



**Registration of a Charge**

Company name: **RAB CARRINGTON LIMITED**

Company number: **02715773**

Received for Electronic Filing: **14/05/2018**



X75X4RCP

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**Details of Charge**

Date of creation: **30/04/2018**

Charge code: **0271 5773 0006**

Persons entitled: **MOBEUS EQUITY PARTNERS LLP**

Brief description: **NONE.**

**Contains fixed charge(s).**

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

**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:

**SHAKESPEARE MARTINEAU LLP**



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

Company number: 2715773

Charge code: 0271 5773 0006

The Registrar of Companies for England and Wales hereby certifies that a charge dated 30th April 2018 and created by RAB CARRINGTON LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 14th May 2018 .

Given at Companies House, Cardiff on 16th May 2018

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



**Companies House**



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES

DATED 30 April 2018

- (1) EQUIP OUTDOOR TECHNOLOGIES  
LIMITED AND THE OTHER COMPANIES  
LISTED IN SCHEDULE 1  
(as the initial charging companies)
- (2) MOBEUS EQUITY PARTNERS LLP  
(as security trustee)

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COMPOSITE DEBENTURE  
(with accession for new charging companies)

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(SUBJECT TO THE TERMS OF AN INTERCREDITOR DEED DATED 24 OCTOBER 2011)

 SHAKESPEARE MARTINEAU

Reference: NXT/377113.15

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THIS DEBENTURE is made on

30 April

2018

BETWEEN:

- (1) **THE COMPANIES LISTED IN SCHEDULE 1** (the "Initial Charging Companies"); and
- (2) **MOBEUS EQUITY PARTNERS LLP** a limited liability partnership registered in England and Wales with registration number OC320577 whose registered office is at Crowe Clark Whitehill (London) Limited, 3rd Floor 52 Jermyn Street, London, SW1Y 6LX (as security trustee for the Security Beneficiaries) (the "**Security Trustee**").

IT IS AGREED as follows:

1. **DEFINITIONS AND INTERPRETATION**

- 1.1 In this Debenture, the following words and expressions shall have the following meanings:

**"Acquisition Documents"** means any acquisition agreement pursuant to which the Charging Company acquires the entire issued share capital of a body corporate together with all other documents entered into or to be delivered pursuant to such acquisition agreement;

**"Assigned Agreements"** means any agreement which the Security Trustee and each relevant Charging Company which is a party to such agreement may from time to time designate as such;

**"Bank"** Santander UK plc;

**"Bank Security"** means any Encumbrance granted in favour of the Bank from time to time included, but not limited to, the Senior Security, as defined in the Intercreditor Deed;

**"Business Day"** means any day (other than a Saturday, Sunday or public holiday) on which clearing banks are generally open for business in the City of London;

**"Charged Assets"** means in respect of a Charging Company all of the assets mortgaged, charged or assigned by way of security to the Security Trustee by this Debenture or any Deed of Accession and any assets held on trust by a Charging Company for the Security Trustee;

**"Charging Companies"** means the Initial Charging Companies and any person which accedes to the terms of this Debenture pursuant to the terms of a duly executed Deed of Accession (each a "**Charging Company**");

**"Collateral Instruments"** means negotiable and non-negotiable instruments, guarantees, indemnities and other

assurances against financial loss and any other documents or instruments which contain or evidence an obligation (with or without security) to pay, discharge or be responsible directly or indirectly for any liabilities of any person and including without limitation any document or instrument creating or evidencing an Encumbrance;

<b>"Collections Account"</b>	has the meaning as defined in clause 7;
<b>"Dangerous Substance"</b>	means any radioactive emissions and any natural or artificial substance (whether in solid or liquid form or in the form of a gas or vapour and whether alone or in combination with any other substance) capable (in each case) of causing harm to man or any other living organism or damaging the environment or public health or welfare, including (without limitation) any controlled, special, hazardous, toxic, radioactive or dangerous waste;
<b>"Deed of Accession"</b>	means a deed of accession to this Debenture in the form set out in Schedule 4;
<b>"Default Rate"</b>	means 4 per cent. per annum above the sterling base lending rate of the Bank;
<b>"Delegate"</b>	means any delegate, agent, attorney or trustee appointed by the Security Trustee or any Receiver pursuant to this Debenture and any person appointed as attorney of the Security Trustee, Receiver or Delegate;
<b>"Encumbrance"</b>	means any mortgage, charge, assignment for the purpose of security, pledge, lien, right of set-off, arrangement for retention of title, or hypothecation or trust arrangement for the purpose of, or which has the effect of, granting security, or other security interest of any kind whatsoever and any agreement, whether expressed to be conditional or otherwise, to create any of the same or any agreement to sell or otherwise dispose of any asset on terms whereby such asset is or may be leased to or re-acquired or acquired by the person so agreeing or disposing;
<b>"Enforcement Date"</b>	means the date on which:  (a) the Security Trustee enforces the security constituted by this Debenture; or  (b) if earlier, an application for an administration order, notice of intention to appoint or notice of appointment of an administrator is presented or served

in relation to any Charging Company;

<b>"Environment"</b>	means all gases, air, water, vapour, controlled waters (including ground and surface water) soil (surface and sub-surface), flora and fauna and all other natural resources;
<b>"Environmental Laws"</b>	means all laws, regulations, codes of practice, circulars, guidance notices and the like having legal effect whether or not in force at the date of this Debenture (whether in the United Kingdom or elsewhere) concerning the Environment, the protection of public health, the conditions of the work place or the control of Dangerous Substances;
<b>"Event of Default"</b>	any event or circumstance specified as such in clause 5 of the Instrument;
<b>"Finance Documents"</b>	has the meaning given to it in the Instrument and shall include any other document designated as a Finance Document by both the Security Trustee and the Issuer;
<b>"Floating Charge Assets"</b>	means those assets of any Charging Company from time to time subject to a floating charge pursuant to this Debenture;
<b>"Instrument"</b>	means the loan stock instrument created by the Issuer dated 24 October 2011, as amended or varied from time to time;
<b>"Insurances"</b>	means all policies of insurance either now or in the future held by or written in favour of any Charging Company or in which any Charging Company is otherwise interested but excluding any third party liability or public liability insurance and any directors or officers insurance;
<b>"Intellectual Property"</b>	means all patents (including applications, improvements, prolongations, extensions and rights to apply for them in any part of the world) designs (whether registered or unregistered) copyrights, design rights, trade marks and service marks (whether registered or unregistered) utility models, trade names, business names, domain names and brand names, knowhow, formulae, confidential information, trade secrets, computer software programs and systems and any similar rights existing in any country (including the benefit of any licences or consents relating to any of the above) and all fees, royalties or other rights derived from them or incidental to them in any part of the world;



<b>"Intercreditor Deed"</b>	means the intercreditor deed dated 24 October 2011 entered into between, among others, the Bank, the Security Trustee and the Issuer (as amended or restated or replaced from time to time);
<b>"Issuer"</b>	means Eoth Limited (a company registered in England and Wales with registration number 07607956, whose registered office is at Equip Wimsey Way, Somercotes, Alfreton, Derbyshire, DE55 4LS);
<b>"Legal Reservations"</b>	means: <ul style="list-style-type: none"><li>(a) the principle that equitable remedies may be granted or refused at the discretion of a court and the limitation of enforcement by laws relating to insolvency, reorganisation and other laws generally affecting the rights of creditors; and</li><li>(b) the time barring of claims under the Limitation Acts, the possibility that an undertaking to assume liability for or indemnify a person against non-payment of UK stamp duty may be void and defences of set-off or counterclaim;</li></ul>
<b>"Limitation Acts"</b>	means the Limitation Act 1980 and the Foreign Limitation Periods Act 1984;
<b>"Permitted Encumbrances"</b>	means: <ul style="list-style-type: none"><li>(a) any lien for taxes of any kind either not yet assessed or, if assessed, not yet due and payable or being contested in good faith by appropriate proceedings (and for the payment of which adequate reserves have been provided by the relevant Charging Company);</li><li>(b) any lien arising in the ordinary course of business by statute or by operation of law, in any case in respect of any monies: (i) which are not yet due and payable; or (ii) which have become due and payable, to the extent that the payment of such monies is the subject of a dispute which the relevant Charging Company is conducting in good faith, if necessary by appropriate proceedings;</li><li>(c) any rights by way of reservation or retention of title which are required by the supplier of any property to the relevant Charging Company in the</li></ul>

normal course of such supplier's business;

- (d) any security interest arising under the Finance Documents;
- (e) any Encumbrance permitted by the Instrument;
- (f) any Encumbrance with the prior written approval of the Security Trustee or in favour of the Security Trustee; or
- (g) any Bank Security;

**"Properties"**

means the assets of the relevant Charging Company described in clause 3.1(a);

**"Receivables"**

means in respect of each Charging Company:

- (a) all present and future book debts and other debts, rentals, royalties fees, VAT and monetary claims and all other amounts recoverable or receivable by the Charging Company from other persons or due or owing to the Charging Company (whether actual or contingent and whether arising under contract or in any other manner whatsoever) but excluding any amount held in any bank account of a Charging Company other than the Collections Account;
- (b) the benefit of all rights and remedies relating to any of the items in (a) above including, without limitation, claims for damages and other remedies for non-payment of the same, all entitlements to interest, negotiable instruments, guarantees, indemnities, Encumbrances, Collateral Instruments, reservations of property rights, rights of tracing and unpaid vendor's liens and similar associated rights; and
- (c) all proceeds of any of the items listed in (a) or rights and remedies in (b) above;

**"Receiver"**

means any one or more receivers and/or managers appointed by the Security Trustee pursuant to this Debenture in respect of a Charging Company or over all or any of its Charged Assets;

**"Secured Obligations"**

means all monies, obligations and liabilities now or at any time in the future due, owing or incurred to the Security Beneficiaries (or any of them) from

or by any Charging Company (when the same become due for payment or discharge, whether by acceleration or otherwise, and whether such monies obligations or liabilities are present or future, actual or contingent, joint or several, incurred as principal or surety and whether originally owing to the Security Beneficiaries or purchased or otherwise acquired by any of them and whether denominated in sterling or in any other currency) under or in connection with any Finance Document including all amounts payable by any Charging Company under this Debenture;

<b>"Securities"</b>	means the assets of the relevant Charging Company described in clause 3.1(c);
<b>"Security Beneficiaries"</b>	means the Stockholders, Security Trustee, any Receiver and/or their respective officers, employees, agents and Delegates;
<b>"Security Trust Deed"</b>	means the security trust deed dated the date of this Debenture between, among others, the Security Trustee and the Initial Charging Companies;
<b>"Stock"</b>	means the loan stock created by the Instrument for the time being outstanding;
<b>"Stockholders"</b>	means the persons whose names are for the time being entered into the register of stockholders (to be maintained by the Issuer) as the holders of the Stock; and
<b>"Town and Country Planning Acts"</b>	means the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Planning (Consequential Provisions) Act 1990 and the Planning and Compensation Act 1991 and all regulations and orders made or confirmed under any of them.

- 1.2 The expressions **"Security Trustee"**, **"Security Beneficiaries"**, **"Bank"** and **"Charging Company"** include, where the context admits, their respective successors and in the case of the Security Trustee its transferees and assignees whether immediate or derivative and any replacement, additional or substitute Security Trustee appointed in accordance with Schedule 3.
- 1.3 Clause headings and the Contents page (if any) are for ease of reference only and shall not affect the construction or the interpretation of this Debenture.
- 1.4 In this Debenture unless the context otherwise requires:
- (a) references to clauses and Schedule(s) are to be construed as references to the clauses of, and the Schedule(s) to, this Debenture and references to this Debenture include its Schedule(s);
  - (b) reference to (or to any specified provision of) this Debenture or any other document shall be construed as references to this Debenture,

that provision, or that document as in force for the time being and as amended, restated, varied, extended, supplemented, novated or replaced in accordance with the terms of such document or, as the case may be, with the agreement of the relevant parties (and including, without limitation, the incorporation of the provisions of any Deed of Accession entered into by any company from time to time) and (where such consent is by the terms of this Debenture or the relevant document required to be obtained as a condition to such amendment being permitted) the prior written consent of the Security Trustee;

- (c) words importing the plural shall include the singular and vice versa;
- (d) references to a person shall be construed as including references to that person's assigns, transferees or successors in title and shall include an individual, firm, company, corporation, unincorporated body of persons joint venture or any state or any agency of any state;
- (e) references to statutory provisions shall be construed as references to those provisions as replaced, amended or re-enacted from time to time and shall include any orders, regulations, instruments or other subordinate legislation made under the relevant statute;
- (f) the words "other" and "otherwise" shall not be construed ejusdem generis with any of the words preceding them where a wider construction is possible;
- (g) the words "including" and "in particular" shall be construed as being by way of illustration or emphasis only and shall not be construed as, nor shall they take effect as, limiting the generality of any of the words preceding them; and
- (h) references to "disposal" includes without limitation any sale, lease, sub-lease, assignment or transfer, the grant of an option or similar right, the grant of any easement right or privilege, the creation of a trust or other equitable interest in favour of a third party, a sharing or parting with possession or occupation whether by way of licence or otherwise and the granting of use of or access to any other person over any intellectual property and "dispose" and "disposition" shall be construed accordingly.

1.5 An Event of Default is "**continuing**" if it has not been remedied or waived.

1.6 The terms of this Debenture are subject to the Intercreditor Deed.

## 2. **COVENANT TO PAY**

Each Charging Company covenants that it will pay to the Security Trustee as trustee for the Security Beneficiaries on demand the Secured Obligations (or that part then due to be paid and remaining unpaid) as and when the same are due for payment (or, if later, following expiry of any applicable grace period).

## 3. **CHARGES**

3.1 Each Charging Company with full title guarantee charges to the Security Trustee as trustee for the Security Beneficiaries by way of fixed charge as a continuing security for the payment and discharge of the Secured Obligations the following assets, both present and future, from time to time owned by the Charging

Company or in which the Charging Company may from time to time have an interest:

- (a) all freehold and leasehold property of the Charging Company (including without limitation the property (if any) specified in Schedule 2) and all liens, charges, options, agreements, rights and interests in or over land or the proceeds of sale of land and all buildings fixtures (including trade fixtures) and fixed plant and machinery from time to time on such property or land together with all rights easements and privileges appurtenant to or benefiting the same;
- (b) all plant, machinery (other than that charged by clause (a)) vehicles computers and office and other equipment and the benefit of all contracts and warranties relating to the same;
- (c) all present and future stocks, shares, bonds and securities of any kind whatsoever whether marketable or otherwise and all other interests (including but not limited to loan capital) in any person including all allotments, rights, benefits and advantages whatsoever at any time accruing offered or arising in respect of or incidental to the same and all money or property accruing or offered at any time by way of conversion, redemption, bonus, preference, option, dividend, distribution, interest or otherwise in respect of them;
- (d) (subject, in the case of any monies held in, or sums standing to the credit of, the Collections Account, to clause 7) the Receivables;
- (e) all its rights, title and interest in and to cash held in the Collections Account (subject to the terms of clause 7);
- (f) the Insurances and all proceeds of the Insurances;
- (g) all uncalled capital and the goodwill of the Charging Company now or at any time in the future in existence;
- (h) the benefit of all representations, undertakings, warranties and indemnities granted in favour of the Charging Company under or pursuant to the Acquisition Documents and the right to recover and receive all damages and/or compensation which may be payable to it in respect of them;
- (i) to the extent that any Assigned Asset, as defined in 3.3 below, is not effectively assigned under clause 3.3, by way of fixed charge such Assigned Asset; and
- (j) the Intellectual Property.

3.2 Each Charging Company with full title guarantee charges to the Security Trustee as trustee for the Security Beneficiaries by way of floating charge as a continuing security for the payment and discharge of the Secured Obligations its undertaking and all its property, assets and rights whatsoever and wheresoever, both present and future, but excluding any property or assets from time to time or for the time being effectively charged or mortgaged to the Security Trustee by way of fixed charge.

3.3 With effect from the date on which the Bank Security has been released in full, as further security for the payment of the Secured Obligations, each Charging

Company assigns absolutely to the Security Trustee as trustee for the Security Beneficiaries all its right, title and interest in the Receivables (subject to clause 7) and the Assigned Agreements and Insurances, provided that on payment or discharge in full of the Secured Obligations the Security Trustee will at the request and cost of the relevant Charging Company reassign the Receivables, Assigned Agreements and Insurances (each an "**Assigned Asset**") to such relevant Charging Company.

- 3.4 Each of the charges referred to in clause 3.1 shall be read and construed as, and deemed to be, separate charges over each of the items mentioned in sub-clauses 3.1(a) – (j) (inclusive), so that each item mentioned in each sub-clause and each item forming any constituent element of the Receivables, the Insurances and the Intellectual Property shall be deemed to be subject to a separate charge. Without prejudice to the generality of the previous sentence if any such item shall be found to be subject to a floating charge and not to a fixed charge, such finding shall not of itself result in any other such item being deemed to be subject to a floating charge (as opposed to a fixed charge).
- 3.5 Paragraph 14 of schedule B1 to the Insolvency Act 1986 applies to the floating charge created by clause 3.2 which floating charge is accordingly a qualifying floating charge for such purposes.

#### 4. **NEGATIVE PLEDGE**

- 4.1 Each Charging Company covenants that it will not without the prior consent in writing of the Security Trustee:
- (a) (save in relation to Receivables to the extent permitted or required pursuant to clause 7) dispose of, factor, discount, assign or in any other manner deal with, or create, or attempt to create, or permit to subsist or arise any Encumbrance (except a Permitted Encumbrance) on or over, the Receivables or any part of the Receivables, or release, set off or compound them;
  - (b) create or attempt to create or permit to subsist in favour of any person other than the Security Trustee any Encumbrance (except Permitted Encumbrances); or
  - (c) dispose of the Charged Assets or any part of them or attempt or agree so to do, except:
    - (i) in relation to Receivables to the extent permitted pursuant to clause 7;
    - (ii) pursuant to any Permitted Encumbrances;
    - (iii) any obsolete or redundant vehicles, plant and equipment for value; and
    - (iv) Floating Charge Assets which may (subject to the other provisions of this Debenture and in particular but without limitation subject to the provisions of clause 7) be disposed of on market value terms in the usual course of trading as now conducted and for the purpose of carrying on the relevant Charging Company's business.

**5. CONVERSION OF FLOATING CHARGE AND AUTOMATIC CRYSTALLISATION**

5.1 Notwithstanding anything expressed or implied in this Debenture the floating charge created by this Debenture by a Charging Company shall automatically and without notice be converted into a fixed charge in respect of the Floating Charge Assets of that Charging Company:

- (a) if the relevant Charging Company creates or attempts to create any Encumbrance (other than a Permitted Encumbrance) over all or any of the Floating Charge Assets without the prior consent in writing of the Security Trustee; or
- (b) if any person levies or attempts to levy any distress, execution, sequestration or other process against any of the Floating Charge Assets of that Charging Company.

5.2 If at any time an Event of Default shall take place or any assets of a Charging Company are being seized or sold under any form of distress execution or other similar process then, without prejudice to the provisions of clause 5.1 the Security Trustee shall be entitled at any time by giving notice in writing to that effect to such Charging Company to convert the floating charge over all or any part of the Floating Charge Assets of that Charging Company into a fixed charge as regards the assets specified in such notice.

**6. FURTHER ASSURANCE**

6.1 Each Charging Company consents to the application to Land Registry for the entry of a restriction in the following terms to be entered in the register against each of its registered titles if any specified in Schedule 2 (and against any title to any unregistered property specified in Schedule 2 which is or ought to be the subject of a first registration of title at Land Registry at the date of this Debenture):

‘No disposition of the registered estate by the proprietor of the registered estate is to be registered without a written consent signed by the proprietor for the time being of the Debenture dated                      in favour of Mobeus Equity Partners LLP (as security trustee) referred to in the charges register.’

6.2 Each Charging Company shall at any time if and when reasonably required by the Security Trustee and at the reasonable cost and expense of such Charging Company execute such deeds and documents and take any action necessary to perfect and protect the security created (or intended to be created) by this Debenture or to facilitate the realisation of it or otherwise to enforce the same or exercise any rights of the Security Trustee under this Debenture. In addition each Charging Company shall execute such further charges and mortgages in favour of the Security Trustee as the Security Trustee shall from time to time require over all or any of the Charged Assets to secure the Secured Obligations. Such further charges and mortgages shall be prepared by or on behalf of the Security Trustee at the cost of the relevant Charging Company and shall be in a form required by the Security Trustee acting reasonably (but containing terms and conditions, where directly comparable, no more onerous than those in this Debenture).

**7. DEBTS AND CREDIT BALANCES**

7.1 Each Charging Company will upon the specific direction of the Security Trustee (but subject to an Event of Default continuing and in addition the Bank Security having been released in full):

- (a) collect all Receivables in the ordinary course of trading as agent for the Security Trustee (itself as trustee for the Security Beneficiaries) and, promptly upon receipt, pay all monies which it may receive in respect of the Receivables into such specially designated account(s) with the Security Trustee or such other account(s) with such bank as the Security Trustee may from time to time direct (such account(s) together with all additions to or renewals or replacements of such accounts (in whatever currency) being the "**Collections Accounts**") and, pending such payment, hold all monies so received upon trust for the Security Trustee (itself as trustee for the Security Beneficiaries);
- (b) deal with the uncollected Receivables in accordance with any directions given in writing from time to time by the Security Trustee and, in default of and subject to such directions, in accordance with this Debenture; and
- (c) execute and deliver to the Security Trustee a legal assignment of the Receivables to the Security Trustee (to the extent that the Receivables have not already been assigned to the Security Trustee) on such terms as the Security Trustee may reasonably require and give notice of it to the debtors from whom the Receivables are due owing or incurred and take any other steps as the Security Trustee may require to perfect such legal assignment.

- 7.2 Each Charging Company will deliver to the Security Trustee such information as to the amount and nature of its Receivables as the Security Trustee may from time to time reasonably require.
- 7.3 Before the security constituted by this Debenture shall have been enforced the monies credited to the Collections Account may be withdrawn by the relevant Charging Company.
- 7.4 Following the security constituted by this Debenture being enforced the Security Trustee (or a Receiver) may (subject to the payment of any claims having priority to this security) withdraw amounts standing to the credit of each Collections Account to meet any amount due and payable in respect of the Secured Obligations.
- 7.5 The Security Trustee or a Receiver shall not be responsible to any Charging Company for any non-payment of any liability of such Charging Company which could be paid out of monies standing to the credit of the relevant Collections Account, nor be liable to such Charging Company for any withdrawal wrongly made if made in good faith, except for gross negligence or wilful default.
- 7.6 The Security Trustee may delegate its powers of withdrawal under this clause to any Receiver.
- 7.7 Prior to the floating charge constituted by clause 3.2 of this Debenture being converted into a fixed charge by operation of law or otherwise, any monies received by any Charging Company and paid into the Collections Account in respect of the Receivables shall upon payment stand released from the fixed charge contained in clauses 3.1(d) and 3.1(e) of this Debenture and shall stand subject to the floating charge contained in clause 3.2 of this Debenture, but such release shall in no respects derogate from the subsistence of the said fixed charge on all other Receivables for the time being outstanding.

## 8. THE SECURITIES



- 8.1 Until the occurrence of an Enforcement Date, each Charging Company shall, for as long as it remains the registered owner of any of the Securities, continue to be entitled to exercise the rights attaching to such shares as beneficial owner and to receive and retain any dividends or interest paid on them.
- 8.2 Each Charging Company will, if so requested by the Security Trustee following the security constituted by this Debenture becoming enforceable (and subject to the Bank Security having been released in full), transfer all or any of the Securities to such nominees or agents as Security Trustee may select, in which case:
- (a) until an Enforcement Date, the Security Trustee will hold all dividends, interest and other monies paid on and received by it in respect of the Securities for the account of the relevant Charging Company and will, subject to any right of set-off, pay such dividends, interest and other monies to the relevant Charging Company upon request; and
  - (b) until an Enforcement Date, the Security Trustee will exercise all voting and other rights and powers attached to the Securities as the relevant Charging Company may from time to time in writing reasonably direct.

9. **REPRESENTATIONS AND WARRANTIES**

- 9.1 Each Charging Company represents and warrants to the Security Trustee that on the date of this Debenture:
- (a) it is duly incorporated and validly existing under the laws of England and Wales and has power to carry on its business as it is now being conducted and to own its property and other assets;
  - (b) it has power to execute, deliver and perform its obligations under this Debenture and all necessary corporate, shareholder and other action has been taken to authorise the execution, delivery and performance of the same and no limitation on its powers will be exceeded as a result of the execution and delivery of this Debenture or the performance of its obligations under this Debenture;
  - (c) subject to the Legal Reservations, this Debenture constitutes valid and legally binding obligations of it enforceable in accordance with its terms; and
  - (d) the execution and delivery of the performance of its obligations under and compliance with the provisions of this Debenture by such Charging Company will not:
    - (i) contravene any existing applicable law, statute, rule or regulation or any judgment or permit to which it is subject;
    - (ii) conflict with or result in any breach of any of the terms of or constitute a default under any agreement or other instrument to which it is a party or is subject or by which it or any of its property is bound;
    - (iii) contravene or conflict with any provision of its memorandum and articles of association; or
    - (iv) result in the creation of or oblige such Charging Company to create an Encumbrance (other than any Permitted

Encumbrances) in favour of any person other than the Security Trustee.

**10. COVENANTS**

10.1 Each Charging Company covenants with the Security Trustee that during the continuance of this security:

**10.2 Documents of Title**

- (a) unless the Security Trustee provides its written consent to the contrary and subject to the terms of the Intercreditor Deed and the Bank Security, it will deposit with the Security Trustee:
  - (i) all deeds and documents of title relating to the Properties and to any subordinate interest in any of them and the insurance policies relating to them;
  - (ii) all certificates and documents of title relating to the Securities and such deeds of transfer in blank and other documents as the Security Trustee may from time to time require for perfecting the title of the Security Trustee to the Securities (duly executed by or signed on behalf of the registered holder) or for vesting or enabling it to vest the same in itself or its nominees or in any purchaser; and
  - (iii) all such other documents relating to the Charged Assets as the Security Trustee may from time to time reasonably require;

**10.3 Securities**

- (a) it will duly and promptly pay all calls, instalments or other monies which may from time to time become due in respect of any of the Securities, it being acknowledged by the Charging Company that the Security Trustee shall not in any circumstances incur any liability whatsoever in respect of any such calls, instalments or other monies;

**10.4 Intellectual Property**

- (a) it will preserve, maintain and renew as and when necessary all copyrights, licences, patents, trade marks, designs, business names and domain names, computer programmes and all other rights (other than, for the avoidance of doubt, any such obsolete or redundant rights) required in connection with its business and will use its reasonable endeavours to detect any infringement of the Intellectual Property and it will upon becoming aware of an infringement or potential infringement promptly take such action as is reasonably required to remove such infringement or prevent the occurrence of such potential infringement;
- (b) it will preserve, maintain and renew as and when necessary all copyrights, licences, patents, trade marks, designs, business names and domain names, computer programmes and all other rights (other than, for the avoidance of doubt, any such obsolete or redundant rights) required in connection with its business and it will upon becoming aware of an infringement or potential infringement promptly take such action as it reasonably determines to be in its best interests to remove

such infringement or prevent the occurrence of such potential infringement;

**10.5 General Business**

- (a) it will conduct and carry on its business in a proper and efficient manner and keep or cause or procure to be kept proper books of account relating to such business and not make any material alteration in the nature or mode of conduct of any such business;
- (b) it will keep all its buildings, machinery, plant, fixtures, vehicles, computers and office and other equipment in good and substantial repair and in good working order and condition and permit the Security Trustee and its agents or representatives to enter and view their state and condition;

**10.6 Insurance**

- (a) (subject to (d) below) it will insure and keep insured at its own expense to the full replacement or reinstatement value from time to time all its assets of an insurable nature with insurers previously approved by the Security Trustee in writing against loss or damage by fire, burglary, theft, civil commotion, explosion, aircraft, flood, storm, tempest, lightning, burst pipes and such other risks and contingencies as the Security Trustee shall from time to time request such insurances to be effected with (if requested by the Security Trustee and subject to the rights of the Bank pursuant to the Bank Security) the interest of the Security Trustee noted on the policy as first loss payee (other than in the case of third party policies);
- (b) it will maintain such other insurance policies (with the interest of the Security Trustee noted on the policies (other than third party policies)) containing like provisions for the protection of the Security Trustee as are normally maintained by prudent companies carrying on businesses similar to those of the Charging Company;
- (c) it will duly and promptly pay all premiums and other monies necessary for effecting and keeping up such insurances and on demand promptly produce to the Security Trustee the policies of such insurance and evidence of such payments and comply in all other respects with the terms and conditions of the relevant policies including without limitation any stipulations or restrictions as to the use and/or operation of any asset;
- (d) (in the case of any leasehold property where the Charging Company is prohibited by the terms of the relevant lease from complying with the obligations referred to in (a) and/or (b)) it will procure (where it is empowered to do so), or otherwise use all reasonable efforts to procure, the maintenance by the landlord (or other third party) of such insurance obligations in accordance with the provisions of the relevant lease;

**10.7 Properties**

- (a) it will not, without the prior written consent of the Security Trustee, make any structural or material alteration to any of its Properties or do or permit to be done anything which is a "development" within the

meaning of the Town and Country Planning Acts from time to time or any orders or regulations under such Acts;

- (b) it will punctually pay all present and future rent, rates, taxes, duties, charges, assessments, impositions and outgoings whatsoever (whether imposed by agreement statute or otherwise) now or at any time during the continuance of this security payable by it in respect of the Properties or any part of them;
- (c) it will, without prejudice to the generality of clause 4.1, not without the prior consent in writing of the Security Trustee grant any lease, part with possession or share occupation of the whole or any part of any of the Properties or confer any licence, right or interest to occupy or grant any licence or permission to assign, underlet or part with possession of the same or any part of them or permit any person to be registered (jointly with the Charging Company or otherwise) as proprietor under the Land Registration Act 2002 of any of the Properties (other than in the case of any Permitted Encumbrances);
- (d) it will not without the prior consent in writing of the Security Trustee vary, surrender, cancel or dispose of or permit to be forfeit any leasehold interest in any of the Properties;
- (e) it will inform the Security Trustee promptly before contracting to purchase or acquire any estate or interest in freehold, leasehold or heritable property and supply the Security Trustee with such details of the purchase as the Security Trustee may from time to time reasonably request;
- (f) it will:
  - (i) comply with all applicable Environmental Laws;
  - (ii) promptly upon receipt of the same, notify the Security Trustee of any claim, notice or other communication served on it in respect of any alleged breach of any Environmental Law which might, if substantiated, have a material adverse effect; and
  - (iii) indemnify the Security Trustee, any Receiver and their respective officers, employees, agents and delegates (together the "**Indemnified Parties**") against any cost or expense suffered or incurred by them which;
    - (A) arises by virtue of any actual or alleged breach of any Environmental Law (whether by the Charging Company, an Indemnified Party or any other person); and
    - (B) would not have arisen if this Debenture had not been executed; and
    - (C) was not caused by the negligence or wilful default of the relevant Indemnified Party.

## 11. **RIGHT TO REMEDY CHARGING COMPANY'S DEFAULT**

If a Charging Company at any time defaults in complying with any of its obligations contained in this Debenture the Security Trustee shall, without prejudice to any other rights arising as a consequence of such default, be entitled (but not bound) to make good such default and each Charging Company irrevocably authorises the Security Trustee and its employees and agents by way of security to do all such things (including, without limitation, entering the Charging Company's property) necessary in connection with such task. Any monies so expended by the Security Trustee shall be repayable by the relevant Charging Company to the Security Trustee within 3 Business Days of demand together with interest accruing daily at the Default Rate from the date of payment by the Security Trustee until such repayment both before and after judgment. Such interest shall be compounded monthly.

## 12. **GENERAL POWERS OF THE SECURITY TRUSTEE**

### 12.1 **General**

12.1.1 At any time on or after the security constituted by this Debenture becomes enforceable, or if requested by a Charging Company, the Security Trustee may, without further notice and without the restrictions contained in Section 103 of the Law of Property Act 1925 and whether or not a Receiver shall have been appointed, exercise all the powers conferred upon mortgagees by the Law of Property Act 1925 as varied or extended by this Debenture and all the powers and discretions conferred by this Debenture on a Receiver either expressly or by reference.

12.1.2 Section 93 of the Law of Property Act 1925 shall not apply to the security created by this Debenture or to any security given to the Security Trustee pursuant to this Debenture.

### 12.2 **Leasing**

At any time after the security constituted by this Debenture becomes enforceable, the Security Trustee shall have the power to lease and make agreements for leases at a premium or otherwise to accept surrenders of leases and to grant options on such terms as the Security Trustee shall consider expedient and without the need to observe any of the provisions of Sections 99 and 100 of the Law of Property Act 1925.

### 12.3 **Subsequent Encumbrance**

12.3.1 If any of the Security Beneficiaries receives notice of any subsequent Encumbrance (other than a Permitted Encumbrance) affecting the Charged Assets or any part of the Charged Assets the Security Trustee may open a new account for any Charging Company or Charging Companies. If it does not do so then, unless the Security Trustee gives express written notice to the contrary to the relevant Charging Company, it shall nevertheless be treated as if it had opened a new account at the time when it received such notice and as from that time all payments made by or on behalf of such Charging Company to such Security Beneficiary shall be credited or be treated as having been credited to the new account and shall not operate to reduce the amount due from such Charging Company to any Security Beneficiary at the time when it received such notice.

**13. APPOINTMENT AND POWERS OF RECEIVER**

- 13.1 At any time on or after the security constituted by this Debenture becomes enforceable or if requested by any Charging Company the Security Trustee may by deed or by instrument in writing under the hand of any director or other duly authorised officer appoint one or more persons to be (a) Receiver(s) of the Charged Assets of any or all of the Charging Companies or any part of such Charged Assets.
- 13.2 Where more than one Receiver is appointed each joint Receiver shall have power to act severally and independently of any other joint Receiver except to the extent that the Security Trustee may specify to the contrary in the appointment. The Security Trustee may (subject where relevant to Section 45 of the Insolvency Act 1986) remove any Receiver so appointed and appoint another in his place.
- 13.3 Subject to Section 45 of the Insolvency Act 1986, the Security Trustee may in respect of any Charging Company:
- (a) remove any Receiver previously appointed under this Debenture; and
  - (b) appoint another person or other persons as Receiver or Receivers
- either in the place of a Receiver so removed or who has otherwise ceased to act or to act jointly with a Receiver or Receivers previously appointed under this Debenture.
- 13.4 A Receiver shall (save as otherwise required or provided as a matter of law) be the agent of the Charging Company and the Charging Company shall be solely responsible for his acts or defaults and for his remuneration.
- 13.5 A Receiver shall have all the powers conferred from time to time on receivers by statute (in the case of powers conferred by the Law of Property Act 1925 without the restrictions contained in Section 103 of that Act) and power on behalf and at the cost of the Charging Company (notwithstanding liquidation of the Charging Company) to do or omit to do anything which the Charging Company could do or omit to do in relation to the Charged Assets or any part of them. In particular (but without limitation) a Receiver shall have power to do all or any of the following acts and things in respect of any Charging Company and the Charged Assets in respect of which he is appointed namely:
- (a) take possession of, collect and get in all or any of the Charged Assets, exercise in respect of the Securities all voting or other powers or rights available to a registered holder of the Securities in such manner as he may think fit and bring, defend or discontinue any proceedings or submit to arbitration in the name of the Charging Company or otherwise as may seem expedient to him;
  - (b) carry on, manage, develop, reconstruct, amalgamate or diversify the business of the Charging Company or any part of it, or concur in so doing, lease or otherwise acquire and develop or improve properties or other assets without being responsible for loss or damage;
  - (c) raise or borrow any money from or incur any other liability to the Security Trustee or others on such terms, with or without security, as he may think fit and so that any such security may be or include a charge on the whole or any part of the Charged Assets ranking in priority to this Debenture or otherwise;

- (d) without the restrictions imposed by Section 103 of the Law of Property Act 1925 or the need to observe any of the provisions of Sections 99 and 100 of such Act, sell by public auction or private contract, let, surrender or accept surrenders, grant licences or otherwise dispose of or deal with all or any of the Charged Assets or concur in so doing in such manner for such consideration and generally on such terms and conditions as he may think fit, with full power to convey, let, surrender, accept surrenders or otherwise transfer or deal with such Charged Assets in the name and on behalf of the Charging Company or otherwise and so that covenants and contractual obligations may be granted and assumed in the name of and so as to bind the Charging Company (or other estate owner if he shall consider it necessary or expedient so to do) and so that any such sale, lease or disposition may be for cash or other obligations, shares, stock, securities or other valuable consideration and be payable immediately or by instalments spread over such period as he shall think fit. Plant, machinery and other fixtures may be severed and sold separately from the premises containing them and the Receiver may apportion any rent and the performance of any obligations affecting the premises sold without the consent of the Charging Company;
- (e) promote the formation of companies with a view to the same purchasing, leasing, licensing, or otherwise acquiring interests in all or any of the Charged Assets or otherwise arrange for such companies to trade or cease to trade and to purchase, lease, license or otherwise acquire all or any of the Charged Assets on such terms and conditions whether or not including payment by instalments secured or unsecured as he may think fit;
- (f) make any arrangement or compromise or enter into or cancel any contracts which he shall think expedient;
- (g) make and effect such repairs, renewals and improvements to the Charged Assets or any part of them as he may think fit and maintain, renew, take out or increase insurances;
- (h) appoint managers, agents, officers and employees for any of such purposes or to guard or protect the Charged Assets at such salaries and commissions and for such periods and on such terms as he may determine and may dismiss the same;
- (i) make calls conditionally or unconditionally on the members of the Charging Company in respect of uncalled capital;
- (j) without any further consent by or notice to the Charging Company exercise for and on behalf of the Charging Company all the powers and provisions conferred on a landlord or a tenant by any legislation from time to time in force in any relevant jurisdiction relating to rents or agriculture in respect of any part of the Properties, but without any obligation to exercise any of such powers and without any liability in respect of powers so exercised or omitted to be exercised;
- (k) sign any document, execute any deed and do all such other acts and things as may be considered by him to be incidental or conducive to any of the above matters or powers or to the realisation of the security

of the Security Trustee and to use the name of the Charging Company for all the above purposes;

- (l) do all the acts and things described in Schedule 1 to the Insolvency Act 1986 as if the words "he" and "him" referred to the Receiver and "company" referred to the Charging Company;
- (m) to exercise all the powers of the Security Trustee under this Debenture.

13.6 The Security Trustee may from time to time determine the remuneration of any Receiver without being limited to the maximum rate specified in Section 109(6) of the Law of Property Act 1925. A Receiver shall be entitled to remuneration appropriate to the work and responsibilities involved upon the basis of charging from time to time adopted by the Receiver in accordance with the current practice of his firm.

13.7 The Security Trustee may at any time after the security constituted by this Debenture becomes enforceable or if requested by any Charging Company appoint one or more persons to be (an) administrator(s) of any or all of the Charging Companies pursuant to the Insolvency Act 1986.

#### 14. **APPLICATION OF PROCEEDS; INSURANCE MONIES; PURCHASERS**

14.1 All monies received by any Receiver appointed under this Debenture shall (subject to any requirement of law to the contrary and the Intercreditor Deed) be applied in the following order:

- (a) in the payment of the costs, charges and expenses of and incidental to the Receiver's appointment and the payment of his remuneration;
- (b) in the payment and discharge of any outgoings paid and liabilities incurred by the Receiver in the exercise of any of the powers of the Receiver;
- (c) in providing for the matters (other than the remuneration of the Receiver) specified in the first three paragraphs of Section 109(8) of the Law of Property Act 1925;
- (d) in discharge of any charges ranking in priority to this Debenture;
- (e) in or towards payment of any debts or claims which are required by law to be paid in preference to the Secured Obligations but only to the extent to which such debts or claims have such preference;
- (f) in or towards the satisfaction of the Secured Obligations in such order as the Security Trustee may conclusively determine provided that the Security Trustee shall also at the same time discharge any charges ranking equally with this Debenture; and
- (g) any surplus shall be paid to the Charging Company or other person entitled to it.

The provisions of this clause shall take effect by way of variation and extension to the provisions of Section 109(8) of the Law of Property Act 1925 which provisions as so varied and extended shall be deemed incorporated in this clause.



14.2 Subject to the Intercreditor Deed and the rights of the Bank pursuant to the Bank Security:

- (a) prior to an Enforcement Date, all monies receivable by virtue of any Insurances shall be applied by and at the option of the respective Charging Company in replacing, restoring or reinstating the property or assets destroyed, damaged or lost or (except where the Charging Company is obliged (as landlord or tenant) to pay out such insurance monies under the provisions of any lease of any of the Charged Assets) in reduction of the Secured Obligations; and
- (b) after an Enforcement Date, all monies receivable by virtue of any Insurances shall be paid to the Security Trustee (or if not paid by the insurers directly to the Security Trustee shall be held on trust for the Security Trustee) and shall at the option of the Security Trustee be applied in replacing, restoring or reinstating the property or assets destroyed, damaged or lost (any deficiency being made good by the Charging Company) or (except where the Charging Company is obliged (as landlord or tenant) to pay out such insurance monies under the provisions of any lease of any of the Charged Assets) in reduction of the Secured Obligations.

14.3 No purchaser or other person shall be bound or concerned to see or enquire whether the right of the Security Trustee or any Receiver to exercise any of the powers conferred by this Debenture has arisen or be concerned with notice to the contrary or with the propriety of the exercise or purported exercise of such powers.

14.4 Any moneys received, recovered or realised under the powers conferred under this Debenture may, at the discretion of the Security Trustee, be placed in a suspense account and kept there for so long as the Security Trustee thinks fit pending application from time to time (as the Security Trustee shall be entitled to do as it may think fit) of moneys in or towards discharge of the Secured Obligations.

## **15. COSTS AND EXPENSES; LIABILITY; INDEMNITY**

15.1 Each Charging Company covenants with the Security Trustee to pay on demand all costs, charges and expenses incurred by the Security Trustee or by any Receiver (provided that, prior to the security constituted by this Debenture becoming enforceable, such costs, charges and expenses are reasonably and properly incurred) in or about the enforcement, protection, preservation or attempted preservation of any of the security created by or pursuant to this Debenture or any of the Charged Assets on a full indemnity basis, together with interest accruing daily at the Default Rate from the date on which such costs charges or expenses are so incurred until the date of payment (both before and after judgment) such interest to be compounded monthly in accordance with the normal practice of the Security Trustee.

15.2 Neither the Security Trustee nor any Receiver shall be liable to account as mortgagee or heritable creditor in possession in respect of all or any of the Charged Assets.

15.3 Each Charging Company agrees to indemnify the Security Trustee and any Receiver on demand against all losses, actions, claims, expenses, demands or liabilities (provided that, prior to the security constituted by this Debenture

becoming enforceable, such amounts are reasonably and properly incurred) whether in contract, tort, delict or otherwise and whether arising at common law in equity or by statute which may be incurred by or made against any of them (or by or against any manager agent officer or employee for whose liability, act or omission any of them may be answerable) as a consequence of any breach by the Charging Company of any of its obligations under this Debenture (other than where there has been gross misconduct or wilful default on the part of the Security Trustee or the Receiver). The Charging Company shall pay interest on such amounts demanded at the Default Rate from the date of demand until the date of payment (both before and after judgment) such interest to be compounded monthly in accordance with the normal practice of the Security Trustee.

**16. EVENTS OF DEFAULT; ENFORCEMENT**

On the occurrence of any Event of Default which is continuing the security constituted by this Debenture shall become enforceable.

**17. NOTICE OF DEFAULT**

- 17.1 Each Charging Company hereby undertakes to the Security Trustee that so long as any of the Secured Obligations remains outstanding the relevant Charging Company will promptly upon becoming aware of any Event of Default or of any event which would, with the giving of notice, lapse of time or satisfaction of any other condition, constitute such an event (and in any event no later than 10 Business Days after becoming so aware) give notice in writing thereof to the Security Trustee.

**18. POWER OF ATTORNEY**

Each Charging Company by way of security irrevocably appoints:

- 18.1 the Security Trustee;
- 18.2 each person to whom the Security Trustee shall from time to time have delegated the exercise of the power of attorney conferred by this clause; and
- 18.3 any Receiver,
- severally to be its attorney in its name and on its behalf:

- (a) to execute and complete any documents or instruments which the Security Trustee or such Receiver may require for perfecting the title of the Security Trustee to the Charged Assets or for vesting the same in the Security Trustee its nominees or any purchaser pursuant to the terms of this Debenture;
- (b) to sign, execute, seal and deliver and otherwise perfect any further security document pursuant to clause 6; and
- (c) otherwise generally to sign, seal, execute and deliver all deeds, assurances agreements and documents and to do all acts and things which may be required for the full exercise of all or any of the powers conferred on the Security Trustee or a Receiver under this Debenture or which may be deemed necessary or expedient by the Security Trustee or a Receiver in connection with any disposition, realisation or getting in by the Security Trustee or such Receiver of the Charged

Assets or any part of them or in connection with any other exercise of any power under this Debenture.

**19. CONTINUING SECURITY AND OTHER MATTERS**

This Debenture and the obligations of each Charging Company under this Debenture shall:

**19.1 Continuing Security**

- (a) secure the ultimate balance from time to time of the Secured Obligations and shall be a continuing security notwithstanding any settlement of account or other matter whatsoever;
- (b) be in addition to and not prejudice or affect any present or future Collateral Instrument, Encumbrance, right or remedy held by or available to any Security Beneficiary; and
- (c) not merge with or be in any way prejudiced or affected by the existence of any such Collateral Instruments, Encumbrances, rights or remedies or by the same being or becoming wholly or in part void, voidable or unenforceable on any ground whatsoever or by any Security Beneficiary dealing with, exchanging, releasing, varying or failing to perfect or enforce any of the same or giving time for payment or indulgence or compounding with any other person liable.

**19.2 Other Security**

No Security Beneficiary shall be obliged to resort to any Collateral Instrument or other means of payment now or after the date of this Debenture held by or available to it before enforcing this Debenture, and no action taken or omitted by the Security Trustee or any in connection with any such Collateral Instrument or other means of payment shall discharge, reduce, prejudice or affect the liability of any Charging Company.

**19.3 Release Conditional**

Any release, discharge or settlement between any Charging Company and the Security Trustee shall be conditional upon no security, disposition or payment to any Security Beneficiary by any Charging Company or any other person being void, set aside or ordered to be refunded pursuant to any enactment or law relating to liquidation, administration or insolvency or for any other reason whatsoever and if such condition shall not be fulfilled the Security Trustee shall be entitled to enforce this Debenture (subject to its terms) subsequently as if such release discharge or settlement had not occurred and any such payment had not been made.

**20. CURRENCY CLAUSES**

- 20.1** All monies received or held by the Security Trustee or by a Receiver under this Debenture may from time to time be converted into such other currency as the Security Trustee or Receiver considers necessary or desirable to cover the Secured Obligations in that other currency at the market rate of exchange of the Bank then offered to the Security Trustee for purchasing that other currency with the existing currency.

20.2 If and to the extent that any Charging Company fails to pay any amount due on demand, the Security Trustee may, in its absolute discretion, without notice to such Charging Company, purchase at any time afterwards so much of any currency as the Security Trustee considers necessary or desirable to cover the Secured Obligations in such currency at the then prevailing spot rate of exchange of the Bank for purchasing such currency with sterling and each Charging Company agrees to indemnify the Security Trustee against the full sterling cost (including all costs charges and expenses) paid.

20.3 No payment to the Security Trustee (whether under any judgment or court order or otherwise) shall discharge the obligation or liability of any Charging Company in respect of which it was made unless and until the Security Trustee shall have received payment in full in the currency in which such obligation or liability was incurred. To the extent that the amount of any such payment shall on actual conversion into such currency fall short of such obligation or liability expressed in that currency the Security Trustee shall have a further separate cause of action against the Charging Company and shall be entitled to enforce the charges created by this Debenture (subject to the terms of this Debenture) to recover the amount of the shortfall.

## **21. TRANSFER**

21.1 This Debenture is freely assignable or transferable by the Security Trustee and, to the extent any Security Beneficiary is able to rely on or enforce the same, each other Security Beneficiary.

21.2 The Security Trustee may disclose to any person related to the Security Trustee and/or any person to whom it is proposing to transfer or assign or has transferred or assigned this Debenture any information about any Charging Company.

21.3 No Charging Company may assign or transfer any of its rights or benefits under this Debenture.

## **22. THIRD PARTY RIGHTS**

22.1 Subject to clauses 22.4, 22.5 and 22.6 below, the Receiver may rely upon and enforce the rights conferred upon it under this Debenture, including, without limitation, those set out in clauses 10.7(f)(iii) (indemnity), 13.2 (right for jointly appointed Receivers to act independently), 13.4 (payment by the Charging Company), 13.5 (Receivers powers), 13.6 (level of remuneration), 14 (application of proceeds), 15 (costs and expenses), 18 (power of attorney), 20.1 (conversion of currency) against each and any Charging Company.

22.2 Subject to clauses 22.4, 22.5 and 22.6 below, the Indemnified Parties may rely upon and enforce the rights conferred upon them under clause 10.7(f)(iii) (indemnity) of this Debenture.

22.3 Without limiting clause 21, if the Security Trustee or (to the extent required in clause 21.1) any other Security Beneficiary assigns its rights under this Debenture to any person, such assignee may rely upon and enforce the undertakings given by a Charging Company in this Debenture against such Charging Company.

22.4 The third party rights referred to in clauses 22.1, 22.2 and 22.3 (any other terms of this Debenture which provide that a third party may in his own right enforce a term of this Debenture) may only be enforced by the relevant third party with the written consent of the Security Trustee and subject to and in accordance with the

provisions of the Contracts (Rights of Third Parties) Act 1999 (the "1999 Act") and all other relevant terms of this Debenture.

22.5 Notwithstanding any other provision of this Debenture (including, without limitation, clauses 22.1, 22.2 and 22.3), the Security Trustee and the Charging Companies may by agreement in writing rescind or vary any of the provisions in this Debenture in any way without the consent of any third party, and accordingly section 2(1) of the 1999 Act shall not apply.

22.6 Except as contemplated or provided in clauses 12.3.1, 19, 21, 22.1, 22.2, 22.3 and 26 (or insofar as this Debenture otherwise contemplates or expressly provides that a third party may in his own right enforce a term of this Debenture or where a provision is a covenant or agreement by a Charging Company with or for the benefit of a Security Beneficiary), a person who is not a party to this Debenture has no right under the 1999 Act to rely upon or enforce any term of this Debenture (save that any successor security trustee shall be entitled to exercise all rights of the Security Trustee (in that capacity)) but this does not affect any right or remedy of a third party which exists or is available apart from that Act.

### 23. MISCELLANEOUS

23.1 The rights, powers and remedies provided in this Debenture are cumulative and are not, nor are they to be construed as, exclusive of any rights, powers or remedies provided by law or otherwise.

23.2 No failure or delay on the part of the Security Trustee to exercise any power, right or remedy shall operate as a waiver of it, nor shall any single or any partial exercise or waiver of any power, right or remedy preclude its further exercise or the exercise of any other power right or remedy.

23.3 Any liability or power which may be exercised or any determination which may be made under this Debenture by the Security Trustee may (unless otherwise stated in this Debenture) be exercised or made in its absolute and unfettered discretion and the Security Trustee shall not be obliged to give reasons.

23.4 Each of the provisions of this Debenture is severable and distinct from the others and if at any time one or more of such provisions is or becomes invalid, illegal or unenforceable the validity, legality and enforceability of the remaining provisions of this Debenture shall not in any way be affected or impaired by such event.

23.5 This Debenture shall remain in full force and effect notwithstanding any amendments or variations from time to time of the Finance Documents and all references to the Finance Documents in this Debenture shall be taken as referring to the Finance Documents as amended or varied from time to time (including, without limitation, any increase in the amount of the Secured Obligations).

23.6 For the purposes of the Law of Property (Miscellaneous Provisions) Act 1989 any provisions of the Finance Documents relating to any disposition of an interest in land shall be deemed to be incorporated in this Debenture.

23.7 This Debenture may be executed in any number of counterparts each of which shall be deemed to be an original, and which together shall constitute one and the same instrument.

**24. NOTICES**

- 24.1 Any notices required to be given under the provisions of this Debenture shall be in writing and shall be deemed to have been duly served if sent or delivered in accordance with paragraph 12 of schedule 2 of the Instrument as if such clause was set out in this Debenture mutatis mutandis but on the basis that it shall be read as each reference to "the Issuer" was a reference to "each Charging Company".

**25. SECURITY TRUSTEE PROVISIONS**

- 25.1 The Security Trustee shall hold the security constituted by this Debenture and the benefit of all related rights on trust for the Security Beneficiaries in accordance with their respective rights under the Finance Documents and the security trust provisions set out in Schedule 3 to this Debenture.
- 25.2 The Security Trustee shall, as against each Charging Company, be entitled to enforce, in its capacity as Security Trustee, any consent, undertaking or request given by any Charging Company to, or for the benefit of, the Security Beneficiaries or any of them under this Debenture, and no Charging Company shall be concerned as to the arrangements between the Security Trustee and all Security Beneficiaries (or any of them) in relation to it.
- 25.3 The Security Beneficiaries together from time to time may by written notice to the Charging Companies nominate a security trustee to act as such on behalf of all of the Security Beneficiaries in place of the security trustee then acting as such and all references to the Security Trustee (when acting in that capacity) shall include any such successor security trustee.
- 25.4 Upon being notified of the appointment of a successor to the Security Trustee, each Charging Company shall enter the name of that successor as the Security Trustee in its register of charges as the holder of this Debenture.

**26. LAW**

- 26.1 This Debenture, and any non-contractual rights or obligations arising out of or in connection with it, shall be governed by and shall be construed in accordance with English law.
- 26.2 Each Charging Company irrevocably agrees for the benefit of the Security Beneficiaries that the courts in England shall have jurisdiction to hear and determine any suit, action or proceeding and to settle any dispute which may arise out of or in connection with, this Debenture (including in relation to any non-contractual rights or obligations arising out of or in connection with this Debenture) and for such purposes irrevocably submits to the jurisdiction of such courts.
- 26.3 Nothing contained in this clause 26 shall limit the right of the Security Trustee to take proceedings against any Charging Company in any other court of competent jurisdiction, nor shall the taking of any such proceedings in one or more jurisdictions preclude the taking of proceedings in any other jurisdiction whether concurrently or not (unless prevented by applicable law).
- 26.4 Each Charging Company irrevocably waives any objection which it may have now or in the future to the courts of England being nominated for the purpose of this clause on the ground of venue or otherwise and agrees not to claim that any such court is not a convenient or appropriate forum.

**EXECUTED as a DEED by the parties hereto and delivered the day and year first above written.**

## SCHEDULE 1

## DETAILS OF THE INITIAL CHARGING COMPANIES

COMPANY NAME	COMPANY NUMBER AND PLACE OF INCORPORATION	REGISTERED OFFICE
Equip Outdoor Technologies Limited	03906954, a company incorporated in England and Wales	Wimsey Way, Somercotes, Alfreton, Derbyshire, DE55 4LS
Eoth Limited	07607956, a company incorporated in England and Wales	Equip Wimsey Way, Somercotes, Alfreton, Derbyshire, DE55 4LS
RAB Carrington Limited	02715773, a company incorporated in England and Wales	Wimsey Way, Somercotes, Alfreton, Derbyshire, DE55 4LS
Equip Outdoor Technologies UK Limited (previously known as Lowe Alpine UK Limited)	01168470, a company incorporated in England and Wales	Wimsey Way, Somercotes, Alfreton, Derbyshire, DE55 4LS



**SCHEDULE 2**  
**FREEHOLD AND LEASEHOLD PROPERTY**

None

## **SCHEDULE 3**

### **TRUST PROVISIONS**

#### **1. DECLARATION OF TRUST**

- 1.1 The Security Trustee declares itself to be the trustee for each of the Security Beneficiaries from time to time subject to the provisions of the Finance Documents and shall hold the security constituted by this Debenture and the benefit of all related rights on trust for the Security Beneficiaries in accordance with their respective rights under the Finance Documents and the provisions of this Debenture.
- 1.2 As between the Security Trustee and the other Security Beneficiaries, in the event of any inconsistency between the provisions of this Schedule and the provisions of the other Finance Documents (other than the Security Trust Deed) (or any other document governing the relation between such persons), the Security Trustee declares that the provisions of any such other Finance Document (or such other document) shall prevail.
- 1.3 The provisions of this Schedule are for the benefit of the Security Trustee and the other Security Beneficiaries and the Charging Companies shall have no rights under or in respect of it.

#### **2. SECURITY TRUSTEE'S DISCRETIONS**

- 2.1 Unless otherwise provided in the Finance Documents, the Security Trustee shall have absolute discretion in the exercise or non-exercise of any rights, trusts, powers or authorities vested in it by this Debenture or by operation of law provided that such discretion is exercised in a manner which the Security Trustee considers (in its absolute discretion) to be in the best interests of the Security Beneficiaries. The Security Trustee shall not be responsible to any Charging Company or to any other Security Beneficiary (except in the case of its gross negligence or wilful misconduct) for any loss, costs, damages or expenses that may result from such exercise or non-exercise.

#### **3. SAFEKEEPING**

- 3.1 The Security Trustee may deposit this Debenture and all deeds and other documents relating to it in such secure place which it considers appropriate for such purpose or with such bank or firm of lawyers as it shall select and shall not be liable for any loss resulting from such deposit (except in the case of its gross negligence or wilful default).

#### **4. FURTHER RIGHTS AND DUTIES**

- 4.1 By way of supplement to the Trustee Act 1925, it is expressly declared as follows:
- (a) the Security Trustee may in relation to any of the provisions of this Debenture act or rely upon the opinion or advice of any information obtained from any lawyer, valuer, surveyor, broker, auctioneer, accountant or other expert, commissioned by the Security Trustee and the Security Trustee shall not be responsible for any loss occasioned by so acting or relying;
  - (b) any opinion, advice or information obtained pursuant to the preceding paragraph 4.1(a) may be sent or obtained by letter, telex message,

facsimile transmission, cablegram, telephone or any other means and the Security Trustee shall not be liable for acting on any opinion, advice or information purporting to be so conveyed although the same shall contain some error or shall not be authentic;

- (c) the Security Trustee shall be at liberty to accept as sufficient evidence a certificate signed by a director of any Charging Company to the effect that any particular dealing, transaction, step or thing effected in relation to such Charging Company is, in the opinion of the said director, suitable or expedient or as to any other fact or matter upon which the Security Trustee may require to be satisfied and the Security Trustee shall be in no way bound to call for further evidence or to be responsible for any loss that may be occasioned by acting on any such certificate;
- (d) the Security Trustee may refrain from doing anything which would or might in its opinion be contrary to any law of any jurisdiction or any directive or regulation of any agency of any state or which would or might otherwise render it liable to any person and may do anything which is, in its opinion, necessary to comply with any such law, directive or regulation;
- (e) the Security Trustee shall not be liable for any failure, omission, or defect in perfecting the security constituted by this Debenture including (a) failure to obtain any licence, consent or other authority for the execution, delivery, validity, legality, adequacy, performance, enforceability or admissibility in evidence of this Debenture (b) failure to register the same in accordance with the provisions of any of the documents of title of any Charging Company to any of the Charged Assets and (c) failure to effect or procure registration of or otherwise protect any of the security constituted by this Debenture by registering under the Land Registration Act 2002 or any other applicable registration laws in any territory any notice or other entry prescribed by or pursuant to the provisions of the said Act or laws;
- (f) the Security Trustee and every attorney, agent or other person appointed under this Debenture may indemnify themselves out of the Charged Assets against all liabilities and expenses reasonably and properly incurred by them in the execution of any power, trust, authority or discretion vested in any of them by this Debenture and against all actions, proceedings, costs, claims and demands in respect of any matter or thing done or omitted to be done in any way relating to this Debenture;
- (g) the Security Trustee shall be at liberty to place all title deeds and other documents certifying, representing or constituting the title to any of the Charged Assets for the time being in its hands in any safe deposit, safe or receptacle selected by the Security Trustee or with any bankers or banking company or company whose business includes undertaking the safe custody of documents or solicitors or firm of solicitors and may make any such arrangements as it thinks fit for allowing any Charging Company or its lawyers or auditors access to or possession of such title deeds and other documents when necessary or convenient and the Security Trustee shall not be responsible for any loss incurred in connection with any such deposit, access or possession;

- (h) save as otherwise provided in this Debenture or any other of the Finance Documents (as between the Security Beneficiaries), the Security Trustee shall have full power to determine all questions and doubts arising in relation to the interpretation or application of any of the provisions of this Debenture and every such determination (whether made upon a question actually raised or implied in the acts or proceedings of the Security Trustee) shall be conclusive and shall bind the Security Beneficiaries;
- (i) the Security Trustee may in the conduct of these trusts (otherwise than in relation to its right to make any declaration, determination or decision) instead of acting personally employ and pay an agent (whether being a lawyer or other person) to transact or concur in transacting any business and to do or concur in doing any acts required to be done by the Security Trustee (including the receipt and payment of money) and any agent being a lawyer, broker or other person engaged in any profession or business shall be entitled to be paid all usual reasonable professional and other charges for business transacted and acts done by him or any partner or employee of his in connection with the trusts);
- (j) any investment of any part or all of the Charged Assets may, at the discretion of the Security Trustee, be made or retained in the names of any of its nominees;
- (k) the Security Trustee shall, upon receipt from a Security Beneficiary (not being itself) of a notice that such Security Beneficiary has assigned or transferred its rights or obligations under the Finance Documents to a person or that a person is a successor to such rights or obligations, be entitled to assume that such person is such an assignee, transferee or successor but until such a notice is given the Security Trustee shall be entitled to assume that such Security Beneficiary has not assigned or transferred any of its rights or obligations under this Debenture or the Finance Documents and has no successor in relation to either of them;
- (l) the Security Trustee shall not be bound to act upon any notice, discretion or request served on it by any person pursuant to this Debenture or to begin any legal action or proceeding arising out of this Debenture unless the Security Trustee shall first have been indemnified to its satisfaction against all costs, charges, expenses and liabilities which may be incurred in complying with such notice, direction or request; and
- (m) the Security Trustee (or any officer of the Security Trustee) shall not be precluded by reason of so acting from entering into any contract or financial or other transaction with or from engaging in any banking or other business with any Charging Company and shall not be liable to account for any profit made or payment received by the Security Trustee (or such officer) as a result of or in connection with it.

## **5. APPOINTMENT AND REMOVAL OF SECURITY TRUSTEE**

The Security Trustee may at any time, if it considers it necessary so to do, appoint any person (whether or not a trust corporation) to act either as a separate trustee or as a co trustee jointly with the Security Trustee, and may remove any person so appointed and the Security Trustee shall give prior written notice to each

Charging Company and each of the Security Beneficiaries of such appointment or removal. Any such separate trustee or co-trustee shall be entitled to all rights, powers, authorities and discretions as are conferred upon him by the Security Trustee by the instrument of appointment. Such reasonable remuneration as the Security Trustee may pay to any person so appointed, and any costs, charges and expenses incurred by such person in performing his or its functions pursuant to such appointment, shall for the purpose of this Debenture be treated as expenses incurred by the Security Trustee.

**6. RETIREMENT AND REPLACEMENT OF THE SECURITY TRUSTEE**

The Security Trustee, if it so agrees with each of the other Security Beneficiaries, may resign as the Security Trustee under this Debenture. Such resignation shall take effect when each Charging Company and the other Security Beneficiaries have been notified and the proposed successor to the Security Trustee shall have executed all deeds and documents as are necessary to effects its appointment as the successor to the Security Trustee and the transfer of the Security Trustee's rights and obligations in respect of this Debenture in a legal, valid and binding manner. The resigning Security Trustee shall, from the time such appointment takes effect, be discharged from any further obligation under this Debenture and the replacement trustee, each of the Security Beneficiaries (other than the outgoing Security Trustee) and each Charging Company shall have the same rights and obligations amongst themselves as if the replacement trustee had been an original party to this Debenture as the Security Trustee. The Security Trustee shall not be responsible for the costs occasioned by such retirement.

## SCHEDULE 4

### DEED OF ACCESSION

THE SUPPLEMENTAL DEED is made on 20[ ]

#### BETWEEN:

- (1) THE COMPANIES LISTED IN SCHEDULE 1 (each an "Acceding Company", together the "Acceding Companies");
- (2) THE COMPANIES LISTED IN SCHEDULE 2 (together the "Existing Charging Companies"); and
- (3) MOBEUS EQUITY PARTNERS LLP (the "Security Trustee")

#### WHEREAS:

This Supplemental Deed is supplemental to a Composite Debenture dated and made between, *inter alia*, the Existing Charging Companies (1) and the Security Trustee (2) (the "Composite Debenture").

IT IS AGREED and declared as follows:

#### 1. DEFINITIONS

- 1.1 Words or expressions defined (including by reference) in the Composite Debenture shall, unless otherwise defined in this Supplemental Deed, bear the same meaning in this Supplemental Deed (including the recital).
- 1.2 The principles of construction set out in clauses 1.2 to 1.4 of the Composite Debenture shall apply *mutatis mutandis* to this Supplemental Deed as if they were set out in full in this Supplemental Deed.

#### 2. ACCESSION OF THE ACCEDING COMPANY

- 2.1 By its execution of this Supplemental Deed, each of the Acceding Companies unconditionally and irrevocably undertakes to and agrees with the Security Trustee to observe and be bound by the terms and provisions of the Composite Debenture as if it were an original party to it as one of the Charging Companies.
- 2.2 Without prejudice to the generality of sub-clause 2.1, each Acceding Company:
  - (a) (jointly and severally with the other Charging Companies) covenants in the terms set out in clause 2 of the Composite Debenture; and
  - (b) with full title guarantee, charges and assigns to the Security Trustee for the payment and discharge of all monies and liabilities, by the Composite Debenture, covenanted to be paid or discharged by it, all its property, assets and undertaking on the terms set out in clause 3 of the Composite Debenture.
- 2.3 The Existing Charging Companies consent to the accession of the Acceding Companies to the Composite Debenture on the terms of clauses 2.1 and 2.2 of this Supplemental Deed and agree that the Composite Debenture shall from now on be read and construed as if the Acceding Companies had been named in it as Charging Companies.

**3. INTERPRETATION**

This Supplemental Deed shall from now on be read as one with the Composite Debenture, so that all references in the Composite Debenture to "*this Debenture*" and similar expressions shall include references to this Supplemental Deed.

**4. DELIVERY**

This Supplemental Deed shall be treated as having been executed and delivered as a deed only upon being dated.

**5. COUNTERPARTS**

This Supplemental Deed may be executed in any number of counterparts each of which shall be deemed to be an original, and which together shall constitute one and the same instrument.

**6. THIRD PARTY RIGHTS**

Without prejudice to clause 22 of the Composite Debenture to the extent applicable, a person who is not a party to this Supplemental Deed shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Supplemental Deed. This clause does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.

**7. GOVERNING LAW AND JURISDICTION**

7.1 This Supplemental Deed, and any non-contractual rights or obligations arising out of or in connection with it, shall be governed by and shall be construed in accordance with English law.

7.2 Each of the parties to this Supplemental Deed irrevocably agrees for the benefit of the Security Trustee that the courts in England shall have jurisdiction to hear and determine any suit, action or proceeding and to settle any dispute which may arise out of, or in connection with, this Supplemental Deed (including in relation to any non-contractual rights or obligations arising out of or in connection with this Supplemental Deed) and, for such purposes, the parties to this Supplemental Deed irrevocably submit to the jurisdiction of such courts.

**EXECUTED as a DEED by the parties hereto and delivered the day and year first above written.**

**SCHEDULE 1**

**The Acceding Companies**

Company Name	Registration Number
[       ]	[       ]

**SCHEDULE 2**

**The Existing Charging Companies**

Company Name	Registration Number
[       ]	[       ]



EXECUTION PAGE(S)

EXECUTED as a DEED by  
EQUIP OUTDOOR TECHNOLOGIES LIMITED  
acting by a director  
in the presence of:

Witness' Signature: .....

Name: SARAH HUSKINSON

Address: .....

Occupation: .....

EXECUTED as a DEED by  
EOTH LIMITED  
acting by a director  
in the presence of:

Witness' Signature: .....

Name: SARAH HUSKINSON

Address: .....

Occupation: .....

EXECUTED as a DEED by  
RAB CARRINGTON LIMITED  
acting by a director  
in the presence of:

Witness' Signature: .....

Name: SARAH HUSKINSON

Address: .....

Occupation: .....

**EXECUTED** as a **DEED** by  
**EQUIP OUTDOOR TECHNOLOGIES UK**  
**LIMITED** acting by a director  
in the presence of:

.....

.....

Witness' Signature: .

Name: SARAH HUSEINSON

Address: .

.....

Occupation: .. ..

**EXECUTED** as a **DEED** by  
**MOBEUS EQUITY PARTNERS LLP** acting by

.....

.....  
a member  
in the presence of:

Witness' Signature: .....

Name: .....

Address: .....

.....

Occupation: .....

EXECUTED as a DEED by  
EQUIP OUTDOOR TECHNOLOGIES UK  
LIMITED acting by a director  
in the presence of:

.....

Witness' Signature: .....

Name: .....

Address: .....

.....

Occupation: .....

EXECUTED as a DEED by  
MOBEUS EQUITY PARTNERS LLP acting by  
.....  
Clive Austin  
.....  
a member  
in the presence of:

.....

Witness' Signature: ... ..

Name: FREDERICK BACON .....

Address:

Occupation: