Debenture and each Mortgage (without limitation) including:

- 22.7.1** any time, indulgence, waiver or consent granted to, or composition with, any person; or
- 22.7.2** the release of any person under the terms of any composition or arrangement with any creditor of the Chargor; or
- 22.7.3** the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or Security over assets of, any person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any Security; or
- 22.7.4** any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any person; or
- 22.7.5** any amendment, novation, supplement, extension (whether of maturity or otherwise) or restatement (in each case however fundamental and of whatsoever nature) or replacement of a Finance Document or any other document or Security or of the Secured Obligations (including, without

limitation, any increase to the Secured Obligations as may be agreed by the Chargor from time to time); or

**22.7.6** any unenforceability, illegality, invalidity, voidability or non-provability of any obligation of any person under any Finance Document or any other document or Security or of the Secured Obligations; or

**22.7.7** any insolvency or similar proceedings.

## **22.8 Immediate recourse**

The Chargor waives any right it may have of first requiring the Lender to proceed against any other person or enforce any other rights or Security or claim payment from any person before claiming from the Chargor under this Debenture or any Mortgage. This waiver applies irrespective of any law or any provision of this Debenture to the contrary or any Mortgage.

## **22.9 Deferral of rights**

Until such time as the Secured Obligations have been discharged in full, the Chargor will not exercise any rights which it may have by reason of performance by it of its obligations under this Debenture or any Mortgage:

**22.9.1** to be indemnified by any member of the Group;

**22.9.2** to claim any contribution from any guarantor of the Company's obligations under this Debenture or under any other Finance Document; and/or

**22.9.3** to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Lender under the Finance Documents or of any other guarantee or security taken pursuant to, or in connection with, this Debenture or any Mortgage by the Lender.

## **23. RELEASE OF SECURITY**

### **23.1 Redemption of security**

Upon the Secured Obligations being discharged in full and the Lender not being under any further actual or contingent obligation to make advances or provide other financial accommodation to the Chargor or any other person under any of the Finance Documents, the Lender shall, at the request and cost of the Chargor, release and cancel the Security constituted by this Debenture and procure the reassignment to the Chargor of the property and assets assigned to the Lender pursuant to this Debenture, in each case subject to Clause 23.2 (*Avoidance of payments*) and without recourse to, or any representation or warranty by, the Lender or any of its nominees.

## **23.2 Avoidance of payments**

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

## **24. SET-OFF**

**24.1** The Chargor authorises the Lender (but the Lender shall not be obliged to exercise such right) to set off any Secured Obligation against any matured obligation owed by the Lender to the Chargor, regardless of the place of payment, booking branch or currency of either the Secured Obligations or such obligation, and apply any credit balance to which the Chargor is entitled on any account with the Lender in accordance with Clause 19 (*Application of Monies*). If the Secured Obligations and such obligation are in different currencies, the Lender may convert either the Secured Obligations or such obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

**24.2** Without prejudice to any right of set-off the Lender may have under any other Finance Document or otherwise, if any time deposit matures on any account the Chargor has with the Lender prior to the release of all of the Charged Property pursuant to Clause 23.1 (*Redemption of security*) when:

**24.2.1** an Enforcement Event has occurred; and

**24.2.2** no Secured Obligation is due and payable,

that time deposit will automatically be renewed for any further maturity which the Lender considers appropriate.

## **25. SUBSEQUENT SECURITY INTERESTS**

If the Lender at any time receives or is deemed to have received notice of any subsequent Security affecting all or any part of the Charged Property or any assignment or transfer of the Charged Property which is prohibited by the terms of this Debenture or any Mortgage or the Facility Agreement, all payments made thereafter by or on behalf of the Chargor to the Lender shall be treated as having been credited to a new account of the Chargor and not as having been applied in reduction of the Secured Obligations as at the time when the Lender received such notice.

## **26. ASSIGNMENT**

The Lender may assign and transfer all or any of its rights and obligations under this Debenture or any Mortgage. The Lender shall be entitled to disclose such information concerning the Chargor and this Debenture or any Mortgage as the Lender considers

appropriate to any actual or proposed direct or indirect successor or to any person to whom information may be required to be disclosed by any applicable law.

## **27. NOTICES**

The provisions of clause 31 (*Notices*) of the Facility Agreement shall apply to this Debenture.

## **28. DISCRETION AND DELEGATION**

### **28.1 Discretion**

Any liberty or power which may be exercised or any determination which may be made under this Debenture or under any Mortgage by the Lender or any Receiver may, subject to the terms and conditions of the Subordination Deed, be exercised or made in its absolute and unfettered discretion without any obligation to give reasons.

### **28.2 Delegation**

Each of the Lender and any Receiver shall have full power to delegate (either generally or specifically) the powers, authorities and discretions conferred on it by this Debenture (including the power of attorney) or any Mortgage on such terms and conditions as it shall see fit which delegation shall not preclude either the subsequent exercise any subsequent delegation or any revocation of such power, authority or discretion by the Lender or the Receiver itself. Neither the Lender nor any Receiver shall be in any way liable or responsible to the Chargor for any loss or damage arising from any act, default, omission or misconduct on the part of any such delegate or sub-delegate.

## **29. COUNTERPARTS**

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

## **30. GOVERNING LAW**

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

## **31. JURISDICTION**

### **31.1 English courts**

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

### **31.2 Convenient forum**

The parties to this Debenture agree that the courts of England are the most appropriate and convenient courts to settle Disputes between them and, accordingly, that they will not argue to the contrary.

### **31.3 Exclusive jurisdiction**

This Clause 31 is for the benefit of the Lender only. As a result and notwithstanding Clause 31.1 (*English courts*), it does not prevent the Lender from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law the Lender may take concurrent proceedings in any number of jurisdictions.

**THIS DEBENTURE** has been signed on behalf of the Lender and executed as a deed by the Chargor and is delivered by it on the date specified above.

**SCHEDULE 1**  
**DETAILS OF REAL PROPERTY**

None as at the date of this Debenture.

**SCHEDULE 2**  
**DETAILS OF INTELLECTUAL PROPERTY**

None as at the date of this Debenture.

**SCHEDULE 3**  
**FORM OF NOTICE OF ASSIGNMENT OF INSURANCES**

To: [Insurer]

Date: [•]

Dear Sirs,

We hereby give you notice that we have assigned to Shawbrook Bank Limited (the **Lender**) pursuant to a second ranking debenture entered into by us in favour of the Lender dated [•] 2017 (subject to a provision for reassignment) all our right, title and interest in and to the proceeds of *[insert description and number of relevant insurance policy]* (the **Insurance Policy**).

With effect from the date of your receipt of this notice we instruct you to:

1. make all payments and claims under or arising from the Insurance Policy (in accordance with the terms of that Insurance Policy) to us until such time as you receive notice from the Lender instructing you otherwise (**Payment Notice**). Upon receipt of a Payment Notice we instruct you to comply with all payment instructions in respect of any claims and payments under or arising from the Insurance Policy as set out in such Payment Notice;
2. note the interest of the Lender on the Insurance Policy; and
3. disclose to the Lender, without further approval from us, such information regarding the Insurance Policy as the Lender may from time to time request and to send it copies of all notices issued by you under the Insurance Policy.

Please acknowledge receipt of this notice by signing the acknowledgement on the enclosed copy letter and returning the same to the Lender at [•] marked for the attention of [•].

Yours faithfully,

.....

for and on behalf of

[Chargor]



To: Shawbrook Bank Limited

Date: [•]

We acknowledge receipt of a notice in the terms set out above and confirm that, other than in respect of the first ranking debenture dated 18 November 2013, we have not received notice of any previous assignments or charges of or over any of the rights, title and interests and benefits referred to in such notice and that we will comply with the terms of that notice.

We further confirm that no amendment or termination of the Insurance Policy shall be effective unless we have given the Lender thirty days written notice of such amendment or termination.

For and on behalf of [*Insurer*]

By: .....

**SCHEDULE 4**  
**FORM OF NOTICE OF ASSIGNMENT OF SPECIFIC CONTRACT**

To: [Counterparty]

Date: [•]

Dear Sirs,

We hereby give you notice that we have assigned to Shawbrook Bank Limited (**Lender**) pursuant to a second ranking debenture entered into by us in favour of the Lender dated [•] 2017 (the **Debenture**) all our right, title and interest in and to [*insert details of contract*] (the **Contract**) including all monies which may be payable to us in respect of the Contract.

With effect from the date of your receipt of this notice:

1. all payments by you to us under or arising from the Contract should be made to us until such time as you receive notice from the Lender instructing you otherwise (**Payment Notice**). Upon receipt of a Payment Notice we instruct you to comply with all payment instructions in respect of any payments to be made under or arising from the Contract as set out in the Payment Notice;
2. upon your receipt of a Payment Notice from the Lender:
  - 2.1.1 all remedies provided for in the Contract or available at law or in equity are exercisable by the Lender;
  - 2.1.2 all rights to compel performance of the Contract are exercisable by the Lender although we shall remain liable to perform all the obligations assumed by it under the Contract; and
  - 2.1.3 all rights, interests and benefits whatsoever accruing to or for the benefit of ourselves arising from the Contract belong to the Lender to the exclusion of us and no changes may be made to the terms of the Contract otherwise than as provided for in the facility agreement between, among others, ourselves and Shawbrook Bank Limited as arranger, agent, and Lender dated 18 November 2013 as amended 12 March 2015, 9 March 2016, 21 July 2016 and on 19 September 2016 and as amended and restated on [•] 2017;
3. you are authorised and instructed, without requiring further approval from us, to provide the Lender with such information relating to the Contract as it may from time to time request and to send it copies of all notices issued by you under the Contract to the Lender as well as to us; and
4. these instructions may not be revoked, nor may the terms of the Contract be amended, varied or waived without the prior written consent of the Lender.

Please acknowledge receipt of this notice by signing the acknowledgement on the enclosed copy letter and returning it to the Lender at [•] marked for the attention of [•].

Yours faithfully,

.....

for and on behalf of

[*Chargor*]

To: [Lender]

Date: [•]

We acknowledge receipt of a notice in the terms set out above and confirm that, other than in respect of the first ranking debenture dated 18 November 2013, we have not received notice of any previous assignments or charges of or over any of the rights, interests and benefits in and to the Contract and that we will comply with the terms of that notice.

We further confirm that no amendment, waiver or release of any of such rights, interests and benefits arising under the Contract shall be effective without the prior written consent of the Lender, unless it is of a minor technical or non-operational nature or in any way which could not be reasonably expected materially and adversely to affect the interests of the Lender.

For and on behalf of [Counterparty]

By: .....

**DATED [ ]**

SHAWBROOK BANK LIMITED

## MORTGAGE

**THIS MORTGAGE** is dated [ ] between:

- (1) **DEVON AND CORNWALL SECURITIES LIMITED**, a company incorporated in England and Wales (registered number 01712730) with its registered office at 8 Fore Street, Camelford, Cornwall PL32 9PG (the **Chargor**) in favour of:
- (2) **SHAWBROOK BANK LIMITED** as lender (the **Lender**).

**BACKGROUND:**

It is intended that this document takes effect as a deed notwithstanding the fact that a party may only execute this document under hand.

**IT IS AGREED** as follows:

**1. DEFINITIONS**

Terms defined in the Debenture shall, unless otherwise defined in this Mortgage, have the same meaning in this Mortgage and in addition:

**Debenture** means the debenture dated [●] 2017 between the Chargor and Shawbrook Bank Limited as the Lender as amended, novated, supplemented, extended or restated.

**Facility Agreement** means the facility agreement dated 18 November 2013 as amended on 12 March 2015, 9 March 2016, 21 July 2016 and on 19 September 2016 and as amended and restated on [●] 2017 and made between the Chargor as borrower and Shawbrook Bank Limited as lender as amended, novated, supplemented, extended or restated.

**Mortgaged Property** means:

- (a) the property specified in the Schedule (*Details of Mortgaged Property*); and
- (b) any buildings, fixtures, fittings, fixed plant or machinery from time to time situated on or forming part of such property,

and includes all Related Rights.

**Permitted Security** has the meaning given to it in the Facility Agreement.

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

- (a) the proceeds of sale of any part of that asset;
- (b) all rights under any licence, agreement for sale or agreement for lease in respect of that asset;
- (c) all rights, benefits, claims, contracts, warranties, remedies, Security, indemnities or covenants for title in respect of that asset; and

(d) any monies and proceeds paid or payable in respect of that asset.

## **2. FIXED SECURITY**

The Chargor hereby charges with full title guarantee in favour of the Lender as security for the payment and discharge of the Secured Obligations, by way of legal mortgage all the Chargor's right, title and interest from time to time in and to the Mortgaged Property.

## **3. IMPLIED COVENANTS FOR TITLE**

**3.1** The covenants set out in Sections 3(1), 3(2) and 6(2) of the Law of Property (Miscellaneous Provisions) Act 1994 will not extend to Clause 2 (*Fixed Security*).

**3.2** It shall be implied in respect of Clause 2 (*Fixed Security*) that the Chargor is disposing of the Mortgaged Property free from all charges and incumbrances (whether monetary or not) and from all other rights exercisable by third parties (including liabilities imposed and rights conferred by or under any enactment).

## **4. APPLICATION TO THE CHIEF LAND REGISTRAR**

The Chargor hereby consents to an application being made to the Chief Land Registrar to enter the following restriction in the Proprietorship register of any property which is, or is required to be, registered forming part of the Mortgaged Property:

"No [disposition *or specify type of disposition*] of the registered estate by the proprietor of the registered estate, or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction, is to be registered without a written consent signed by the proprietor for the time being of the mortgage dated [●] in favour of Shawbrook Bank Limited of [address] referred to in the charges register [or their conveyancer *or specify appropriate details*]."

## **5. FURTHER ADVANCES**

**5.1** Each Lender is under an obligation to make further advances to the Chargor and that obligation will be deemed to be incorporated into this Mortgage as if set out in this Mortgage.

**5.2** The Chargor hereby consents to an application being made to the Chief Land Registrar to enter the obligation to make further advances on the Charges register of any registered land forming part of the Mortgaged Property.

## **6. RELEASE OF SECURITY**

### **6.1 Redemption of security**

Upon the Secured Obligations being discharged in full and the Lender not being under any further actual or contingent obligation to make advances or provide other financial

accommodation to the Chargor or any other person under any agreement between the Lender and the Chargor, the Lender shall, at the request and cost of the Chargor, release and cancel the Security constituted by this Mortgage and procure the reassignment to the Chargor of the property and assets assigned to the Lender pursuant to this Mortgage, in each case subject to Clause 23.2 (*Avoidance of payments*) of the Debenture and without recourse to, or any representation or warranty by, the Lender or any of its nominees.

## **6.2 Avoidance of payments**

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

## **7. THIRD PARTY RIGHTS**

A person who is not a party to this Mortgage has no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Mortgage.

## **8. GOVERNING LAW**

This Mortgage and all matters including non-contractual obligations arising out of or in connection with it are governed by English law.

## **9. COUNTERPARTS**

This Mortgage may be executed in any number of counterparts, each of which shall be deemed an original and this has the same effect as if the signatures on the counterparts were on a single copy of this Mortgage. Any party may enter into this Mortgage by signing any such counterpart.

**THIS MORTGAGE** has been entered into as a deed on the date stated at the beginning of this Mortgage.



**SCHEDULE**  
**Details of Mortgaged Property**

<b>County and District/ London Borough</b>	<b>Description of Property</b>	<b>Title Number</b>
[                    ]	[                    ]	[                    ]

**SCHEDULE 6**  
**FORM OF NOTICE OF CHARGE**

To: [Landlord]

Date: [•]

PURSUANT TO the lease of which particulars appear in paragraph 1 below, NOTICE IS HEREBY GIVEN that the disposition, of which particulars appear in paragraph 2 below, has taken place.

---

1. LEASE

1.1 Date:

1.2 Term:

---

1.3 Parties: (1)  
(2)

---

1.4 Demised Premises:

---

2. DISPOSITION: Charge contained in a Debenture

2.1 Date: [ ]

---

2.2 Parties: (1) [Chargor] as the Chargor  
(2) [Lender] as the Lender

---

2.3 Name and Address of the Lender: [Lender]  
[Address]

*NOTES: [1. The registration fee is enclosed.]*

*2. It is requested that notice be given to the Lender of any breach of covenant by the tenant under the Lease.*

*2. This Notice is sent in duplicate and it is requested that one copy is signed as provided below and returned to the Lender.*

Signed .....

[Chargor]

RECEIVED a notice of which this is a duplicate

Signed .....

[Landlord]

Date:

**SCHEDULE 7**  
**FORM OF NOTICE OF CHARGE OF ACCOUNT (OTHER THAN A BLOCKED**  
**ACCOUNT)**

To: [Account Bank]

Date: [●]

Dear Sirs

We hereby give you notice that we have charged to Shawbrook Bank Limited (the **Lender**) pursuant to a second ranking debenture entered into by us in favour of the Lender dated [●] 2017 all of our right, title and interest in and to all sums of money which are now or may from time to time in the future be held in the following account in our name with you together with all interest credited thereto and the debts represented by those sums:

[Insert details of Account] (together the **Account**).

We hereby irrevocably instruct and authorise you:

1. to credit to the Account all interest from time to time earned on the sums of money held in the Account;
2. to disclose to the Lender, without any reference to or further authority from us and without any liability or inquiry by you as to the justification for such disclosure, such information relating to the Account and the sums in the Account as the Lender may, at any time and from time to time, request you to disclose to it;
3. prior to receipt by you of a written notice from the Lender of the occurrence of an Event of Default (as defined in the Debenture) (a **Default Notice**), to continue to act upon our instructions in relation to the Account; and
4. following receipt by you of a Default Notice:
  - (a) to hold all sums from time to time standing to the credit of the Account in our name with you to the order of the Lender;
  - (b) to pay or release all or any part of the sums from time to time standing to the credit of the Account in our name with you only in accordance with the written instructions of the Lender at any time and from time to time; and
  - (c) to comply with the terms of any written notice or instructions in any way relating to the Account or the sums standing to the credit of the Account from time to time

which you may receive at any time from the Lender without any reference to or further authority from us and without any liability or inquiry by you as to the justification for or validity of such notice or instructions.

By counter-signing this notice, the Lender confirms that we may make withdrawals from the Account in accordance with the terms of the Finance Documents (as defined in the Debenture) until such time as the Lender shall notify you in writing that an Enforcement Event (as defined in the Debenture) has occurred and further confirming that our permission is withdrawn, whereupon we will not be permitted to withdraw any amounts from the Account without the prior written consent of the Lender.

These instructions cannot be revoked or varied without the prior written consent of the Lender.

This notice is governed by English law.

Please confirm your acceptance of the above instructions by returning the attached acknowledgement to the Lender with a copy to ourselves.

Yours faithfully

For and on behalf of  
[*Chargor*]

To: [Lender]

Date: [●]

Dear Sirs

We confirm receipt of a notice dated [●] (the **Notice**) from [●] (the **Company**) of a charge, upon the terms of a second ranking debenture dated [●] 2017, over all the Company's right, title and interest in and to all sums of money which are now or may from time to time in the future be held in the following account with us in the name of the Company together with interest relating thereto:

[Insert details of Account] (together the **Account**).

We confirm that:

1. we accept the instructions and authorisations contained in the Notice and undertake to comply with its terms;
2. other than in respect of the first ranking debenture dated 18 November 2013, we have not received notice of the interest of any third party in the Account or in the sums of money held in the Account or the debts represented by those sums and we will notify you promptly should we receive notice of any third party interest;
3. we have not claimed or exercised, nor will we claim or exercise, any security or right of set-off or combination or counterclaim or other right in respect of the Account, the sums of money held in the Account or the debts represented by those sums;
4. until you notify us in writing of the occurrence of an Event of Default (as defined in the Debenture) and further confirming that withdrawals by the Company are prohibited the Company may make withdrawals from the Account provided that upon receipt of such notice we will not permit any amount to be withdrawn from the Account except against the signature of one of your authorised signatories; and
5. we will not seek to modify, vary or amend the terms upon which sums are deposited in the Account without your prior written consent.

Our acknowledgement of the notice is subject to the following conditions:

1. We shall not be bound to enquire whether the right of any person (including, but not limited to, the Lender) to withdraw any monies from the Account has arisen or be concerned with (A) the propriety or regularity of the exercise of that right or (B) notice to the contrary or (C)

to be responsible for the application of any monies received by such person (including, but not limited to, the Lender); and

2. We shall have no liability for having acted on instructions from any person (including, but not limited to, the Lender) which on their face appear to be genuine, and which comply with the latest bank mandate held by us or relevant electronic banking system procedures in the case of an electronic instruction; and
3. We shall not be deemed to be a trustee for the Company or the Lender of the Account.

This letter shall be governed by English law.

Yours faithfully

By:

For and on behalf of

[*Account Bank*]

**SCHEDULE 8**  
**FORM OF NOTICE OF CHARGE OF BLOCKED ACCOUNT**

To: [Account Bank]

Date: [●]

Dear Sirs

We hereby give you notice that we have charged to Shawbrook Bank Limited (the **Lender**) pursuant to a second ranking debenture entered into by us in favour of the Lender dated [●] 2017 all of our right, title and interest in and to all sums of money which are now or may from time to time in the future be held in the following account in our name with you together with all interest credited thereto and the debts represented by those sums:

[Insert details of Blocked Account] (together the **Blocked Account**).

We hereby irrevocably instruct and authorise you:

1. to credit to the Blocked Account all interest from time to time earned on the sums of money held in the Blocked Account;
2. to disclose to the Lender, without any reference to or further authority from us and without any liability or inquiry by you as to the justification for such disclosure, such information relating to the Blocked Account and the sums in the Blocked Account as the Lender may, at any time and from time to time, request you to disclose to it;
3. prior to receipt by you of a written notice from the Lender of the occurrence of an Event of Default (as defined in the Debenture) (a **Default Notice**), to continue to operate the Blocked Account in accordance with the joint mandate in respect of the Blocked Account (the **Mandate**) and/or the relevant jointly operated electronic banking system; and
4. following receipt by you of a Default Notice:
  - 4.1 to hold all sums from time to time standing to the credit of the Blocked Account in our name with you to the order of the Lender;
  - 4.2 to pay or release all or any part of the sums from time to time standing to the credit of the Blocked Account in our name with you only in accordance with the written instructions of the Lender at any time and from time to time; and
  - 4.3 to comply with the terms of any written notice or instructions in any way relating to the Blocked Account or the sums standing to the credit of the Blocked Account from time to time which you may receive at any time from the Lender without any reference to or further

authority from us and without any liability or inquiry by you as to the justification for or validity of such notice or instructions.

Please note that we are not entitled to receive, withdraw or otherwise transfer any credit balance from time to time on the Blocked Account except with the prior consent of the Lender.

These instructions cannot be revoked or varied without the prior written consent of the Lender.

This notice is governed by English law.

Please confirm your acceptance of the above instructions by returning the attached acknowledgement to the Lender with a copy to ourselves.

Yours faithfully

For and on behalf of  
[*Chargor*]



To: [Lender]

Date: [●]

Dear Sirs

We confirm receipt of a notice dated [●] (the **Notice**) from [●] (the **Company**) of a charge, upon the terms of a second ranking debenture dated [●] 2017, over all the Company's right, title and interest in and to all sums of money which are now or may from time to time in the future be held in the following account with us in the name of the Company together with interest relating thereto:

[Insert details of Blocked Account] (together the **Blocked Account**).

We confirm that:

1. we accept the instructions and authorisations contained in the Notice and undertake to comply with its terms;
2. other than in respect of the first ranking debenture dated 18 November 2013, we have not received notice of the interest of any third party in the Blocked Account or in the sums of money held in the Blocked Account or the debts represented by those sums and we will notify you promptly should we receive notice of any third party interest;
3. we have not claimed or exercised, nor will we claim or exercise, any security or right of set-off or combination or counterclaim or other right in respect of the Blocked Account, the sums of money held in the Blocked Account or the debts represented by those sums;
4. prior to receipt of a Default Notice (as defined in the Notice), we will only permit withdrawals to be made from the Blocked Account in accordance with the terms of the Mandate (as defined in the Notice) and/or the relevant jointly operated electronic banking system;
5. following receipt of a Default Notice (as defined in the Notice), we will not permit any amount to be withdrawn from the Blocked Account except against the signature of one of your authorised signatories; and
6. we will not seek to modify, vary or amend the terms upon which sums are deposited in the Blocked Account without your prior written consent.

Our acknowledgement of the notice is subject to the following conditions:

1. We shall not be bound to enquire whether the right of any person (including, but not limited to, the Lender) to withdraw any monies from the Blocked Account has arisen or be concerned with (A) the propriety or regularity of the exercise of that right or (B) notice to

the contrary or (C) to be responsible for the application of any monies received by such person (including, but not limited to, the Lender); and

2. We shall have no liability for having acted on instructions from any person (including, but not limited to, the Lender) which on their face appear to be genuine, and which comply with the latest bank mandate held by us or relevant electronic banking system procedures in the case of an electronic instruction; and
3. We shall not be deemed to be a trustee for the Company or the Lender of the Blocked Account.

This letter shall be governed by English law.

Yours faithfully

By:  
For and on behalf of  
[Account Bank]

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## SIGNATURES

**The Chargor**

**EXECUTED as a DEED**

By: **DEVON AND CORNWALL SECURITIES LIMITED**

[REDACTED]

Director

in the presence of:

Signature of Witness:

[REDACTED]

Name of Witness:

LINDA MARY HEARD

Address of Witness:

8 FORE STREET

CAMELFORD

CORNWALL PL32 9PG

Occupation of Witness:

[REDACTED]

**The Lender**

**EXECUTED as a DEED**

**By: SHAWBROOK BANK LIMITED**

[Redacted]

in the presence of:

Signature of Witness:

[Redacted]

Name of Witness:

KARAN BURMAN

Address of Witness:

[Redacted]

Occupation of Witness: