



Registration of a Charge

Company Name: **ENGLAND RUGBY LIMITED**

Company Number: **04134527**



Received for filing in Electronic Format on the: **24/12/2021**

XAK0WWFM

Details of Charge

Date of creation: **23/12/2021**

Charge code: **0413 4527 0001**

Persons entitled: **THE ENGLISH SPORTS COUNCIL**

Brief description: **N/A**

Contains fixed charge(s).

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

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

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

Certified by: **NICK TIDNAM**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 4134527

Charge code: 0413 4527 0001

The Registrar of Companies for England and Wales hereby certifies that a charge dated 23rd December 2021 and created by ENGLAND RUGBY LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 24th December 2021 .

Given at Companies House, Cardiff on 31st December 2021

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

23 December

2021

ENGLAND RUGBY LIMITED
(as Chargor)

and

THE ENGLISH SPORTS COUNCIL
(as Programme Manager)

DEBENTURE

CONTENTS

Clause	Page
1. DEFINITIONS AND INTERPRETATION	1
2. COVENANT TO PAY	3
3. CHARGING CLAUSE	3
4. CRYSTALLISATION	4
5. COLLECTION OF RECEIVABLES	5
6. NEGATIVE PLEDGE AND OTHER RESTRICTIONS	6
7. FURTHER ASSURANCE	6
8. CONTINUING SECURITY	7
9. OPENING OF NEW ACCOUNTS	7
10. APPOINTMENT OF A RECEIVER OR AN ADMINISTRATOR	7
11. POWERS OF A RECEIVER	8
12. POWER OF ATTORNEY	9
13. OTHER POWERS EXERCISABLE BY THE PROGRAMME MANAGER	10
14. APPLICATION OF MONEY RECEIVED BY THE PROGRAMME MANAGER OR A RECEIVER	10
15. PROTECTION OF THIRD PARTIES	11
16. PROTECTION OF THE PROGRAMME MANAGER, ANY NOMINEE AND RECEIVER	11
17. PROGRAMME MANAGER	11
18. COSTS, EXPENSES AND LIABILITIES	11
19. INTEREST ON OVERDUE AMOUNTS	12
20. SET-OFF	12
21. INFORMATION	12
22. TRANSFER BY A BENEFICIARY	13
23. EVIDENCE OF SECURED SUMS	13
24. THIRD PARTY RIGHTS	13
25. JOINT AND SEPARATE LIABILITY	14
26. FORBEARANCE, SEVERABILITY, VARIATIONS AND CONSENTS	14
27. COUNTERPARTS	14
28. SERVICE OF DEMANDS AND NOTICES	14
29. GOVERNING LAW	15
SCHEDULE : FORM OF NOTICE OF CHARGE OF ACCOUNT	16
EXECUTION PAGE	18

THIS DEBENTURE made on 23 December

2021

BETWEEN:

- (1) **England Rugby Limited**, a company limited by shares, incorporated under the laws of England and Wales (company number 04134527) whose registered office is at Rugby House, Twickenham Stadium, 200 Whitton Road, Twickenham TW2 7BA (the "**Chargor**"); and
- (2) **The English Sports Council**, a body corporate with registration number RC000766, whose address is at 21 Bloomsbury Street, London WC1B 3HF as Programme Manager.

WITNESSES as follows:

1. **DEFINITIONS AND INTERPRETATION**

- 1.1 **Definitions:** Unless the context otherwise requires, words or expressions defined in the Facility Agreement shall have the same meaning in this Debenture and, in addition, the following words and expressions shall have the following meanings:

"Account Bank" means National Westminster Bank Plc acting through its branch at 250 Bishopsgate, London, EC2M 4AA;

"Act" means the Companies Act 2006;

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

"Beneficiary" means each Finance Party and any Receiver or Delegate.

"Collection Account" means the Chargor's account with the Account Bank (with account name [REDACTED], account number [REDACTED] and sort code [REDACTED]) into which the Chargor is required to pay its Receivables under the terms of this Deed, including any renewal, redesignation, replacement, subdivision or subaccount of such account;

"Facility Agreement" means the loan facility agreement dated on or about the date of this Debenture and made between the Programme Manager, The Secretary of State for the Department for Digital, Culture, Media and Sport as the lender and the Chargor as the borrower;

"Fixed Charge Asset" means an Asset for the time being comprised within the fixed charge created by clause 3.1 (*Creating fixed charge*);

"Floating Charge Asset" means an Asset for the time being comprised within the floating charge created by clause 3.1 (*Creation of floating charge*) but, in relation to Assets situated in Scotland and charged by clause 3.2(b) only insofar as concerns the floating charge over that Asset;

"Liability" means any liability, damage, loss, cost, claim or expense of any kind or nature, whether direct, indirect, special, consequential or otherwise;

"Party" means a party to this Debenture;

"Programme Manager" means the English Sports Council acting as agent and trustee for the Beneficiaries and includes any successor appointed by the Lender or the Programme Manager pursuant to the Finance Documents;

"Receivables" means, in relation to the Chargor, all sums of money receivable by it, now

or in the future, paid and payable to it by (or on behalf of) any Eligible Entity in respect of any Eligible Loan;

"Receiver" means a receiver or a receiver and manager appointed under clause 10.1 (*Appointment of a Receiver or an administrator*) and (where the context requires or permits) includes any substituted receiver or receiver and manager;

"Secured Sums" means all present and future obligations and liabilities (whether actual or contingent and whether incurred jointly or severally and whether as principal or surety or in any other capacity whatsoever and whether incurred originally by the Chargor or by some other person) of the Chargor to all or any of the Beneficiaries under each or any of the Finance Documents, in each case together with:

- (a) all costs, charges and expenses incurred by any Beneficiary in connection with the protection, preservation or enforcement of its rights under any Finance Document; and
- (b) all moneys, obligations and liabilities due, owing or incurred in respect of any variations or increases in the amount or composition of the facilities provided under any Finance Document or the obligations and liabilities imposed under such documents;

"Security Interest" includes any mortgage, charge, pledge, lien, hypothecation, assignment by way of security, title retention or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.

1.2 **Interpretation:** Unless the context otherwise requires clause 1.2 (*Interpretation*) of the Facility Agreement shall be deemed to be incorporated in full in this Debenture with any necessary changes, in this Debenture:

- (a) references to a **"Party"** shall be construed so as to include that Party's respective successors in title, permitted assigns and permitted transferees;
- (b) **"including"** and **"in particular"** shall not be construed restrictively but shall mean respectively "including, without prejudice to the generality of the foregoing" and "in particular, but without prejudice to the generality of the foregoing";
- (c) **"property"** includes any interest (legal or equitable) in real or personal property and any thing in action;
- (d) **"variation"** includes any variation, amendment, accession, novation, restatement, modification, assignment, transfer, supplement, extension, deletion or replacement however effected and **"vary"** and **"varied"** shall be construed accordingly; and
- (e) subject to clause 26.4 (*Variations*) references to this Debenture or to any other document (including any Finance Document) include references to this Debenture or such other document as varied in any manner from time to time, even if changes are made to the composition of the parties to this Debenture or such other document or to the nature or amount of any facilities made available under such other document.

1.3 **Companies Acts:** Expressions defined in the Act (and not redefined in this Debenture) shall have the same meanings in this Debenture, except that the expression **"company"** shall include a body corporate established outside Great Britain.

1.4 **Statutes:** Any reference to any statute or statutory instrument or any section of it shall be deemed to include a reference to any statutory modification or re-enactment of it for the

time being in force in relation to the particular circumstances.

- 1.5 **Incorporation of terms:** The terms of the other Finance Documents and of any other agreement or instrument between any Parties in relation to any Finance Document are incorporated in this Debenture to the extent required to ensure that any purported disposition, or any agreement for the disposition, of any Land contained in this Debenture is a valid disposition in accordance with section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.

2. COVENANT TO PAY

- 2.1 **Covenant to pay:** The Chargor (as primary obligor and not merely as surety) covenants with the Programme Manager (as trustee for the Beneficiaries) that it will, on the Programme Manager's written demand, pay or discharge the Secured Sums when due at the times and in the manner provided in the relevant Finance Documents.
- 2.2 **Demands:** The making of one demand shall not preclude the Programme Manager from making any further demands.
- 2.3 **Proviso:** The covenants contained in this clause and the security created by this Debenture shall not extend to or include any liability or sum which would otherwise cause any such covenant or security to be unlawful or prohibited by any applicable law.

3. CHARGING CLAUSE

- 3.1 **Creation of fixed security:** The Chargor, with full title guarantee, charges to the Programme Manager (as trustee for the Beneficiaries) as security for the payment or discharge of all Secured Sums, by way of fixed charge all moneys (including interest) at any time standing to the credit of the Collection Account, and the debt represented by any such credit balance.
- 3.2 **Creation of floating charge:** The Chargor, with full title guarantee, charges to the Programme Manager (as trustee for the Beneficiaries) as security for the payment or discharge of all Secured Sums, by way of floating charge:

- (a) all its Assets, except to the extent that such Assets are for the time being charged by the fixed charge contained in clause 3.1 (*Creation of fixed security*), including any Assets comprised within a charge which is reconverted under clause 4.4 (*Reconversion*), and
- (b) without exception, all its Assets insofar as they are for the time being situated in Scotland,

but in each case so that the Chargor shall not create any Security Interest over any such Asset (whether having priority over, or ranking *pari passu* with or subject to, this floating charge) or take any other step referred to in clause 6 (*Negative pledge and other restrictions*) with respect to any such Asset, and the Chargor shall not, without the prior written consent of the Programme Manager, sell, transfer, part with or dispose of any such Asset except to the extent expressly permitted under the Facility Agreement.

3.3 Notices:

- (a) The Chargor shall, on the date of this Deed, execute a notice of assignment in respect of the Collection Account in substantially the form set out in the Schedule (*Form of Notice of Charge of Account*) and deliver that notice to the Account Bank.
- (b) The Chargor shall use all reasonable endeavours (including expending reasonable costs and expenses) to procure the execution and delivery to the Programme

Manager of an acknowledgment by the Account Bank of the notice delivered pursuant to paragraph (a) above in the form appended to the Schedule (*Form of Notice of Charge of Account*).

3.4 **Priority:** Any Security Interest created in the future by the Chargor (except in favour of the Programme Manager) shall be expressed to be subject to this Debenture and shall rank in order of priority behind the charges created by this Debenture.

3.5 **Right of redemption:** Upon the payment or discharge of all Secured Sums and the Beneficiaries having no further obligation (whether actual or contingent) to make advances or provide other financial accommodation under the Finance Documents or otherwise, the Programme Manager shall on request by the Chargor (at the Chargor's cost) release its Assets from the charges created by clause 3 of this Debenture. Such release shall not prejudice the rights of the Programme Manager under clause 14.3 (*Retention of Security*) and clause 18 (*Costs, expenses and liabilities*).

4. **CRYSTALLISATION**

4.1 **Crystallisation by notice:** The floating charge created by the Chargor in clause 3.1 (*Creation of floating charge*) may, subject to clause 4.5 (*Moratorium Assets*), be crystallised into a fixed charge by notice in writing given at any time by the Programme Manager to the Chargor if:

- (a) An Event of Default has occurred and is continuing;
- (b) a Potential Event of Default under clause 10.1(e) (*Insolvency*) or Clause 10.1(f) (*Insolvency Proceedings*) of the Facility Agreement has occurred and is continuing; or
- (c) the Programme Manager in good faith considers that any of the Assets expressed to be charged to the Programme Manager by this Debenture may be in danger of being seized or sold pursuant to any form of legal process; or
- (d) a circumstance envisaged by paragraph (a) of clause 4.2 (*Automatic Crystallisation*) occurs and the Programme Manager in good faith considers that such crystallisation is desirable in order to protect the priority of its security.

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

4.2 **Automatic crystallisation:** If, without the Programme Manager's prior written consent:

- (a) the Chargor, in contravention of any Finance Document, resolves to take or takes any step to:
 - (i) charge or otherwise encumber any of its Floating Charge Assets;
 - (ii) create a trust over any of its Floating Charge Assets; or
 - (iii) dispose of any Floating Charge Asset, except by way of sale in the ordinary course of the Chargor's business to the extent that such disposal is not otherwise prohibited by any Finance Document;
- (b) any person resolves to take or takes any step to seize or sell any Floating Charge Asset pursuant to any form of legal process; or

- (c) an Event of Default under clause 10.1(e) (*Insolvency*) or Clause 10.1(f) (*Insolvency Proceedings*) of the Facility Agreement has occurred,

then the floating charge created by clause 3.1 (*Creation of floating charge*) shall, subject to clause 4.5 (*Moratorium Assets*), be automatically and instantly crystallised (without the necessity of notice) into a fixed charge over such Floating Charge Asset or, in the case of paragraph (c) above into a fixed charge over all Floating Charge Assets of the Chargor.

- 4.3 **Future Floating Charge Assets:** Except as otherwise stated in any notice given under clause 4.1 (*Crystallisation by notice*) or unless the crystallisation relates to all its Floating Charge Assets, prospective Floating Charge Assets acquired by the Chargor after crystallisation has occurred under clause 4.1 (*Crystallisation by notice*) or 4.2 (*Automatic crystallisation*) shall become subject to the floating charge created by clause 3.1 (*Creation of floating charge*), so that the crystallisation shall be effective only as to the relevant Floating Charge Assets in existence at the date of crystallisation.
- 4.4 **Reconversion:** Any charge which has crystallised under clause 4.1 (*Crystallisation by notice*) or 4.2 (*Automatic crystallisation*) may, by notice in writing given at any time by the Programme Manager to the Chargor, be reconverted into a floating charge in relation to the Assets specified in such notice.
- 4.5 **Moratorium Assets:** Notwithstanding clauses 4.1 and 4.2, and save as permitted by Part A1 of the Insolvency Act 1986:
- (a) where the Chargor obtains a moratorium under that Part A1, and whilst the moratorium continues, the floating charge created by the Chargor in Clause 3.1 (*Creation of floating charge*):
- (i) may not be converted into a fixed charge by notice in writing under clause 4.1; and
- (ii) shall not automatically convert into a fixed charge under clause 4.2;
- (b) nothing done for or by the Chargor with a view to obtaining a moratorium under that Part A1 shall give rise to any right to crystallise by notice under clause 4.1 or cause the automatic crystallisation under clause 4.2 of the floating charge created by the Chargor under clause 3.1 (*Creation of floating charge*).

5. COLLECTION OF RECEIVABLES

5.1 Collection Account:

- (a) The Chargor, except with the prior consent of the Programme Manager:
- (i) shall collect and realise all its Receivables and, immediately on receipt, pay all money so collected into the Collection Account and thereafter pay all such money to the Programme Manager in accordance with the provisions of the Facility Agreement, and shall, pending such payment into the Collection Account and such payment on to the Lender, hold all money so received upon trust for the Programme Manager;
- (ii) shall ensure that the Collection Account is at all times maintained at the Account Bank;
- (iii) shall promptly pay all charges and other outgoings in respect of the Collection Account and, on demand, produce evidence of payment to the Programme Manager;

- (iv) may not withdraw any moneys (including interest) standing to the credit of the Collection Account except to pay to the Lender any amount then due and payable to the Lender under the Facility Agreement.
 - (b) The Programme Manager shall, on or at any time after the security constituted by this Deed becomes enforceable, be entitled without notice to apply, transfer or set-off any or all of the credit balances from time to time on the Collection Account in or towards the payment or other satisfaction of all or part of the Secured Sums in accordance with clause 14.1 (*Order of priority*).
- 5.2 **No derogation:** The Chargor shall not (and shall not purport to) charge, factor, discount, assign, postpone, subordinate, release or waive its rights in respect of any Receivable in favour of any person or do or omit to do anything which might delay or prejudice its full recovery.
- 5.3 **Factored debts:** If the Programme Manager releases, waives or postpones its rights in respect of any Receivable to enable the Chargor to factor or discount them to the Programme Manager or third party (the "**factor**"), the charges created by this Deed shall in all other respects remain in full force and effect. In particular, all amounts becoming due to the Chargor from the factor and any Receivables re-assigned, or due to be re-assigned to the Chargor, shall be subject to the relevant fixed charge created by this Deed, subject only to any defences or rights of set-off which the factor may have against the Chargor.
- 6. **NEGATIVE PLEDGE AND OTHER RESTRICTIONS**
- 6.1 **Negative Pledge and Other Restrictions:** The Chargor shall not, without the prior written consent of the Programme Manager, except as specifically permitted under the Facility Agreement:
 - (a) create, or agree or attempt to create, or permit to subsist, any Security Interest (except under this Debenture) or any trust over any of its Assets, or permit any lien (other than a lien arising by operation of law in the ordinary course of the Chargor's business) to arise or subsist over any of its Assets; or
 - (b) sell, assign, lease, license or sub-license, or grant any interest in, any of its Assets, or part with possession or ownership of them, or purport or agree to do so.
- 6.2 **Representation:** The Chargor hereby represents to the Programme Manager that:
 - (a) no other Security Interest exists over its Assets on the date hereof and it is under no legal commitment to grant any further Security Interest over all or any of its Assets; and
 - (b) it has obtained all necessary Authorisations in relation to its entry into this Debenture.
- 7. **FURTHER ASSURANCE**
- 7.1 The Chargor shall promptly, at its own cost, do all such acts or execute all such documents (including assignments, transfers, mortgages, charges, notarisations, registrations, notices and instructions) as the Programme Manager may reasonably specify (and in such form as the Programme Manager may reasonably require) in favour of the Programme Manager or its nominee(s):
 - (a) to create, perfect and/or protect the Security Interests created or intended to be created in respect of the assets and undertaking of the Chargor which from time to time are the subject of any Security Interest created or expressed to be created by it in favour of the Programme Manager by or pursuant to this Debenture (the

“Charged Assets”) (which may include the execution by the Chargor of a mortgage, charge or assignment over all or any of the assets constituting, or intended to constitute, the Charged Assets); and/or

- (b) to facilitate the maintenance, preservation or enforcement of the rights of the Programme Manager or any Receiver against, or the realisation of, the Charged Assets.

- 7.2 The Chargor shall take all such action as is available to it (including making all filings and registrations and applying for relief against forfeiture) as may be necessary or as may reasonably be requested by the Programme Manager for the purpose of the creation, perfection, protection or maintenance of any Security Interest conferred or intended to be conferred on the Programme Manager by or pursuant to this Debenture and the Assets.

8. **CONTINUING SECURITY**

This Debenture shall be a continuing security for the Beneficiaries, notwithstanding any intermediate payment or settlement of accounts or other matter whatever and shall be in addition to and shall not prejudice or be prejudiced by any right of set-off, combination, lien, or other rights exercisable by any Beneficiaries as banker against the Chargor or any security, guarantee, indemnity and/or negotiable instrument now or in the future held by any Beneficiaries.

9. **OPENING OF NEW ACCOUNTS**

- 9.1 **Creation of new account:** On receiving notice that the Chargor has created a Security Interest over or otherwise encumbered or disposed of any of its Assets, a Beneficiary may rule off all its accounts and open new accounts with the Chargor.
- 9.2 **Credits to new account:** If a Beneficiary does not open a new account immediately on receipt of such notice, it shall nevertheless be treated as if it had done so on that day. From that day, all payments made by the Chargor to such Beneficiary shall be treated as having been credited to a new account and shall not operate to reduce the amount owing from the Chargor to such Beneficiary at the time when it received such notice.

10. **APPOINTMENT OF A RECEIVER OR AN ADMINISTRATOR**

- 10.1 **Appointment:** Paragraph 14 of Schedule B1 to the Insolvency Act 1986 shall apply to this Debenture and the floating charges contained in this Debenture. At any time after:
 - (a) the occurrence of an Event of Default has occurred and is continuing;
 - (b) in relation to the Chargor or its shareholder from time to time (being the RFU at the date of this Debenture), a step or proceeding is taken, or a proposal made, for the appointment of an administrator or for a voluntary arrangement under Part I of the Insolvency Act 1986; or
 - (c) a request has been made by the Chargor to the Programme Manager for the appointment of a Receiver or an administrator over its Assets or in respect of the Chargor,

then this Debenture shall become enforceable and, notwithstanding the terms of any other agreement between the Chargor and any Beneficiary, the Programme Manager may, unless precluded by law, appoint in writing any person or persons to be a receiver or a receiver and manager, receivers or receivers and managers of all or any part of the Assets of the Chargor or an administrator or administrators of the Chargor, as the Programme Manager may choose in its entire discretion. Notwithstanding anything to the contrary in this Debenture, neither the obtaining of a moratorium by the Chargor under Part A1 of the

Insolvency Act 1986 nor the doing of anything for or by the Chargor with a view to obtaining such a moratorium (including any preliminary decision or investigation) shall be, or be construed as, a ground under this Debenture for the appointment of a Receiver save where such an appointment would be permitted under that Part A1.

- 10.2 **Power to act separately:** Where more than one Receiver or administrator is appointed, the appointees shall have power to act separately unless the Programme Manager shall specify to the contrary.
- 10.3 **Receiver's remuneration:** The Programme Manager may from time to time determine the remuneration of a Receiver.
- 10.4 **Removal of Receiver:** The Programme Manager may (subject to section 45 of the Insolvency Act 1986) remove a Receiver from all or any of the Assets of which he is the Receiver.
- 10.5 **Further appointments of a Receiver:** Such an appointment of a Receiver shall not preclude:
 - (a) the Programme Manager from making any subsequent appointment of a Receiver over all or any Assets over which a Receiver has not previously been appointed or has ceased to act; or
 - (b) the appointment of an additional Receiver to act while the first Receiver continues to act.
- 10.6 **Receiver's agency:** The Receiver shall be the agent of the Chargor (which shall be solely liable for his acts, defaults and remuneration) unless and until the Chargor goes into liquidation, after which time he shall act as principal and shall not become the agent of the Programme Manager or any other Beneficiary.
- 10.7 **Power of Sale:** Section 103 of the Law of Property Act 1925 shall not apply to this Debenture and the statutory power of sale shall arise on, and be exercisable at any time after the execution of this Debenture. However, The Programme Manager shall not exercise such power of sale until this Debenture has become enforceable.
11. **POWERS OF A RECEIVER**
 - 11.1 **General:** The Receiver may exercise, in relation to the Assets over which he is appointed, all the powers, rights and discretions set out in Schedules 1 and 2 to the Insolvency Act 1986 and in particular, by way of addition to and without limiting such powers, the Receiver may, with or without the concurrence of others:
 - (a) sell, lease, let, license, grant options over and vary the terms of, terminate or accept surrenders of leases, licences or tenancies of, all or any of the Assets of the Chargor, without the need to observe any of the provisions of sections 99 and 100 of the Law of Property Act 1925, in such manner and generally on such terms and conditions as he shall think fit in his absolute and unfettered discretion and any such sale or disposition may be for cash, securities or other valuable consideration (in each case payable in a lump sum or by instalments) and carry any such transactions into effect in the name of and on behalf of the Chargor;
 - (b) promote the formation of a subsidiary of the Chargor with a view to such subsidiary purchasing, leasing, licensing or otherwise acquiring interests in all or any of the Assets of the Chargor;
 - (c) sever any fixtures from land and/or sell them separately;

- (d) exercise all voting and other rights attaching to securities owned by the Chargor;
- (e) arrange for the purchase, lease, licence or acquisition of all or any Assets of the Chargor by any such subsidiary contemplated by paragraph (b) above on a basis whereby the consideration may be for cash, securities, shares of profits or sums calculated by reference to profits or turnover or royalties or licence fees or otherwise, whether or not secured on the assets of such subsidiary and whether or not such consideration is payable or receivable in a lump sum or by instalments over such period as the Receiver may think fit;
- (f) make any arrangement or compromise with any Beneficiary or others as he shall think fit;
- (g) make and effect all repairs, renewals and improvements to the Assets of the Chargor and effect, renew or increase insurances on such terms and against such risks as he shall think fit;
- (h) appoint managers, officers and agents for the above purposes at such remuneration as the Receiver may determine;
- (i) receive all Receivables, book debts and other debts and claims, on payment given an effectual discharge for them and on non-payment take and institute all steps and proceedings for their recovery;
- (j) redeem any prior encumbrance and settle and pass the accounts of the encumbrancer and any accounts so settled and passed shall (subject to any manifest error) be conclusive and binding on the Chargor and the money so paid shall be deemed an expense properly incurred by the Receiver;
- (k) pay the proper administrative charges of any Beneficiaries in respect of time spent by their agents and employees in dealing with matters raised by the Receiver or relating to the receivership of the Chargor;
- (l) commence and/or complete any building operations upon any land of the Chargor and apply for and obtain any planning permissions, building regulation consents or licences, in each case as he may in his absolute discretion think fit;
- (m) take all steps necessary to effect all registrations, renewals, applications and notifications as the Receiver may in his discretion think prudent to maintain in force or protect any of the Chargor's intellectual property rights;
- (n) give any notice provided for under an Eligible Entity Loan Agreement (including without limitation any notice referred to in clause 12.2 thereof); and
- (o) do all such other acts and things as may be considered by the Receiver to be incidental or conducive to any of the above matters or powers or otherwise incidental or conducive to the preservation, improvement or realisation of the relevant Assets.

12. **POWER OF ATTORNEY**

- 12.1 **Appointment of attorney:** The Chargor, by way of security, hereby irrevocably appoints the Programme Manager (whether or not a Receiver or administrator has been appointed) and separately, any nominee and/or any Receiver to be its attorney (with full power to appoint substitutes and to delegate) with power in its name and on its behalf, and as its act and deed or otherwise to:

- (a) do anything which the Chargor is obliged to do (but it has not done within 5 Business Days of being notified by the Programme Manager of such failure and being requested to comply) in accordance with the terms of the Debenture (such obligations to include without limitation the obligations set out in Clause 5.1(a)(i) (*Collection Account*);
 - (b) execute and deliver and otherwise perfect any agreement, assurance, deed, instrument, notice, direction to pay or document in connection with this Debenture;
 - (c) give any notice provided for under an Eligible Entity Loan Agreement (including without limitation any notice referred to in clause 12.2 thereof); and
 - (d) enable the Programme Manager or any such nominee and/or Receiver to exercise (or to delegate) all or any of the rights conferred on it by (i) the Debenture (ii) by any Eligible Entity Loan Agreement or (iii) by statute in relation to the Debenture or the Assets charged, or purported to be charged, by it.
- 12.2 **Ratification:** The Chargor ratifies and confirms whatever any attorney does or purports to do pursuant to its appointment under this clause.
- 12.3 **Sums recoverable:** All sums expended by the Programme Manager, nominee and/or any Receiver under this clause 12 shall be recoverable from the Chargor under clause 18 (*Costs, expenses and liabilities*).
- 13. **OTHER POWERS EXERCISABLE BY THE PROGRAMME MANAGER**
- 13.1 **Receiver's powers:** All powers of the Receiver conferred by this Debenture may be exercised by the Programme Manager after this Debenture has become enforceable. In that event, clause 11.1(i) (*Powers of Receiver*) shall be read and construed as if the words "be charged on the Assets of the Chargor" were substituted for the words "be deemed an expense properly incurred by the Receiver".
- 13.2 **Programme Manager's powers:** The Programme Manager shall have no liability or responsibility to the Chargor arising out of the exercise or non-exercise of the powers conferred on it by this clause 13, except for gross negligence or wilful default.
- 13.3 **No duty of enquiry:** The Programme Manager need not enquire as to the sufficiency of any sums received by it in respect of any book debt or other debt or claim so assigned to it or make any claim or take any other action to collect in or enforce them.
- 14. **APPLICATION OF MONEY RECEIVED BY THE PROGRAMME MANAGER OR A RECEIVER**
- 14.1 **Order of priority:** Any money received or realised under the powers conferred by this Debenture shall be paid or applied in the following order of priority, subject to the discharge of any prior-ranking claims:
 - (a) in or towards satisfaction of the Secured Sums and (where an Intercreditor Agreement applies) in the manner applicable under the terms of the Intercreditor Agreement; and
 - (b) as to the surplus (if any), to the person or persons entitled to it.
- 14.2 **Suspense account:** The Programme Manager may, at any time after demand and until the irrevocable and unconditional payment to the Programme Manager of all Secured Sums, place and keep to the credit of a suspense account any money received or realised by the Programme Manager by virtue of this Debenture. The Programme Manager shall have no intermediate obligation to apply such money in or towards the discharge of any Secured Sum.

- 14.3 **Retention of security:** If the Programme Manager considers in good faith that any amount received in payment or purported payment of the Secured Sums is capable of being avoided or reduced by virtue of any insolvency, bankruptcy, liquidation or other similar laws, the liability of the Chargor under this Debenture and the Security Interests constituted by this Debenture shall continue and such amount shall not be considered to have been irrevocably paid.
15. **PROTECTION OF THIRD PARTIES**
- 15.1 **No duty to enquire:** No purchaser from, or other person dealing with, the Programme Manager its nominee or any Receiver or administrator shall be concerned to enquire whether any of the powers which the Programme Manager has exercised or purported to exercise has arisen or become exercisable, or whether this Debenture has become enforceable, or whether any nominee, Receiver or administrator has been validly appointed, or whether any event or cause has happened to authorise the Programme Manager, any nominee or a Receiver or administrator to act or as to the propriety or validity of the exercise or purported exercise of any such power, and the title of such a purchaser and the position of such a person shall not be impeachable by reference to any of those matters.
- 15.2 **Receipt:** The receipt of the Programme Manager shall be an absolute and a conclusive discharge to a purchaser and shall relieve him of any obligation to see to the application of any money paid to or by the direction of the Programme Manager.
16. **PROTECTION OF THE PROGRAMME MANAGER, ANY NOMINEE AND RECEIVER**
- 16.1 **Limitation:** Neither the Programme Manager nor any nominee or Receiver shall be liable in respect of any Liability which arises out of the exercise or the attempted or purported exercise of, or the failure to exercise, any of their respective powers under or by virtue of this Debenture, except if and insofar as such Liability results from its or his own gross negligence or wilful default.
- 16.2 **Entry into possession:** Without prejudice to the generality of clause 16.1 (*Limitation*), none of the Programme Manager, any nominee or any Receiver shall be liable to account as mortgagee in possession or otherwise for any sum not actually received by it or him respectively. If and whenever the Programme Manager or any nominee enters into possession of any Assets, it shall be entitled at any time at its discretion to go out of possession.
17. **PROGRAMME MANAGER**
- 17.1 **Programme Manager as trustee:** The Programme Manager declares itself to be a trustee of this Debenture (and any other Security Interest created in its favour pursuant to this Debenture) for the Beneficiaries. The retirement of the person for the time being acting as security trustee and the appointment of a successor shall be effected in each case in accordance with the Facility Agreement.
- 17.2 **Trustee Act 2000:** The Parties agree that the Programme Manager shall not be subject to the duty of care imposed on trustees by the Trustee Act 2000.
- 17.3 **No partnership:** Nothing in this Debenture shall constitute or be deemed to constitute a partnership between any of the Beneficiaries and the Programme Manager.
18. **COSTS, EXPENSES AND LIABILITIES**
- 18.1 **Costs and expenses:** The Chargor will, promptly on the Programme Manager's written demand from time to time, reimburse the Programme Manager for all reasonable costs and

expenses (including legal fees) on a full indemnity basis, together with VAT thereon, incurred by it in connection with the completion of the transactions and perfection of the Security Interests contemplated in this Debenture.

18.2 **Enforcement costs:** The Chargor will, within three Business Days of the Programme Manager's written demand, pay to the Programme Manager, for each Beneficiary on a full indemnity basis, the amount of all costs and expenses (including legal, valuation, accountancy and consultancy fees and disbursements and out-of-pocket expenses) and any VAT thereon incurred by the Programme Manager and/or any other Beneficiary in connection with the exercise, enforcement and/or preservation of any of its rights under this Debenture (or any document contemplated therein) or any proceedings instituted by or against the Programme Manager, in any jurisdiction.

18.3 **Indemnity for Liabilities:** The Chargor shall also, within three Business Days of the Programme Manager's written demand, reimburse or pay to the Programme Manager, its employees or agents and any nominee, on demand (on the basis of a full indemnity) the amount of all Liabilities incurred by the Programme Manager, its employees or agents or any nominee, in connection with:

- (a) any default or delay by the Chargor in the performance of any of its obligations under this Debenture;
- (b) the exercise, or the attempted or purported exercise, by or on behalf of the Programme Manager of any of its powers or any other action taken by or on behalf of the Programme Manager with a view to or in connection with the recovery of the Secured Sums, the enforcement of the Security Interests created by this Debenture or for any other purpose contemplated in this Debenture;
- (c) the carrying out or consideration of any other act or matter which the Programme Manager may consider to be conducive to the preservation, improvement or benefit of any Asset; and
- (d) any stamp duty, stamp duty reserve tax or similar tax which may be payable as a result of the execution or performance of this Debenture.

19. **INTEREST ON OVERDUE AMOUNTS**

Any amount not paid in accordance with this Debenture when due shall carry interest at the rate and in accordance with the terms contained in the Facility Agreement or at such other rate as may be agreed between the Chargor and the Programme Manager from time to time.

20. **SET-OFF**

A Finance Party may retain any money standing to the credit of the Chargor with such Finance Party in any currency upon any account or otherwise (whether or not in the Chargor's name) as cover for any Secured Sums and/or at any time or times without notice to the Chargor combine or consolidate all or any of such money with all or such part of the Secured Sums due or owing by it as such Finance Party may select and such Finance Party may purchase with any such money any other currency required to effect such combination or consolidation.

21. **INFORMATION**

The Programme Manager may from time to time seek from any other finance provider to the Chargor such information about the Chargor and its affairs as the Programme Manager may think fit. The Chargor directs any such third party to provide such information to the

Programme Manager and agrees to provide such further authority for this purpose as the Programme Manager may from time to time require.

22. **TRANSFER BY A BENEFICIARY**

22.1 **Transfer:** Any Beneficiary may at any time:

- (a) assign any of its rights under the Finance Documents; or
- (b) transfer by novation any of its rights and obligations under the Finance Documents

to any person to the extent permitted by the Facility Agreement. Upon an assignment or transfer by the Programme Manager to a successor Programme Manager becoming effective, the replacement Programme Manager shall be, and be deemed to be, acting as agent and trustee for each of the Beneficiaries (including itself) for the purposes of this Debenture in replacement of the previous Programme Manager.

22.2 **Disclosure:** The Chargor irrevocably authorises each Beneficiary, at its discretion, at any time or from time to time, to disclose any information concerning the Chargor, this Debenture and the Secured Sums:

- (a) to any person and in any of the circumstances referred to in Clause 14 (*Confidentiality and Freedom of Information*) of the Facility Agreement;
- (b) to any prospective assignee or transferee referred to in clause 22.1 (*Transfer*) and any other person considered by such Beneficiary to be concerned in the prospective transaction; and
- (c) to any person who, as part of the arrangements made in connection with any transaction referred to in clause 22.1 (*Transfer*), requires such information after the transaction has been effected.

The above authority is without prejudice to a Beneficiary's right of disclosure implied by law or otherwise permitted under any other Finance Document.

23. **EVIDENCE OF SECURED SUMS**

A certificate signed (or, where reliance is being placed on it by any third party, appearing to be signed) by an officer of the Programme Manager as to the Secured Sums for the time being due or owing from the Chargor to a Beneficiary shall be treated, in favour of such Beneficiary or any person to whom such certificate is issued, as conclusive evidence for all purposes against the Chargor and binding on it (save in the case of manifest error) and such certificate may be relied upon by any Beneficiary and any other such person in all circumstances without further enquiry.

24. **THIRD PARTY RIGHTS**

24.1 **Directly enforceable rights:** Pursuant to the Contracts (Rights of Third Parties) Act 1999:

- (a) the provisions of clause 20 (*Set-off*) and clause 22 (*Transfer by a Beneficiary*) shall be directly enforceable by a Beneficiary;
- (b) the provisions of clause 10 (*Appointment of a Receiver or an administrator*) to clause 16 (*Protection of the Programme Manager and Receiver*) inclusive shall be directly enforceable by any nominee or Receiver;
- (c) the provisions of clause 15 (*Protection of third parties*) shall be directly enforceable by any purchaser; and

- (d) clause 23 (*Evidence of Secured Sums*) shall be directly enforceable by any person to whom a certificate is issued under clause 23.

24.2 **Exclusion of Contracts (Rights of Third Parties) Act 1999:** Save as otherwise expressly provided in clause 24.1 (*Directly enforceable rights*), no person other than a Party shall have any right by virtue of the Contracts (Rights of Third Parties) Act 1999 to enforce any term (express or implied) of this Debenture, but without prejudice to any right or remedy of the third party which may exist or be available apart from that Act.

24.3 **Rights of the Parties to vary:** The Parties may by agreement vary any term of this Debenture (including this clause 24) without the necessity of obtaining any consent from any other person.

25. **JOINT AND SEPARATE LIABILITY**

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

26. **FORBEARANCE, SEVERABILITY, VARIATIONS AND CONSENTS**

26.1 **Delay etc:** All rights, powers and privileges under this Debenture shall continue in full force and effect, regardless of any Beneficiary, nominee or Receiver exercising, delaying in exercising or omitting to exercise any of them.

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

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

26.4 **Variations:** No variation of this Debenture shall be valid and constitute part of this Debenture, unless such variation shall have been made in writing and signed by all Parties.

26.5 **Consents:** Save as otherwise expressly specified in this Debenture, any consent of the Programme Manager may be given absolutely or on any terms and subject to any conditions as the Programme Manager may determine in its entire discretion.

27. **COUNTERPARTS**

This Debenture may be executed in any number of counterparts, each of which when executed and delivered shall be an original, but all of which when taken together shall constitute a single document.

28. **SERVICE OF DEMANDS AND NOTICES**

28.1 **Addresses:** Any communication to be made under or in connection with this Debenture may be made or given by any manager, officer or agent of the Programme Manager in writing addressed to the Chargor and served on it at the address for service of the Chargor stated on the execution page of this Debenture (or any substitute address as the Chargor may notify to the Programme Manager by not less than five Business Days' notice).

28.2 **Delivery:** A notice or demand shall be deemed to be duly served on the Chargor:

- (a) if delivered by hand, on the Business Day on which it is delivered; or

- (b) if sent by pre-paid post, five Business Days following the day of posting and shall be effective even if it is misdelivered or returned undelivered.

- 28.3 **Programme Manager:** Any communication or document to be made or delivered to the Programme Manager will be effective only when actually received by the Programme Manager and then only if it is expressly marked for the attention of any department or officer identified as part of its address details at the end of this Debenture (or any substitute department or officer that the Programme Manager shall specify for this purpose).
- 28.4 **Electronic mail:** Any communication or document to be made or delivered by one Party to another under or in connection with this Debenture may be made or delivered by electronic mail or other electronic means (including, without limitation, by way of posting to a secure website) if those two Parties notify each other of any change to their email address by not less than five Business Days' notice. Any such electronic communication or delivery as specified in this clause 28.4 to be made between the Chargor and the Programme Manager may only be made in that way to the extent that those two Parties agree that, unless and until notified to the contrary, this is to be an accepted form of communication or delivery. Any such electronic communication or document as specified in this clause 28.4 made or delivered by one Party to another will be effective only when actually received (or made available) in readable form and in the case of any electronic communication or document made or delivered by the Chargor to the Programme Manager only if it is addressed in such a manner as the Programme Manager shall specify for this purpose.
- 28.5 **Notification of change:** Promptly upon receipt of notification of an address or email address or change of address or email address pursuant to clause 28 or changing its own address or email address, the Programme Manager shall notify the other parties.
- 28.6 **Effectiveness:** Any communication or document which becomes effective, in accordance with this clause 28, after 5.00 p.m. on a Business Day or on a day which is not a Business Day, shall be deemed only to become effective at 9.00 am on the next Business Day.
29. **GOVERNING LAW**

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

THIS DEBENTURE has been executed by the Chargor as a deed and signed by the Programme Manager and it shall take effect on the date stated at the beginning of this document.

SCHEDULE : FORM OF NOTICE OF CHARGE OF ACCOUNT

To: [add the name of the bank at which the Collection Account is to be held]

Date: [•] 2021

Dear Sirs,

Notice of Charge

We refer to a debenture (the "**Debenture**") dated [•] 2021 made between the English Sports Council (the "**Programme Manager**") and ourselves. Terms defined in the Debenture are to have the same meanings in this letter.

We hereby give you notice that under the Debenture we have charged by way of fixed charge to the Programme Manager as trustee for the Beneficiaries all of our right, title and interest in and to the account listed below maintained with your [bank/building society/financial institution] (including any renewal, redesignation, replacement, subdivision or subaccount of such account) (the "**Collection Account**") and all monies (including interest) from time to time standing to the credit of the Collection Account and the debt or debts represented thereby:

Account Name: [•]

Sort Code: [•]

Account No: [•]

We irrevocably and unconditionally instruct and authorise you (notwithstanding any previous directions which we may have given you to the contrary) and with effect from the date of this Notice:

- to promptly disclose to the Programme Manager, without any reference to or further authority from us and without any inquiry by you as to the justification for such disclosure (a) all statements and other notices given to us relating to the Collection Account and (b) such information relating to the Collection Account as the Programme Manager may request you to disclose to it from time to time; and
- to act only in accordance with the Programme Manager's instructions following receipt by you of a notice from the Programme Manager that the security constituted by the Debenture is enforceable. Until such notice is received by you, we are authorised by the Programme Manager to withdraw or otherwise transfer any credit balance from time to time on the Collection Account in accordance with the terms of the Debenture.

The instructions and authorisations contained in this letter shall remain in full force and effect until we and the Programme Manager together give you notice in writing revoking them. We confirm that, without the Programme Manager's prior written consent, none of the rights attaching to the Collection Account may be amended or varied.

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

- 17 -

Please confirm your acknowledgement of this Notice by signing the acknowledgements set out at the foot of the enclosed duplicate hereof and by returning the same to Sport England, 21 Bloomsbury Street, London WC1B 3HF, marked for the attention of [REDACTED], Strategic Lead Special Projects (email address: [REDACTED]).

Signed

.....

for and on behalf of

England Rugby Limited

[on copy]

ACKNOWLEDGEMENT

To: The English Sports Council

For the attention of: [REDACTED], Strategic Lead Special Projects

We, [•] hereby acknowledge receipt of a notice dated [•] of security created by England Rugby Limited (the "**Chargor**") in favour of the English Sports Council (the "**Programme Manager**") over all the Chargor's rights, title and interest in and to the Collection Account (as specified in that notice) and all monies (including interest) from time to time standing to the credit of the Collection Account and the debt or debts represented thereby and confirm that we will comply with the terms of such notice.

We confirm that the balance standing to the Collection Account at today's date is [•], no fees or periodic charges are payable in respect of the Collection Account and there are no restrictions on (a) the payment of the credit balance on the Collection Account or (b) the creation of Security Interest over the Collection Account in favour of the Programme Manager or any third party.

We unconditionally and irrevocably waive all rights of set-off, lien, combination or consolidation of accounts and security in respect of the Collection Account and similar rights (however described) which we may have now or in the future in respect of the Collection Account or the balance thereon to the extent that such rights relate to amounts owed to us by the Chargor.

We confirm that we have not received notice of the interest of any third party in the Collection Account and will not, without the Programme Manager's prior written consent, amend or vary any rights attaching to the Collection Account.

We will act only in accordance with the instructions given by persons authorised by the Programme Manager and we shall send all statements and other notices given by us relating to the Collection Account to the Chargor and the Programme Manager.

This letter and all non-contractual obligations arising out of or in connection with it are to be governed by and will be construed in accordance with English law.

For and on behalf of

.....

[•]

Dated:

Execution Page

THE CHARGOR

Executed and Delivered as a deed)
by **England Rugby Limited**)
(pursuant to a resolution of its)
Board of Directors) acting by:)

Director
Name: **Sue Day**

DocuSigned by:
Sue Day
61383FE3DF0A459...

Director
Name: **Steve Grainger**

DocuSigned by:
Steve Grainger
90D86D02C222449...

THE PROGRAMME MANAGER

Signed by Tim Hollingsworth, Chief)
Executive Officer for and on behalf of)
The English Sports Council)
)

DocuSigned by:
Tim Hollingsworth
85E47046A4F94C3...

Address: 21 Bloomsbury Street,
London WC1B 3HF
Contact: Chief Executive
Email: legal@sportengland.org