



**Registration of a Charge**

Company Name: **ROCCO FORTE & FAMILY (LUXURY HOTELS) LIMITED**

Company Number: **04413112**



Received for filing in Electronic Format on the: **18/04/2024**

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**Details of Charge**

Date of creation: **16/04/2024**

Charge code: **0441 3112 0013**

Persons entitled: **BANK OF SCOTLAND PLC AS SECURITY TRUSTEE**

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: **AIMEE SANTI**



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

Company number: 4413112

Charge code: 0441 3112 0013

The Registrar of Companies for England and Wales hereby certifies that a charge dated 16th April 2024 and created by ROCCO FORTE & FAMILY (LUXURY HOTELS) LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 18th April 2024 .

Given at Companies House, Cardiff on 22nd April 2024

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** 16 April 2024

**THE COMPANIES NAMED IN SCHEUDLE 1**

**(as Chargors)**

**- and -**

**BANK OF SCOTLAND PLC**

**(as Security Trustee)**

**DEBENTURE**

**This Deed is entered into with the benefits of and subject to the terms of the Intercreditor Agreement (as defined herein)**

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This Debenture is made on 16 April 2024

**BETWEEN:**

- (1) The companies named in Schedule 1 (The Chargors); and
- (2) Bank of Scotland plc as Security Trustee.

**Witnesses as follows:**

**1. DEFINITIONS AND INTERPRETATION**

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

**"Account Bank"** means Bank of Scotland plc.

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

**"Assets"** means in relation to a Chargor, all its undertaking, property, assets, revenues and rights of every description, or any part of them (other than the Excluded Intellectual Property).

**"Beneficiary"** means each Finance Party and any administrator, receiver or delegate appointed pursuant to this Debenture.

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

**"Collection Accounts"** means in relation to a Chargor, its account with the Account Bank into which it is required to pay its Receivables pursuant to Clause 6.1 (Collection Account).

**"Company"** means Rocco Forte Hotels Limited a limited liability company incorporated under the laws of England and Wales with registered number 03277921.

**"Declared Default"** means that an Event of Default has occurred and as a result the Agent has taken steps to exercise any of its rights under Clause 28.19 (Acceleration) of the Facilities Agreement.

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

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

**"Derivative Rights"** includes:

- (a) allotments, rights, money or property arising at any time in relation to any Investments (other than the Excluded Investments) by way of conversion, exchange, redemption, bonus, preference, option or otherwise;

- (b) dividends, distributions, interest and other income paid or payable in relation to any Investments (other than the Excluded Investments); and
- (c) stock, shares and securities offered in addition to or in substitution for any Investments (other than the Excluded Investments).

**"Event of Default"** means an Event of Default under and as defined in the Facilities Agreement.

**"Excluded Intellectual Property"** means the Intellectual Property and associated rights the subject of the deed of assignment dated 9 March 2015 and made between Sir Rocco Forte Limited (as assignor) and the Company (as assignee).

**"Excluded Investments"** means all Investments in a Ringfenced Company held by a Chargor.

**"Excluded Leasehold"** means the lease dated 27 April 2007 and made between Rocco Forte Hotels Limited (previously Rocco Forte & Family Limited) and The Crown Estate Commissioners in relation to the property known as 70 Jermyn Street, London SW1Y 6NY Street or any other lease entered into by either Rocco Forte Hotels Limited or Rocco Forte & Family (Hotel Management) Limited from time to time in relation to its corporate office in London.

**"Facilities Agreement"** means the facilities agreement made between, amongst others, Rocco Forte Hotels Limited (formerly Rocco Forte & Family Limited) and Bank of Scotland plc as Arranger, Original Lender, Agent, Security Trustee and in various other capacities originally dated 6 March 2015 and as further amended and/or restated from time to time (each term as defined therein).

**"Finance Document"** means any Finance Document under and as defined in the Facilities Agreement, and "Finance Documents" shall be construed accordingly.

**"Finance Party"** means any Finance Party under and as defined in the Facilities Agreement, and "Finance Parties" shall be construed accordingly.

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

**"Financial Collateral Regulations"** means the Financial Collateral Arrangements (No. 2) Regulations 2003 (SI 2003 No. 3226), as amended.

**"Fixed Security Asset"** means an Asset for the time being comprised within an assignment created by Clause 3.1 (Assignments) or within a mortgage or fixed charge created by Clause 3.2 (Fixed security) or arising on crystallisation of a floating charge whether under Clause 4 (Crystallisation) or otherwise and for the avoidance of doubt excludes the Excluded Intellectual Property, the Excluded Leasehold and the Excluded Investments.

**"Floating Charge Asset"** means an Asset for the time being comprised within the floating charge created by Clause 3.3 (Creation of Floating Charge) but, in relation to Assets situated

in Scotland and charged by clause 3.3.2 only in so far as concerns the floating charge over that Asset (and, for the avoidance of doubt, excluding the Excluded Intellectual Property).

**"Group"** means the Company and its Subsidiaries for the time being.

**"Hedging Agreements"** has the meaning given to that term in the Facilities Agreement.

**"Hedge Counterparty"** has the meaning given to that term in the Facilities Agreement.

**"Insurance Policy"** means any contract or policy of insurance of any Chargor (including all cover notes) of whatever nature which are from time to time taken out by or on behalf of any Chargor or (to the extent of its interest) in which any Chargor has an interest at any time, including any key-man policies in place.

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

**"Intellectual Property Rights"** in relation to a Chargor, means all and any of its Intellectual Property and all other intellectual property rights, causes of action, interests and assets charged by it pursuant to Clause 3.2.3 (k) to (q) inclusive other than the Excluded Intellectual Property.

**"Intercreditor Agreement"** means the intercreditor agreement originally dated 9 March 2015 between inter alia the Company, the Agent, the Security Trustee, the Hedge Counterparties, the Lenders as further amended and/or restated from time to time.

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

**"Land"** means freehold and leasehold, and any other estate in, land (other than the Excluded Leasehold) and (outside England and Wales) immovable property and in each case all buildings and structures upon and all things affixed to Land (including trade and tenant's fixtures).

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

**"Management Contracts"** means the Management Contracts under and as defined in the Facilities Agreement.



**"New Chargor"** means a member of the Group which becomes a Chargor under this Debenture in accordance with Clause 28 (Accession of a New Chargor).

**"Obligor"** means an Obligor under and as defined in the Facilities Agreement and "Obligors" shall be construed accordingly.

**"Party"** means a party to this Debenture.

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

**"Receiver"** means a receiver and manager appointed under Clause 16 (Appointment of a Receiver or an Administrator) including (where the context requires or permits) any substituted receiver and manager.

**"Relevant System"** has the meaning given to that term by the Uncertificated Securities Regulations 2001 as amended by the Uncertificated Securities (Amendment and EU Exit) Regulations 2019, for any replacement thereof and includes the CREST system and also any other system or facility (whether established in the United Kingdom or elsewhere) providing means for the deposit of, and clearance of transactions in, Investments (other than the Excluded Investments).

**"Ringfenced Companies"** has the meaning given to that term in the Facilities Agreement and "Ringfenced Company" means one of them.

**"Secured Sums"** means all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or in any other capacity whatsoever) of any Obligor 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"** means a mortgage, charge (whether fixed or floating, legal or equitable), pledge, lien, assignment by way of security or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.

**"Security Trustee"** means Bank of Scotland plc acting as security agent and trustee for the Beneficiaries including any successor appointed by the Beneficiaries pursuant to the Finance Documents.

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

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

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

- 1.2.1. References to any Party shall be construed so as to include that Party's respective successors in title, permitted assigns and permitted transferees.
- 1.2.2. "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".
- 1.2.3. A "person" includes any person, firm, company, corporation, government, state or agency of a state or any association, joint venture, trust or partnership (whether or not having separate legal personality) of two or more of the foregoing.
- 1.2.4. "Property" includes any interest (legal or equitable) in real or personal property and any thing in action.
- 1.2.5. "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.
- 1.2.6. "Writing" includes facsimile transmission legibly received except in relation to any certificate, notice or other document which is expressly required by this Debenture to be signed and "written" has a corresponding meaning.
- 1.2.7. Subject to Clause 32.4 (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 and, in addition, references to this Debenture shall include (with effect from the date on which it comes into force) each Deed of Accession and Charge executed pursuant to it.

- 1.2.8. References to uncertificated Investments are to Investments the title to which can be transferred by means of an electronic or other entry in a Relevant System and references to certificated Investments are to Investments which are not uncertificated Investments.
- 1.2.9. The singular shall include the plural and vice versa and any gender shall include the other genders.
- 1.2.10. Clauses, paragraphs and Schedules shall be construed as references to Clauses and paragraphs of, and Schedules to, this Debenture.
- 1.2.11. 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.
- 1.2.12. Headings in this Debenture are inserted for convenience and shall not affect its interpretation.
- 1.2.13. A Default (other than an Event of Default) is "continuing" for the purposes of the Finance Documents if it has not been remedied or waived and an Event of Default for those purposes is "continuing" if it has not been remedied or waived.
- 1.2.14. "Blank stock transfer form" means an undated stock transfer form executed by two directors or a director and the secretary of a Chargor or by one director in the presence of a witness but with the section relating to the consideration and the transferee left blank.
- 1.3. Conflict of terms: If any conflict arises between the covenants and undertakings in Clause 11 (Land) and Clause 12 (Intellectual Property Rights) and the covenants and undertakings in Clause 27 (General Undertakings) of the Facilities Agreement, the covenants and undertakings given in the Facilities Agreement shall prevail.
- 1.4. Law of Property (Miscellaneous Provisions) Act 1994: The limitations on liability set out in Section 6 of the Law of Property (Miscellaneous Provisions) Act 1994 shall not apply to, or in respect of, the covenants implied by virtue of Sections 2(1)(a), 3 and 4 of that Act on the part of any Chargor by its execution and delivery of this Debenture.
- 1.5. Law of Property (Miscellaneous Provisions) Act 1989: The terms of the Finance Documents and of any side letters between one or more of the Chargor or other Obligors and/or the Beneficiaries (or any of them) relating thereto are incorporated in this Debenture to the extent required for any purported disposition of the Fixed Security Assets or Floating Charge Assets contained in this Debenture to be 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: Each Chargor (as primary obligor and not merely as surety or guarantor) covenants with the Security Trustee that it will, on the Security Trustee's written demand, pay

or discharge the Secured Sums at the times and in the manner provided in the relevant Finance Documents.

2.2. Proviso: The covenants contained in this Clause 2 and the security created by this Debenture shall not extend to or include any liability or sum which would otherwise cause any such covenant or security to be unlawful or prohibited by any applicable law.

2.3. Demands:

2.3.1. The making of one demand shall not preclude the Security Trustee from making any further demands.

2.3.2. Any third party dealing with the Security Trustee or any Receiver shall not be concerned to see or enquire as to the validity of any demand under this Debenture.

### **3. CREATION OF SECURITY**

3.1. Assignments: Each Chargor, with full title guarantee, as security for the payment or discharge of all Secured Sums, assigns (insofar as the same are capable of assignment) absolutely to the Security Trustee:

3.1.1. all of its rights, title and interest from time to time in respect of any sums payable to it pursuant to the Insurance Policies;

3.1.2. all of its rights, title and interest from time to time in respect of the Hedging Agreements; and

3.1.3. all of its rights, title and interest from time to time in respect of all Management Contracts.

3.2. Fixed Security: Each Chargor, with full title guarantee, as security for the payment or discharge of all Secured Sums, charges to the Security Trustee:

3.2.1. by way of legal mortgage, all Land in England and Wales now vested in it and registered at the Land Registry, in each case as described in Schedule 2 (Registered Land to be Mortgaged);

3.2.2. by way of legal mortgage, all other Land in England and Wales now vested in it and not registered at the Land Registry;

3.2.3. by way of fixed charge:

(a) all other Land which is now, or in the future becomes, its property;

(b) all interests and rights in or relating to Land or the proceeds of sale of Land now or in the future belonging to it;

- (c) all plant and machinery now or in the future attached to any Land which, or an interest in which, is charged by it under the preceding provisions of this Clause 3.2;
- (d) all rental and other income and all debts and claims now or in the future due or owing to it under or in connection with any lease, agreement or licence relating to Land;
- (e) all Specified Investments which are now its property, including all proceeds of sale derived from them;
- (f) all Specified Investments in which that Chargor may in the future acquire any interest (legal or equitable), including all proceeds of sale derived from them;
- (g) all Derivative Rights of a capital nature now or in the future accruing or offered in respect of its Specified Investments;
- (h) all Derivative Rights of an income nature now or in the future accruing or offered at any time in respect of its Specified Investments;
- (i) all insurance or assurance contracts or policies now or in the future held by or otherwise benefiting it which relate to Fixed Security Assets or which are now or in the future deposited by it with the Security Trustee, together with all its rights and interests in such contracts and policies (including the benefit of all claims arising and all money payable under them) apart from any claims which are otherwise subject to a fixed charge or assignment (at law or in equity) in this Debenture;
- (j) all its goodwill and uncalled capital for the time being;
- (k) to the extent not effectively assigned under Clause 3.1 (Assignments), all other Intellectual Property (other than the Excluded Intellectual Property) presently belonging to it, including any Intellectual Property (other than the Excluded Intellectual Property) to which it is not absolutely entitled or to which it is entitled together with others;
- (l) all Intellectual Property (other than the Excluded Intellectual Property) that may be acquired by or belong to it in the future, including any such Intellectual Property (other than the Excluded Intellectual Property) to which it is not absolutely entitled or to which it is entitled together with others;
- (m) to the extent not effectively assigned under Clause 3.1 (Assignments), the benefit of all agreements and licences now or in the future entered into or enjoyed by it relating to the use or exploitation of any Intellectual Property (other than the Excluded Intellectual Property) in any part of the world;

- (n) all its rights now or in the future in relation to trade secrets, confidential information and knowhow in any part of the world;
- (o) all its rights and causes of action in respect of infringement(s) (past, present or future) of the rights referred to in Clause 3.2.3 (k) to (m) inclusive of this Clause;
- (p) all trade debts now or in the future owing to it;
- (q) all other debts now or in the future owing to it, excluding those arising on fluctuating accounts with other members of the Group;
- (r) the benefit of all instruments, guarantees, charges, pledges and other security and all other rights and remedies available to it in respect of any Fixed Security Asset except to the extent that such items are for the time being effectively assigned under Clause 3.1 (Assignments);
- (s) all its interests and rights (if any) in or to any money at any time standing to the credit of any Collection Account;
- (t) any beneficial interest, claim or entitlement it has to any pension fund now or in the future;
- (u) all rights, money or property accruing or payable to it now or in the future under or by virtue of a Fixed Security Asset except to the extent that such rights, money or property are for the time being effectively assigned or charged by fixed charge under the foregoing provisions of this Debenture;
- (v) all moneys at any time standing to the credit of any Holding Account and/or Mandatory Prepayment Account; and
- (w) the benefit of all licences, consents and authorisations held in connection with its business or the use of any Asset and the right to recover and receive all compensation which may be payable in respect of them.

3.3. Creation of floating charge: Each Chargor, with full title guarantee, charges to the Security Trustee as security for the payment or discharge of all Secured Sums, by way of floating charge:

- 3.3.1. all its Assets, including any Assets comprised within a charge which is reconverted under Clause 4.4 (Reconversion); and
- 3.3.2. without exception, all its Assets in so far as they are for the time being situated in Scotland or governed by Scots law,

but in each case so that such Chargor shall not create any Security (save for Permitted Security) over any such Asset (which, for the avoidance of doubt, does not include the Excluded Intellectual Property) (whether having priority over, or ranking *pari passu* with or subject to, this floating charge) or take any other step referred to in Clause 7 (Negative pledge

and other restrictions) with respect to any such Asset (which, for the avoidance of doubt, does not include the Excluded Intellectual Property), and such Chargor shall not, without the consent of the Security Trustee, sell, transfer, part with or dispose of any such Asset (which, for the avoidance of doubt, does not include the Excluded Intellectual Property) (except by way of a Permitted Disposal or by way of a sale in the ordinary course of its business to the extent that such action is not otherwise prohibited by any Finance Document). For the avoidance of doubt the floating charge shall not cover the Excluded Intellectual Property.

3.4. Notices of Assignment:

- 3.4.1. Each Chargor shall, following notice from the Security Trustee at any time an Event of Default is continuing, execute a notice of assignment in respect of the Management Contracts in substantially the form set out in Part 1 of Schedule 5 (Forms of Notices of Assignments) and promptly deliver them to the relevant party.
- 3.4.2. Each Chargor shall within 3 Business Days of the date of the Debenture give notice to the insurers (and any broker) of the security over the Insurance Policies and their proceeds created by this Debenture in substantially the form set out in Part 3 of Schedule 5 (Forms of Notice and Assignment) and otherwise comply with its obligations in Clause 27 (General Undertakings) of the Facilities Agreement.
- 3.4.3. Each Chargor shall within 3 Business Days of the date of this Debenture execute a notice of assignment in respect of the Hedging Agreements in substantially the form set out in Part 2 of Schedule 5 (Forms of Notices of Assignments) and promptly deliver the notice to each Hedge Counterparty. Where the Hedge Counterparty is Bank of Scotland plc and/or Lloyds Bank Corporate Markets plc, the Parties agree that notice in the form set out in Part 2 of Schedule 5 (Forms of Notices of Assignments) shall be deemed to have been automatically served on such Hedge Counterparty in respect of each Hedging Agreement and acknowledged by such Hedge Counterparty.
- 3.4.4. The Company shall use reasonable endeavours to procure the execution and delivery to the Security Trustee of acknowledgments by the addressees of the notices delivered to them pursuant to Clauses 3.4.1, 3.4.2 and 3.4.3 above.

3.5. Priority:

- 3.5.1. Any fixed Security created by a Chargor and subsisting in favour of the Security Trustee shall (save as the Security Trustee may otherwise declare at or after the time of its creation) have priority over the floating charge created by Clause 3.3 (Creation of floating charge).
- 3.5.2. Any Security created in the future by a Chargor (except in favour of the Security Trustee) shall be expressed to be subject to this Debenture and shall rank in order of priority behind the charges created by this Debenture. For the avoidance of doubt any Security granted by a member of the Group over the shares of any Ringfenced Company in favour of a third party funder of such Ringfenced Company shall rank

ahead of the floating charge granted by such members of the Group in favour of the Finance Parties pursuant to the Transaction Security.

3.6. Application to the Land Registry: Each Chargor:

3.6.1. in relation to each register of title of any present and future Land of that Chargor which is charged to the Security Trustee under this Debenture or pursuant to Clause 9 (Further Assurance), consents to the Security Trustee (or its solicitors) at any time:

(a) submitting a Form RX1 (application to register a restriction) in the following terms:

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

3.6.2. submitting a Form CH2 (application to enter an obligation to make further advances); and

3.6.3. covenants to submit an application to the appropriate Land Registry for the first registration of any unregistered Land in England and Wales mortgaged by Clause 3.2 (Fixed security) at its own expense, promptly following its execution of this Debenture.

**4. CRYSTALLISATION**

4.1. Crystallisation by notice: The floating charge created by each Chargor in Clause 3.3 (Creation of floating charge) may, subject to Clause 4.5 (Moratorium Assets), be crystallised into a fixed charge by notice in writing given at any time by the Security Trustee to the relevant Chargor (or to the Company on its behalf) if:

4.1.1. a Declared Default has occurred;

4.1.2. the Security Trustee acting reasonably considers that a Default under paragraphs (a), (c) or (d) of Clause 28.6 (Insolvency) or Clause 28.7 (Insolvency Proceedings) of the Facilities Agreement has occurred and is continuing; or

4.1.3. the Security Trustee acting reasonably considers that any of the Assets expressed to be charged to the Security Trustee by this Debenture may be in jeopardy or in danger of being seized or sold pursuant to any form of legal process; or

4.1.4. a circumstance envisaged by Clause 4.2.1 occurs and the Security Trustee acting reasonably considers that such crystallisation is necessary in order to protect the priority of its security.

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



- 4.2. Automatic crystallisation: If, without the Security Trustee's prior written consent:
- 4.2.1. any Chargor, in contravention of any Finance Document, resolves to take or takes any step to:
- (a) charge or otherwise encumber any of its Floating Charge Assets;
  - (b) create a trust over any of its Floating Charge Assets; or
  - (c) dispose of any Floating Charge Asset (except by way of sale in the ordinary course of such Chargor's business to the extent that such disposal is not otherwise prohibited by any Finance Document); or
- 4.2.2. 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
- 4.2.3. an Event of Default under Clause 28.6 (Insolvency) or 28.7 (Insolvency Proceedings) of the Facilities Agreement has occurred,

then the floating charge created by Clause 3.3 (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 Clause 4.2.3 above into a fixed charge over all Floating Charge Assets of the relevant Chargor.

- 4.3. Future Floating Charge Assets: Except as otherwise stated in any notice given under Clause 4.1 (Crystallisation by notice) or unless the crystallisation relates to all its Floating Charge Assets, prospective Floating Charge Assets acquired by any Chargor after crystallisation has occurred under Clause 4.1 (Crystallisation by notice) or 4.2 (Automatic crystallisation) shall become subject to the floating charge created by Clause 3.3 (Creation of floating charge), so that the crystallisation shall be effective only as to the specific Floating Charge Assets affected by the crystallisation.
- 4.4. Reconversion: Any charge which has crystallised under Clause 4.1 (Crystallisation by notice) or 4.2 (Automatic crystallisation) may, by notice in writing given at any time by the Security Trustee to the relevant Chargor (or to the Company on its behalf), be reconverted into a floating charge in relation to the Assets specified in such notice.
- 4.5. Moratorium Assets: The floating charge created by each Chargor in Clause 3.3 (Creation of floating charge) may not be converted into a fixed charge solely by reason of the obtaining of a moratorium or anything done with a view to obtaining a moratorium under section 1A and Schedule A1 of the Insolvency Act 1986.
- 4.6. Scotland: The terms of Clause 4.1 (Crystallisation by notice) and 4.2 (Automatic Crystallisation) shall not apply in respect of any property or assets situated in Scotland or governed by Scots law if and to the extent that any such conversion is ineffective under Scots law or would result in any Receiver being unable to exercise any powers under Section 72 of the Insolvency Act 1986.

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

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

5.1.1. deposit with the Security Trustee, and the Security Trustee shall be entitled to retain during the continuance of the security created by this Debenture, all deeds and documents of title relating to all its Fixed Security Assets, including policies of insurance and assurance, certificates of registration and certificates constituting or evidencing Specified Investments; and

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

provided that the Security Trustee shall not require or effect the transfer of any Specified Investments into its name or into the name of any nominee of the Security Trustee unless an Event of Default has occurred and is continuing.

5.2. Insurance:

5.2.1. Each Chargor shall:

(a) maintain at all times insurance policies which comply with Clause 27 (General Undertakings) of the Facilities Agreement and comply with the terms of all such insurance policies, including any stipulations or restrictions as to use or operation of any asset, and shall not do or permit anything which may make any insurance policy void or voidable; and

(b) make notifications to insurers of any claims or prospective claims in accordance with the provisions of the relevant insurance policy and diligently pursue the making of recoveries from insurers.

5.2.2. Each Chargor shall procure that the interest of the Security Trustee is noted on the face of all its insurance policies in such form as the Security Trustee may require.

5.2.3. If any default shall at any time be made in effecting or maintaining insurance required by this Clause or in promptly producing any payment receipt to the Security Trustee on demand or depositing any policy with the Security Trustee pursuant to the Transaction Security Documents, the Security Trustee (acting reasonably) may take out or renew such insurances in such sums as the Security Trustee may think expedient and all money reasonably and properly expended by the Security Trustee under this provision shall be recoverable by the Security Trustee under Clause 24 (Costs, Expenses and Liabilities).

## **6. COLLECTION OF RECEIVABLES**

- 6.1. Collection Account: Except where moneys are to be paid into a Mandatory Prepayment Account, Holding Account or into any overseas bank account (subject to Clause 27.33 (Cash Management) of the Facilities Agreement) in accordance with the terms of any other Finance Document, each Chargor shall collect and realise all its Receivables and, immediately on receipt, pay all money so collected into the Collection Account specified from time to time by the Security Trustee in a notice substantially in the form set out in Part 1 of Schedule 4 (Collection of Receivables). Each Chargor shall, pending such payment, hold all money so received upon trust for the Security Trustee.
- 6.2. Notice to Account Bank: Each Chargor (or the Company on its behalf) shall, immediately after the execution of this Debenture, give notice to the Account Bank substantially in the form set out in Part 2 of Schedule 4 (Collection of Receivables) and shall use reasonable endeavours to procure that the Account Bank signs and delivers the form of acknowledgement to that notice. Where the Account Bank holding a Collection Account is Bank of Scotland plc, the Parties agree that notice in the form set out in Part 2 of Schedule 4 (Collection of Receivables) shall be deemed to have been automatically served on such Account Bank in respect of each Collection Account and acknowledged by such Account Bank.
- 6.3. No derogation: No Chargor shall purport, without the Security Trustee's prior written consent, to charge, factor, discount, assign, postpone, subordinate, release or waive its rights in respect of any Receivable in favour of any person or do or omit to do anything which might delay or prejudice its full recovery, other than in relation to the commutation of Receivables with its customers in the ordinary course of business.
- 6.4. Factored debts: If the Security Trustee releases, waives or postpones its rights in respect of any Receivable to enable a Chargor to factor or discount them to any person (the "factor"), the charges created by this Debenture shall in all other respects remain in full force and effect. In particular, all amounts becoming due to such Chargor from the factor and any Receivables reassigned, or due to be reassigned to such Chargor, shall be subject to the relevant fixed charge created by this Debenture, subject only to any defences or rights of set-off which the factor may have against such Chargor.
- 6.5. Information: Each Chargor shall deliver to the Security Trustee such particulars as to the amount and nature of its Receivables as the Security Trustee may from time to time reasonably require.

## **7. NEGATIVE PLEDGE AND OTHER RESTRICTIONS**

No Chargor shall, without the prior written consent of the Security Trustee (and with the exception of Permitted Security, Permitted Disposals or as otherwise permitted by the Facilities Agreement):

- 7.1. create, or agree or attempt to create, or permit to subsist, any Security or any trust over any of its Assets; or

- 7.2. sell, assign, lease, license or sub-license, or grant any interest in, any of its Fixed Security Assets, or part with possession or ownership of them, or purport or agree to do so.

## **8. RIGHT OF APPROPRIATION**

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

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

- 8.3. Value: The value of any Financial Collateral appropriated under Clause 8.2 (Right of Appropriation) shall be:

8.3.1. in the case of cash, its face value at the time of appropriation; and

8.3.2. in the case of financial instruments or other financial collateral, their market value at the time of appropriation as determined (after appropriation) by the Security Trustee (acting reasonably) by reference to a public index or other applicable generally recognised source or such other process as the Security Trustee (acting reasonably) may select, including a valuation carried out by an independent firm of accountants or valuers appointed by the Security Trustee after consultation with the Chargor;

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

- 8.4. Surplus or Shortfall: The Security Trustee will account to the relevant Chargor for any amount by which the value of the appropriated Assets exceeds the Secured Sums then due and the Chargors shall remain liable to the Security Trustee for any amount by which the value of the appropriated Assets is less than the Secured Sums then due.

- 8.5. Confirmation: Each Chargor agrees that (i) all its Financial Collateral has been delivered, transferred, held, registered or otherwise designated so as to be in the possession or under the control of the Security Trustee or a person acting on its behalf; and (ii) the method of valuing such Financial Collateral under Clause 8.3 (Value) is commercially reasonable for the purposes of the Financial Collateral Regulation.

## **9. FURTHER ASSURANCE**

- 9.1. Each Chargor shall (and the Company shall procure that each Chargor will) promptly do all such acts and execute all such documents (including assignments, transfers, mortgages, charges, notices, forms and instructions) as the Security Trustee may reasonably specify and

in such form as the Security Trustee may reasonably require (in favour of the Security Trustee or its nominee(s)) in order to:

- 9.1.1. perfect or protect the Security created or intended to be created by this Debenture (which may include the execution of a mortgage, charge, assignment (other than a legal assignment of Receivables in respect of trade debtors), transfer, notice, instruction or other Security over all or any of the Assets which are, or are intended to be, the subject of the Security constituted by this Debenture) or for the exercise of any rights, powers and remedies of any Beneficiary provided by this Debenture or by law;
  - 9.1.2. confer on the Security Trustee or confer on the Beneficiaries, Security over any Assets of that Chargor located in any jurisdiction outside England and Wales which is (to the extent permitted by local law) equivalent or similar to the Security intended to be conferred by or pursuant to this Debenture; and/or
  - 9.1.3. facilitate the realisation of the Assets subject to the Security conferred or intended to be conferred by this Debenture or the exercise of any rights vested in the Security Trustee, any Receiver, Administrator or nominee, including executing any transfer, conveyance, charge, assignment or assurance of all or any of the Assets which are the subject of the Security constituted by this Debenture, making any registration and giving any notice, order or instructions.
- 9.2. Each Chargor shall (and the Company shall procure that each Chargor shall) take all such action as is available to it (including making all filings and registrations) as may be necessary for the purpose of the creation, perfection, protection or maintenance of any Security conferred or intended to be conferred on the Security Trustee or the Beneficiaries by or pursuant to this Debenture but not on terms that are materially more onerous. Without prejudice to the generality of this Clause 9, at the request of the Security Trustee each Chargor will promptly execute a legal mortgage, charge or assignment (other than a legal assignment of Receivables in respect of trade debtors) over any of the Assets subject to or intended to be subject to any fixed security created by this Debenture in favour of the Security Trustee in such form as the Security Trustee may reasonably require.
- 9.3. Authorisations: Without prejudice to the Chargors' obligations under any Finance Document, each Chargor irrevocably authorises the Security Trustee to effect such registrations, renewals, payments and notifications or carry out such acts or things at the expense of such Chargor as shall, in the reasonable opinion of the Security Trustee, be necessary or prudent to protect the Security Trustee's interests in relation to the Intellectual Property Rights or to protect or maintain the Intellectual Property Rights or any of them. Each Chargor shall give the Security Trustee all such reasonable assistance as it may request.

## **10. 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 Beneficiary as banker against any Chargor or any security, guarantee, indemnity and/or negotiable instrument now or in the future held by any Beneficiary.

## **11. LAND**

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

- 11.1.1. Repair: keep all its buildings and all its plant, machinery, fixtures, fittings and other effects charged by it under this Debenture in good and substantial repair (fair wear and tear excepted) and in good working order and condition and will not, without the prior written consent of the Security Trustee, alter, pull down, remove or dispose of any of them, except in the ordinary course of repair, maintenance or improvement or as permitted under the Facilities Agreement;
- 11.1.2. Payments: punctually pay or cause to be paid all rates, taxes, levies, charges, duties, assessments, impositions and outgoings whatever assessed, charged or imposed, now or in the future, in respect of its Land or Land in which it has an interest to the extent that failure to do so could be reasonably be expected to materially adversely affect the value of the Land or the value of the Security constituted by the Debenture and, when reasonably required by the Security Trustee, produce to it proof of such payment;
- 11.1.3. Contracts: comply in all material respects with the terms of all agreements, assignments, contracts, conveyances, grants and other deeds and documents for the time being binding on it or affecting its Land or its use or enjoyment and not take any action which, or omit to take any action the omission of which, results in any of its interests or estates in its Land being adversely affected;
- 11.1.4. Compliance with lease: punctually pay the rents reserved by and observe and perform in all material respects the other material covenants, agreements or obligations on its part to be observed and performed which are contained in any lease, agreement for lease, tenancy agreement or licence to occupy relating to any Land and enforce the observance and performance by the landlord or licensor of its material obligations under any such document;
- 11.1.5. Notices, orders and proposals: supply to the Security Trustee copies of any notice, order or proposal affecting its Land which may be materially adverse to the interests of the Beneficiaries:
  - (a) within seven Business Days of receipt where it is received from any competent authority or tenant; and
  - (b) within three Business Days of receipt where it is received from any landlord,

and at its cost either punctually comply with such notice or order or (if so requested by the Security Trustee (acting reasonably)) make or join with the Security Trustee in making such

objections or representations or taking such other steps as the Security Trustee (acting reasonably) may think fit.

- 11.1.6. Building operations: complete with reasonable expedition any building operations to the reasonable satisfaction of any competent authority and in conformity with all requisite planning and by-law consents;
- 11.1.7. Valuation reports: promptly on receipt, cause a copy of each professional valuation report which it obtains in relation to its Land to be provided to the Security Trustee;
- 11.1.8. Notification of non-compliance: notify the Security Trustee, promptly on receipt, of any material claim, notice or other communication received by it alleging non-compliance by it in relation to any matter referred to in this Clause 11.1;
- 11.1.9. Acquisitions: notify the Security Trustee promptly upon its acquisition of any Land;
- 11.1.10. Access to Land: permit the Security Trustee (but without the Security Trustee being under any obligation to do so) to:
  - (a) inspect, at reasonable times and on reasonable notice, any of its Land, and
  - (b) enter upon all or any of its Land to effect such repairs as the Security Trustee may consider necessary, without becoming liable as a mortgagee in possession.
- 11.2. Negative covenants: No Chargor shall, unless otherwise permitted by the Facilities Agreement, without the prior written consent of the Security Trustee (such consent not to be unreasonably withheld or delayed):
  - 11.2.1. No building: save in the ordinary course of business, carry out any building work on its Land, or make any structural alteration to any building on its Land, or, save in respect of any planning permission which relates to works which are not material and are in the interests of good estate management, apply for any planning consent for the development or change of use of its Land, or at any time sever, remove or dispose of any fixture on it if any such action would be reasonably likely to materially adversely affect the value of such Land;
  - 11.2.2. No onerous obligations: enter into any onerous or restrictive obligation affecting its Land or create or permit to arise any overriding interest or any easement or right whatever in or over it which would be reasonably likely to affect adversely its value or the value of the Security constituted by this Debenture over it;
  - 11.2.3. No leasing: exercise any power of leasing in relation to its Land, accept surrenders of leases of its any Land or agree to do so, or enter into any operating leases or similar arrangement in respect of any of its land;
  - 11.2.4. No lease extensions: extend, renew on substantially different terms or vary any lease or tenancy agreement or give any licence to assign or underlet in relation to

its Land to the extent that it would be reasonably likely to materially adversely effect its value or the value of the Security constituted by this Debenture;

- 11.2.5. No elections: make any election to waive the exemption under paragraph 2 of Schedule 10 of the Value Added Tax Act 1994 in its capacity as landlord of any such Land;
  - 11.2.6. Possession: part with possession of its Land (except on the determination of any lease, tenancy or licence granted to it) or except as expressly permitted by the terms of the Finance Documents; or
  - 11.2.7. No sharing: share the occupation of any Land with any other person or agree to do so.
- 11.3. Consolidation of Mortgages: Section 93 of the Law of Property Act 1925, dealing with the consolidation of mortgages, shall not apply to this Debenture.

## **12. INTELLECTUAL PROPERTY RIGHTS**

- 12.1. Positive Covenants: Each Chargor shall preserve and maintain all Intellectual Property Rights unless in the Chargor's reasonable opinion they are no longer required for its business.
- 12.2. Negative covenants: Without the prior written consent of the Security Trustee (other than as expressly permitted by the Finance Documents), no Chargor shall, unless otherwise permitted by the Facilities Agreement:
- 12.2.1. No disposals etc: sell, assign, lease, license, sub-license or grant any interest in its Intellectual Property Rights, or purport or agree to do so or part with possession or ownership of them, or allow any third party access to, or the right to use or exploit, any Intellectual Property Rights;
  - 12.2.2. Contracts: enter into any contract or arrangement for supply or otherwise whereby any third party obtains any assignment of or any right or licence in relation to any Intellectual Property Rights on the occurrence or non-occurrence of any future event or circumstance whatever;
  - 12.2.3. Trade marks: amend the specification of any registered trade mark included in its Intellectual Property Rights or authorise or permit any third party to register any trade mark which is the same as or confusingly similar to any such trade mark in respect of goods or services which are the same as or similar to the goods or services for which such trade mark is registered; or
  - 12.2.4. Patents: amend the specification or drawings referred to in any granted patent.

## **13. SPECIFIED INVESTMENTS**

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



13.2. Before Enforcement: Unless and until this Debenture has become enforceable:

- 13.2.1. all voting powers and other rights attaching to Specified Investments belonging to a Chargor shall continue to be exercised by such Chargor for so long as it remains their registered owner and such Chargor shall not permit, except to the extent permitted under any Finance Documents, any person other than such Chargor, the Security Trustee or the Security Trustee's nominee to be registered as holder of such Specified Investments or any part of them; and
- 13.2.2. if Specified Investments belonging to a Chargor are registered in the name of the Security Trustee or the Security Trustee's nominee, all voting powers and other rights attaching to them shall be exercised by the Security Trustee or the Security Trustee's nominee in accordance with instructions in writing from time to time received from such Chargor and, in the absence of any such instructions, the Security Trustee or the Security Trustee's nominee shall not exercise any such rights.

13.3. After Enforcement: At any time after this Debenture has become enforceable:

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

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

13.4. Negative covenant: Each Chargor covenants with the Security Trustee that it will not, unless permitted under the Finance Documents or with the prior written consent of the Security Trustee (such consent not to be unreasonably withheld or delayed) consent to its Specified Investments being consolidated, sub-divided or converted or any rights attached to them being varied.

- 13.5. Nomination: Each Chargor shall terminate with immediate effect all nominations it may have made under Sections 145 and 146 of the Act in respect of the Specified Investment and pending such termination procure that any person so nominated:

- 13.5.1. does not exercise any rights in respect of the Specified Investments (or any of them) without the prior written approval of the Security Trustee; and
- 13.5.2. immediately upon receipt, forward to the Security Agent all communications or other information received in respect of any Specified Investments for which it has been so nominated.

No Chargor shall exercise any rights under Section 145 and 146 of the Act to nominate any person in respect of the Specified Investments (or any of them).

#### **14. OPENING OF NEW ACCOUNTS**

- 14.1. Creation of new account: On receiving notice that any Chargor has granted Security over or otherwise encumbered or disposed of any of its Assets in contravention of any Finance Document, a Beneficiary may rule off all its accounts and open new accounts with such Chargor.
- 14.2. 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 that 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.

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

- 15.1. Section 103 of the Law of Property Act 1925: Section 103 of the Law of Property Act 1925 shall not apply to this Debenture, and the statutory power of sale shall arise on, and be exercisable at any time after, the execution of this Debenture. However, the Security Trustee shall not exercise such power of sale until this Debenture has become enforceable.
- 15.2. Powers of sale extended: The statutory powers of sale, leasing and accepting surrenders exercisable by the Security Trustee by virtue of this Debenture are extended so as to authorise the Security Trustee (whether in its own name or that of the Chargor concerned) to:
- 15.2.1. grant a lease of any Land vested in a Chargor or in which it has an interest on such terms and conditions as the Security Trustee shall think fit; and
- 15.2.2. sever any fixtures from Land vested in a Chargor and sell them separately.

#### **16. APPOINTMENT OF A RECEIVER OR AN ADMINISTRATOR**

- 16.1. 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:
- 16.1.1. the occurrence of a Declared Default;

- 16.1.2. a step or proceeding is taken for the appointment of an administrator, liquidator or provisional liquidator in relation to a Chargor;
- 16.1.3. notices to creditors are sent out under section 98 of the Insolvency Act 1986 in relation to a Chargor;
- 16.1.4. a proposal is made in relation to a Chargor for a voluntary arrangement under Part I of the Insolvency Act 1986;
- 16.1.5. a step or proceeding is taken in relation to a Chargor with a view to seeking a moratorium; or
- 16.1.6. a request has been made by the Company and/or a Chargor to the Security Trustee for the appointment of a Receiver or an administrator over its Assets or in respect of a Chargor,

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

- 16.2. Power to act separately: Where more than one Receiver or administrator is appointed, the appointees shall have power to act separately unless the Security Trustee shall specify to the contrary.
- 16.3. Receiver's remuneration: The Security Trustee may from time to time determine the remuneration of a Receiver.
- 16.4. Removal of Receiver: The Security Trustee 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.
- 16.5. Further appointments of a Receiver: Such an appointment of a Receiver shall not preclude:
  - 16.5.1. the Security Trustee 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
  - 16.5.2. the appointment of an additional Receiver to act while the first Receiver continues to act.
- 16.6. Receiver's agency: The Receiver shall be the agent of the relevant Chargor (which shall be solely liable for his acts, defaults and remuneration) unless and until such Chargor goes into liquidation, after which time he shall act as principal and shall not become the agent of the Security Trustee or any other Beneficiary.

## **17. POWERS OF A RECEIVER**

The Receiver may exercise, in relation to each Chargor over whose Assets he is appointed, all the powers, rights and discretions set out under the Law of Property Act 1925 and 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:

- 17.1. sell, lease, let, license, grant options over and vary the terms of, terminate or accept surrenders of leases, licences or tenancies of, all or any of the Assets of the relevant Chargor, without the need to observe any of the provisions of Sections 99 and 100 of the Law of Property Act 1925, in such manner and generally on such terms and conditions as he shall think fit in his absolute and unfettered discretion and any such sale or disposition may be for cash, Investments or other valuable consideration (in each case payable in a lump sum or by instalments) and carry any such transactions into effect in the name of and on behalf of such Chargor;
- 17.2. promote the formation of a Subsidiary of the relevant Chargor with a view to such Subsidiary purchasing, leasing, licensing or otherwise acquiring interests in all or any of the Assets of such Chargor;
- 17.3. sever any fixtures from Land and/or sell them separately;
- 17.4. exercise all voting and other rights attaching to Investments owned by the relevant Chargor;
- 17.5. arrange for the purchase, lease, licence or acquisition of all or any Assets of the relevant Chargor by any Subsidiary contemplated by Clause 17.2 above on a basis whereby the consideration may be for cash, Investments, shares of profits or sums calculated by reference to profits or turnover or royalties or licence fees or otherwise, whether or not secured on the assets of such Subsidiary and whether or not such consideration is payable or receivable in a lump sum or by instalments over such period as the Receiver may think fit;
- 17.6. make any arrangement or compromise with any Beneficiary or others as he shall think fit;
- 17.7. make and effect all repairs, renewals and improvements to the Assets of the relevant Chargor and effect, renew or increase insurances on such terms and against such risks as he shall think fit;
- 17.8. appoint managers, officers and agents for the above purposes at such remuneration as the Receiver may determine;
- 17.9. redeem any prior encumbrance and settle and pass the accounts of the encumbrancer and any accounts so settled and passed shall (subject to any manifest error) be conclusive and binding on the relevant Chargor and the money so paid shall be deemed an expense properly incurred by the Receiver;
- 17.10. 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 relevant Chargor;

- 17.11. commence and/or complete any building operations upon any Land of the relevant Chargor and apply for and obtain any planning permissions, building regulation consents or licences, in each case as he may in his absolute discretion think fit;
- 17.12. take all steps necessary to effect all registrations, renewals, applications and notifications as the Receiver may in his discretion think prudent to maintain in force or protect any of the relevant Chargor's Intellectual Property Rights; and
- 17.13. 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.

## **18. POWER OF ATTORNEY**

- 18.1. Appointment of attorney: Each Chargor, by way of security and to more fully secure the performance of its obligations under this Debenture, hereby irrevocably appoints the Security Trustee (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:
  - 18.1.1. do anything which that Chargor is obliged to do (but has not done) in accordance with this Debenture, including to execute and deliver and otherwise perfect any agreement, assurance, deed, instrument or document; and
  - 18.1.2. enable the Security Trustee or any such nominee and/or Receiver to exercise (or to delegate) all or any of the rights conferred on it by this Debenture or by statute in relation to this Debenture or the Assets charged, or purported to be charged, by it.
- 18.2. Ratification: Each Chargor ratifies and confirms whatever any attorney lawfully does or purports to do pursuant to his appointment under this clause.
- 18.3. Sums recoverable: All sums expended by the Security Trustee nominee and/or any Receiver under this Clause 18 shall be recoverable from each Chargor under Clause 24 (Costs, expenses and liabilities).

## **19. OTHER POWERS EXERCISABLE BY THE SECURITY TRUSTEE**

- 19.1. Receiver's powers: All powers of a Receiver conferred by this Debenture may be exercised by the Security Trustee after this Debenture has become enforceable. In that event, Clause 17.9 shall be read and construed as if the words "be charged on the Assets of the relevant Chargor" were substituted for the words "be deemed an expense properly incurred by the Receiver".
- 19.2. Receipt of debts: The Security Trustee, its nominee or any manager, officer or agent of the Security Trustee is hereby irrevocably empowered to:
  - 19.2.1. receive all trade debts and other debts and claims which may be assigned to the Security Trustee pursuant to this Debenture and/or Clause 9 (Further assurance);

19.2.2. on payment give an effectual discharge for them and on non-payment to take and institute (if the Security Trustee in its sole discretion so decides) all steps and proceedings either in the name of the relevant Chargor or in the name of the Security Trustee for their recovery; and

19.2.3. agree accounts and make allowances and give time to any surety.

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

19.3. Security Trustee's powers: The Security Trustee shall have no liability or responsibility to any Chargor arising out of the exercise or non-exercise of the powers conferred on it by this Clause 19, except for gross negligence or wilful default.

19.4. No duty of enquiry: The Security Trustee need not enquire as to the sufficiency of any sums received by it in respect of any debt or claim or make any claim or take any other action to collect in or enforce them.

## **20. APPLICATION OF MONEY RECEIVED BY THE SECURITY TRUSTEE OR A RECEIVER**

20.1. 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:

20.1.1. in or towards satisfaction of the Secured Sums in the manner applicable under the terms of the Inter Creditor Agreement; and

20.1.2. as to the surplus (if any), to the person or persons entitled to it.

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

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

## **21. PROTECTION OF THIRD PARTIES**

21.1. No duty to enquire: No purchaser from, or other person dealing with, the Security Trustee, its nominee or any Receiver or administrator appointed under this Debenture shall be concerned to enquire whether any of the powers which the Security Trustee has exercised or purported

to exercise has arisen or become exercisable, or whether this Debenture has become enforceable, or whether any nominee, Receiver or administrator has been validly appointed, or whether any event or cause has happened to authorise the Security Trustee, 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.

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

## **22. PROTECTION OF THE SECURITY TRUSTEE, ANY NOMINEE AND RECEIVER**

- 22.1. Limitation: Neither the Security Trustee nor any nominee nor Receiver shall be liable in respect of any Liability which arises out of the exercise or the purported exercise of, or the failure to exercise, any of their respective powers under or by virtue of this Debenture, except if and in so far as such Liability results from its own gross negligence or wilful default.
- 22.2. Entry into possession: Without prejudice to the generality of Clause 22.1 (Limitation), neither the Security Trustee, any nominee nor any Receiver shall be liable to account as mortgagee in possession or otherwise for any sum not actually received by it or him respectively. If and whenever the Security Trustee, or any nominee enters into possession of any Assets, it shall be entitled at any time at its discretion to go out of possession.

## **23. SECURITY TRUSTEE**

- 23.1. Security Trustee as trustee: The Security Trustee declares itself to be a trustee of this Debenture (and any other Security 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 the manner provided for in the Inter Creditor Agreement.
- 23.2. Trustee Act 2000: The Parties agree that the Security Trustee shall not be subject to the duty of care imposed on trustees by the Trustee Act 2000.
- 23.3. No partnership: Nothing in this Debenture shall constitute or be deemed to constitute a partnership between any of the Beneficiaries and the Security Trustee.

## **24. COSTS, EXPENSES AND LIABILITIES**

- 24.1. Costs and expenses: Each Chargor will, promptly on the Security Trustee's written demand from time to time, reimburse the Security Trustee for all costs and expenses (including legal fees) on a full indemnity basis, together with VAT thereon, reasonably incurred by it in connection with:
- 24.1.1. the negotiation, preparation and execution of this Debenture and any Deed of Accession and Charge; and

- 24.1.2. the completion of the transactions and perfection of the Security contemplated in this Debenture in Clause 9 (Further Assurance) and in any Deed of Accession and Charge.
- 24.2. Enforcement costs: If an Event of Default has occurred and is continuing, each Chargor shall, within three Business Days of the Security Trustee's written demand, pay to the Security Trustee, for each Beneficiary on a full indemnity basis, the amount of all costs and expenses (including legal, valuation, accountancy and consultancy fees and commission and out of pocket expenses), and any VAT thereon, incurred by the Security Trustee and/or any other Beneficiary in connection with the exercise, enforcement and/or preservation of any of its rights under this Debenture and any Deed of Accession and Charge (or any of the documents contemplated by such documents) or any proceedings instituted by or against the Security Trustee, in any jurisdiction.
- 24.3. Indemnity for Liabilities: Other than in the event of wilful default of the Security Trustee, each Chargor shall also, within three Business Days of the Security Trustee's written demand, reimburse or pay to the Security Trustee, its employees or agents, and any nominee on demand (on the basis of a full indemnity) the amount of all Liabilities incurred by the Security Trustee, its employees or agents, in connection with:
- 24.3.1. any default or delay by such Chargor in the performance of any of its obligations under this Debenture;
- 24.3.2. the exercise, or the attempted or purported exercise, by or on behalf of the Security Trustee of any of its powers or any other action taken by or on behalf of the Security Trustee with a view to or in connection with the recovery of the Secured Sums, the enforcement of the Security created by this Debenture or for any other purpose contemplated in this Debenture;
- 24.3.3. the carrying out or consideration of any other act or matter which the Security Trustee may (acting reasonably) consider to be necessary after the occurrence of an Event of Default to the preservation, improvement or benefit of any Asset; and
- 24.3.4. 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.

## **25. INTEREST ON OVERDUE AMOUNTS**

- 25.1. Any amount not paid in accordance with this Debenture when due shall (subject to Clause 25.2 below) carry interest at the rate and in accordance with the terms contained in the relevant Finance Document in relation to overdue sums or at such other rate as may be agreed between the relevant Chargor and Beneficiary from time to time. In each case, interest shall accrue on a day to day basis until the date of irrevocable and unconditional repayment in full and, if unpaid, shall be compounded on the terms so agreed or (in the absence of such agreed terms) with quarterly rests on the Security Trustee's usual quarterly interest days. Interest shall continue to be charged and compounded on this basis after as well as before any demand or judgment.



- 25.2. Clause 25.1 above shall not apply to the extent that default interest on such amount for such period is charged pursuant to the relevant Finance Document and itself constitutes part of the Secured Sums.

**26. SET-OFF**

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

**27. TRANSFER BY A BENEFICIARY**

- 27.1. Any Beneficiary may at any time assign and transfer all or any of its rights in relation to this Debenture to any person to whom it is permitted to transfer any of its rights under the relevant Finance Documents or otherwise grant an interest in them to any person.
- 27.2. The Security Trustee may assign and transfer all of its rights and obligations under this Debenture to any replacement Security Trustee appointed in accordance with the Inter Creditor Agreement. Upon such assignment and transfer becoming effective, the replacement Security Trustee 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 Security Trustee.

**28. ACCESSION OF A NEW CHARGOR**

- 28.1. Method: Any member of the Group may at any time, with the prior written approval of the Security Trustee, become a party to this Debenture by delivering to the Security Trustee in form and substance satisfactory to it:
- 28.1.1. a Deed of Accession and Charge; and
- 28.1.2. certified extracts from the minutes of a meeting of its Board of Directors evidencing the due authorisation and execution of the Deed of Accession and Charge and any other conditions precedent required by the Finance Documents.
- 28.2. New Chargor bound: The New Chargor shall become a chargor under this Debenture with effect from the time when the Deed of Accession and Charge takes effect, at which point:
- 28.2.1. the New Chargor shall become bound by all the terms of this Debenture and shall assume the same obligations as "Chargor" as if it were an original party to this Debenture; and
- 28.2.2. the other Chargors shall assume the same obligations in respect of the New Chargor as if it were an original party to this Debenture.

## **29. RELEASE OF SECURITY**

- 29.1. Redemption: Subject to Clause 29.2 (Avoidance of Payments), if all Secured Sums have been unconditionally and irrevocably paid in full and none of the Beneficiaries are under any further actual or contingent liability to make advance or provide other financial accommodation to any person under any Finance Document, the Security Trustee will (at the request and cost of the Chargors), execute and do all such reasonable acts as may be necessary to release the Assets from the Security constituted by this Debenture. Such release shall not prejudice the rights of the Security Trustee under Clause 24 (Costs, Expenses and Liabilities).
- 29.2. Avoidance of Payments: If the Security Trustee 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 each Chargor under this Debenture and the Security constituted by this Debenture shall continue and such amount shall not be considered to have been irrevocably paid.

## **30. THIRD PARTY RIGHTS**

- 30.1. Directly enforceable rights: Pursuant to the Contracts (Rights of Third Parties) Act 1999:
- 30.1.1. the provisions of Clause 26 (Set-off), and Clause 27 (Transfer by a Beneficiary) shall be directly enforceable by a Beneficiary;
  - 30.1.2. the provisions of Clause 16 (Appointment of a Receiver or an Administrator) to Clause 24 (Protection of the Security Trustee and Receiver) inclusive shall be directly enforceable by any nominee or Receiver; and
  - 30.1.3. the provisions of Clause 21 (Protection of third parties) shall be directly enforceable by any purchaser.
- 30.2. Exclusion of Contracts (Rights of Third Parties) Act 1999: Save as otherwise expressly provided in Clause 30.1 (Directly enforceable rights), no person other than a Party shall have any right by virtue of either the Contracts (Rights of Third Parties) Act 1999 or any other provision of English law under which rights might accrue to persons other than a party, to enforce any term (express or implied) of this Debenture.
- 30.3. Rights of the Parties to vary: The Parties (or the Company, on behalf of the Chargors, and the Security Trustee (on behalf of the Beneficiaries)) may by agreement vary any term of this Debenture (including this Clause 30) without the necessity of obtaining any consent from any other person.

## **31. JOINT AND SEPARATE LIABILITY**

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

## **32. FORBEARANCE, SEVERABILITY, VARIATIONS AND CONSENTS**

- 32.1. 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.
- 32.2. Severability: No provision of this Debenture shall be avoided or invalidated by reason only of one or more other provisions being invalid or unenforceable.
- 32.3. 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.
- 32.4. Variations: No variation of this Debenture shall be valid and constitute part of this Debenture, unless such variation shall have been made in writing and signed by the Security Trustee (on behalf of the Beneficiaries) and the Company (on behalf of the Chargors) or by all Parties.
- 32.5. Consents: Save as otherwise expressly specified in this Debenture, any consent of the Security Trustee may be given absolutely or on any terms and subject to any conditions as the Security Trustee may determine in its entire discretion.

## **33. COUNTERPARTS**

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

## **34. NOTICES**

- 34.1. Communications in writing: Any communication to be made under or in connection with this Debenture shall be made in writing and, unless otherwise stated, may be made by fax or letter.
- 34.2. Addresses: The address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with this Debenture is:
- 34.2.1. in the case of the Chargors, set out in Schedule 1 (The Chargors) and in the case of any New Chargor, set out in the relevant Deed of Accession and Charge; and
- 34.2.2. in the case of the Security Trustee, that identified with its name at the end of this Debenture,
- or any substitute address, fax number or department or officer as the Chargor may notify to the Security Trustee (or the Security Trustee may notify to the Company if a change is made by the Security Trustee) by not less than five Business Days' notice.
- 34.3. Delivery:
- 34.3.1. Any communication or document made or delivered by one person to another under or in connection with this Debenture will only be effective:

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

and, if a particular department or officer is specified as part of its address details provided under Clause 34.2 (Addresses), if addressed to that department or officer.

- 34.3.2. Any communication or document to be made or delivered to the Security Trustee will be effective only when actually received by the Security Trustee and then only if it is expressly marked for the attention of and actually received by the department or officer identified with the Security Trustee's signature below (or any substitute department or officer as the Security Trustee shall specify for this purpose).
- 34.3.3. Any communication or document made or delivered to the Company in accordance with this Clause will be deemed to have been made or delivered to each of the Chargors.
- 34.3.4. Any communication or document which becomes effective, in accordance with Clauses 34.3.1 to 34.3.3 above, after 5.00 p.m. in the place of receipt shall be deemed only to become effective on the following day.

34.4. Electronic Communication:

- 34.4.1. Any communication to be made between any two Parties under or in connection with this Debenture may be made by electronic mail or other electronic means (including, without limitation, by way of posting to a secure website) if those two Parties:
  - (a) notify each other in writing of their electronic mail address and/or any other information required to enable the transmission of information by that means; and
  - (b) notify each other of any change to their address or any other such information supplied by them by not less than five Business Days' notice.
- 34.4.2. Any such electronic communication as specified in Clause 34.4.1 above to be made between an Obligor and the Security Trustee 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.
- 34.4.3. Any such electronic communication as specified in Clause 34.4.1 above made between any two Parties will be effective only when actually received (or made available) in readable form and in the case of any electronic communication made by a Party to the Security Trustee only if it is addressed in such a manner as the Security Trustee shall specify for this purpose.

- 34.4.4. Any electronic communication which becomes effective, in accordance with Clause 34.4.3 above, after 5:00 p.m. in the place in which the Party to whom the relevant communication is sent or made available has its address for the purpose of this Agreement shall be deemed only to become effective on the following day.
- 34.4.5. Any reference in this Debenture to a communication being sent or received shall be construed to include that communication being made available in accordance with this Clause 34.4.
- 34.5. English language:
- 34.5.1. Any notice given under or in connection with this Debenture must be in English.
- 34.5.2. All other documents provided under or in connection with any Finance Document must be:
- (a) in English; or
  - (b) if not in English, and if so required by the Security Agent, accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.
- 34.6. Notification of Change: Promptly upon receipt of notification of an address or fax number or change of address or fax number pursuant to Clause 34.2 (Addresses) or changing its own address or fax number, the Security Trustee shall notify the other parties.

### **35. SECURITY TRUSTEE**

The provisions of Clause 13 (Security Trustee) and Clause 21 (Consents, amendments and override) of the Inter Creditor Agreement shall apply to the Security Trustee's rights, obligations and duties under this Debenture as if set out in this Debenture in full.

### **36. 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.

### **37. ENFORCEMENT**

- 37.1. Jurisdiction:
- 37.1.1. The courts of England shall have exclusive jurisdiction to settle any claim, dispute or matter of difference which may arise in any way whatsoever out of or in connection with this Debenture (including a dispute regarding the existence, validity or termination of this Debenture or any claim for set-off) or the legal relationships established by this Debenture (a "Dispute"), only where such Dispute is the subject of proceedings commenced by a Chargor.

- 37.1.2. Where a Dispute is the subject of proceedings commenced by one or more Beneficiaries, the Beneficiaries are entitled to bring such proceedings in any court or courts of competent jurisdiction (including but not limited to the courts of England). If any Chargor raises a counter-claim in the context of proceedings commenced by one or more of the Beneficiaries, that Chargor shall bring such counter-claim before the court seized of the Beneficiary's claim and no other court.
- 37.1.3. The commencement of legal proceedings in one or more jurisdictions shall not, to the extent allowed by law, preclude any Beneficiary from commencing legal actions or proceedings in any other jurisdiction, whether concurrently or not.
- 37.1.4. To the extent allowed by law, each Chargor irrevocably waives any objection it may now or hereafter have on any grounds whatsoever to the laying of venue of any legal proceeding, and any claim it may now or hereafter have that any such legal proceeding has been brought in an inappropriate or inconvenient forum.

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

# SCHEDULE 1 - THE CHARGORS

Name of Chargor	Registered Number	Address for Service and Fax Number
Rocco Forte Hotels Limited (the "Company")	03277921	70 Jermyn Street, London, SW1Y 6NY  Fax: 020 7321 2424
Rocco Forte & Family (Luxury Hotels) Limited	04413112	70 Jermyn Street, London, SW1Y 6NY  Fax: 020 7321 2424
Rocco Forte & Family (Executive Hotel Program) Limited	03365725	70 Jermyn Street, London, SW1Y 6NY  Fax: 020 7321 2424
Rocco Forte & Family (Russia) Limited	03298971	70 Jermyn Street, London, SW1Y 6NY  Fax: 020 7321 2424
Rocco Forte & Family (Italy) Limited	03391144	70 Jermyn Street, London, SW1Y 6NY  Fax: 020 7321 2424
Rocco Forte & Family (Germany) Limited	03710232	70 Jermyn Street, London, SW1Y 6NY  Fax: 020 7321 2424
Rocco Forte & Family (Hotel Management) Limited	04045930	70 Jermyn Street, London, SW1Y 6NY  Fax: 020 7321 2424
RF Corporate UK Ltd	03225754	70 Jermyn Street, London, SW1Y 6NY  Fax: 020 7321 2424
Rocco Forte & Family (Belgium) Limited	03893836	70 Jermyn Street, London, SW1Y 6NY  Fax: 020 7321 2424
Rocco Forte & Family (London) Limited	04713134	70 Jermyn Street, London, SW1Y 6NY  Fax: 020 7321 2424

Name of Chargor	Registered Number	Address for Service and Fax Number
RFFF Limited	05133159	70 Jermyn Street, London, SW1Y 6NY  Fax: 020 7321 2424
RFFG Limited	03197645	70 Jermyn Street, London, SW1Y 6NY  Fax: 020 7321 2424
The Balmoral Hotel Edinburgh Limited	8472373	70 Jermyn Street, London, SW1Y 6NY  Fax: 020 7321 2424



## SCHEDULE 2 REGISTERED LAND TO BE MORTGAGED

Name of Chargor/Registered Proprietor	Description of Property	Title Number
RFFG Limited (formerly called Browns Hotel Limited) (company number 03197645	Browns Hotel 29, 29B, 30, 31, 32, 33 and 34 Albemarle Street and 21, 22, 23 and 24 Dover Street, London	NGL312325
RFFG Limited (formerly called Browns Hotel Limited) (company number 03197645	19 Dover Street, London W1X 3PB	182483
RFFG Limited (formerly called Browns Hotel Limited) (company number 03197645	20 Dover Street, London W1S 4LU	LN244516

Unregistered land subject to first registration upon the execution of this Debenture:

None

The address for service of the Security Trustee in the case of registered land is Bank of Scotland plc,  
[REDACTED] marked for the attention of Dave North.

### SCHEDULE 3 FORM OF DEED OF ACCESSION AND CHARGE FOR A NEW CHARGOR

THIS DEED OF ACCESSION AND CHARGE is made on 20\*\*

#### BETWEEN:

- (1) **\*\*INSERT THE NAME OF THE NEW CHARGOR\*\***] (registered in [England and Wales] under number [ \*\*\* ]) (the "New Chargor");
- (2) **Rocco Forte Hotels Limited** (registered in England and Wales under number 03277921) (the "Company"); and
- (3) **Bank of Scotland plc** (the "Security Trustee").

#### WHEREAS:

- (A) This Deed is supplemental to a Debenture (the "Principal Deed") dated [\*\*\*insert date\*\*\*] between (1) the [\*\*\*Identify original Chargors\*\*\*] and (2) the Security Trustee as agent and trustee for the Beneficiaries named in the Principal Deed (the "Beneficiaries").
- (B) [\*\*\*Note: Set out details of any previous Deed of Accession and Charge.\*\*\*]
- (C) The New Chargor has agreed to charge in favour of the Security Trustee, on the terms contained in the Principal Deed, all of its property, undertaking and assets to secure the Secured Sums, and to accede to the Principal Deed.

THIS DEED WITNESSES as follows:

#### 1. DEFINITIONS AND INTERPRETATION

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

#### 2. ACCESSION BY THE NEW CHARGOR TO THE PRINCIPAL DEED

- 2.1. Accession: The New Chargor agrees to be bound by all the terms of the Principal Deed and to perform all obligations of a Chargor under, and in accordance with, the Principal Deed with effect from the date of this Deed, as if it had been an original party to the Principal Deed as a Chargor.
- 2.2. Covenant to pay: The New Chargor (as primary obligor and not merely as surety) covenants with the Security Trustee that it will, on the Security Trustee's written demand, pay or discharge the Secured Sums at the times and in the manner provided in the relevant Finance Documents.
- 2.3. Proviso: The covenants contained in this Clause and the security created by this Deed shall not extend to or include any liability or sum which would otherwise cause any such covenant or security to be unlawful or prohibited by any applicable law.

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

### **3. ASSIGNMENTS**

[ \*\*\* Incorporate in the execution copy of the deed of accession the relevant final text from Clause 3.1 (Assignments) of the Principal Deed. This will include the assignment of Insurance Policies as a minimum \*\*\* ]

### **4. FIXED SECURITY**

[ \*\*\* Incorporate in the execution copy of the deed of accession the final text from Clause 3.2 (Fixed Security) of the Principal Deed with consequential changes. Note: where the New Chargor has real property or IP it will be scheduled \*\*\*]

### **5. CREATION OF FLOATING CHARGE**

- 5.1. [ \*\*\* Incorporate in the execution copy of the deed of accession the final text (when settled) from Clause 3.3 (Creation of a floating charge) of the Principal Deed with consequential amendments \*\*\* ]
- 5.2. The parties agree (without limitation to the general nature of the New Chargor's accession to the Principal Deed contained in Clause 2) that the crystallisation provisions contained in Clause 4 (Crystallisation) of the Principal Deed shall equally apply to the floating charge contained in this Deed as if set out in full in this Deed.
- 5.3. Paragraph 14 of Schedule B1 of the Insolvency Act 1986 shall apply to this Deed and to the floating charges contained in this Deed.

### **6. RIGHT OF APPROPRIATION**

- 6.1. The parties acknowledge and intend that the charges over the New Chargor's Financial Collateral provided under or pursuant to this Deed will each constitute a "security financial collateral arrangement" for the purposes of the Financial Collateral Regulations.
- 6.2. The Security Trustee may, on or at any time after the security constituted by this Deed becomes enforceable, by notice in writing to the New Chargor appropriate with immediate effect all or any of its Financial Collateral hereby charged which is subject to a security financial collateral arrangement (within the meaning of the Financial Collateral Regulations) and apply it in or towards the discharge of the Secured Sums, whether such Assets are held by the Security Trustee or otherwise.
- 6.3. The value of any Financial Collateral appropriated under Clause 6.2 shall be:
- 6.3.1. in the case of cash, its face value at the time of appropriation; and
- 6.3.2. in the case of financial instruments or other financial collateral, their market value at the time of appropriation as determined (after appropriation) by the Security Trustee

by reference to a public index or other applicable generally recognised price source or such other process as the Security Trustee may select, including a valuation carried out by an independent firm of accountants or valuers appointed by the Security Trustee;

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

- 6.4. The Security Trustee will account to the New Chargor for any amount by which the value of the appropriated Assets exceeds the Secured Sums and the New Chargor shall remain liable to the Security Trustee for any amount by which the value of the appropriated Assets is less than the Secured Sums.
- 6.5. The New Chargor agrees that (i) all its Financial Collateral has been delivered, transferred, held, registered or otherwise designated so as to be in the possession or under the control of the Security Trustee or a person acting on its behalf; and (ii) the method of valuing such Financial Collateral under Clause 6.3 is commercially reasonable.

## **7. APPLICATION TO THE LAND REGISTRY**

The New Chargor:

- 7.1. in relation to each register of title of any present and future Land of the New Chargor which is charged to the Security Trustee under this Deed, consents to the Security Trustee (or its solicitors) at any time:
- 7.1.1. submitting a Form RX1 (application to register a restriction) to enter the following restriction in Form P:
- "No disposition of the registered estate by the proprietor of the registered estate is to be registered without a written consent signed by the proprietor for the time being of the charge dated [date] in favour of [Chargee] referred to on the charges register or their conveyancer."; and
- 7.1.2. submitting a Form CH2 (application to enter an obligation to make further advances); and
- 7.2. covenants to submit an application to the appropriate Land Registry for the first registration of any unregistered Land in England and Wales mortgaged by Clause 4 (Fixed security) at its own expense, immediately following its execution of this Deed.

## **8. POWER OF ATTORNEY**

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

- 8.1.1. do anything which the New Chargor is obliged to do (but has not done) in accordance with this Deed, including to execute and deliver and otherwise perfect any agreement, assurance, deed, instrument or document; and
  - 8.1.2. enable the Security Trustee or any such Receiver to exercise (or to delegate) all or any of the rights conferred on it by this Deed or by statute in relation to this Deed or the Assets charged, or purported to be charged, by it.
- 8.2. Ratification: The New Chargor ratifies and confirms whatever any attorney lawfully does or purports to do pursuant to its appointment under this clause.
- 8.3. Sums recoverable: All sums expended by the Security Trustee or any Receiver under this clause shall be recoverable from the New Chargor under Clause 24 (Costs, expenses and liabilities) of the Principal Deed.

## **9. NOTICES**

All notices or demands to be given or made pursuant to this Deed shall be given or made in the manner set out in Clause 34 (Notices) of the Principal Deed. The New Chargor's address for service is set out in Schedule 2 (Notice Details).

## **10. COUNTERPARTS**

This Deed 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.

## **11. GOVERNING LAW**

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

## **12. ENFORCEMENT**

### **12.1. Jurisdiction:**

- 12.1.1. The courts of England shall have exclusive jurisdiction to settle any claim, dispute or matter of difference which may arise in anyway whatsoever out of or in connection with this Deed (including a dispute regarding the existence, validity or termination of this Deed or any claim for set-off) or the legal relationships established by this Deed (a "Dispute"), only where such Dispute is the subject of proceedings commenced by the New Chargor.
- 12.1.2. Where a Dispute is the subject of proceedings commenced by one or more Beneficiaries, the Beneficiaries are entitled to bring such proceedings in any court or courts of competent jurisdiction (including but not limited to the courts of England). If any Chargor raises a counter-claim in the context of proceedings commenced by one or more of the Beneficiaries, that Chargor shall bring such counter-claim before the court seized of the Beneficiaries' claim and no other court.

- 12.1.3. The commencement of legal proceedings in one or more jurisdictions shall not, to the extent allowed by law, preclude the Beneficiaries from commencing legal actions or proceedings in any other jurisdiction, whether concurrently or not.
- 12.1.4. To the extent allowed by law, the New Chargor irrevocably waives any objection it may now or hereafter have on any grounds whatsoever to the laying of venue of any legal proceeding, and any claim it may now or hereafter have that any such legal proceeding has been brought in an inappropriate or inconvenient forum.
- 12.2. [\*\*\*Service of process: Without prejudice to any other mode of service allowed under any relevant law, the New Chargor:
- 12.2.1. irrevocably appoints [\*\*\*the Company \*\*\*] as its agent for service of process in relation to any proceedings before the English courts in connection with this Deed; and
- 12.2.2. agrees that failure by a process agent to notify it of the process will not invalidate the proceedings concerned.\*\*\*]

### **13. FINANCE DOCUMENT**

This Deed is a Finance Document.

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

## SCHEDULE 1 TO DEED OF ACCESSION

### Registered land to be mortgaged

Name of Chargor/Registered Proprietor	Description of Property	Title Number

### Unregistered land subject to first registration upon the execution of this Deed


The address for service of the Security Trustee in the case of registered land is Bank of Scotland plc,  
[REDACTED] marked for the attention of Dave North.

## SCHEDULE 2 TO DEED OF ACCESSION

### Notice Details

[\*\*\*Set out here the notice details for the New Chargor\*\*\*]

### EXECUTION

#### THE NEW CHARGOR

**EXECUTED** and **DELIVERED** as a **DEED** by  
[\*\*\*NEW CHARGOR\*\*\*] (pursuant to a  
resolution of its Board of Directors) acting by a  
director in the presence of:

\_\_\_\_\_  
Director

\_\_\_\_\_ Witness

\_\_\_\_\_ Full Name

\_\_\_\_\_ Address

\_\_\_\_\_

\_\_\_\_\_ Occupation

#### THE COMPANY

**EXECUTED** and **DELIVERED** as a **DEED** by  
**ROCCO FORTE HOTELS LIMITED** (pursuant  
to a resolution of its Board of Directors) acting  
by a director in the presence of:

\_\_\_\_\_  
Director

\_\_\_\_\_ Witness

\_\_\_\_\_ Full Name

\_\_\_\_\_ Address

\_\_\_\_\_

\_\_\_\_\_ Occupation



**THE SECURITY TRUSTEE**

Signed by  
for and on behalf of **BANK OF SCOTLAND  
PLC**

\_\_\_\_\_  
Authorised Signatory

\_\_\_\_\_ Witness

\_\_\_\_\_ Full Name

\_\_\_\_\_ Address

\_\_\_\_\_

\_\_\_\_\_ Occupation

## SCHEDULE 4

### PART 1 COLLECTION OF RECEIVABLES

Form of notice to be delivered by the Security Trustee to each Chargor pursuant to Clause 6.1 of the Debenture

[\*\*\*TO BE TYPED ON THE HEADED NOTEPAPER OF THE SECURITY TRUSTEE\*\*\*]

Rocco Forte Hotels Limited  
70 Jermyn Street  
London  
SW1Y 6NY

(on behalf of the Chargors)

[\*\*\*date\*\*\*]

Dear Sirs

**DEBENTURE DATED [ \*\*\* ] (THE "DEBENTURE") BETWEEN ROCCO FORTE HOTELS LIMITED AND THE OTHER COMPANIES LISTED THEREIN (1) AND BANK OF SCOTLAND PLC (2) (THE "SECURITY TRUSTEE") AS TRUSTEE FOR THE BENEFICIARIES (AS DEFINED IN THE DEBENTURE)**

1. In accordance with Clause 6.1 (Collection Account) of the Debenture, we hereby direct that each Chargor pays into its Collection Account specified below all money which it may henceforth receive in respect of Receivables (other than monies paid into a Mandatory Prepayment Account, Holding Account, or any overseas bank account (subject to Clause 27.33 (Cash Management) of the Facilities Agreement)) charged by the Debenture, until otherwise instructed by us in writing.

Name of Chargor	Account number	Name of Account Bank and sort code
The Balmoral Hotel Edinburgh Limited		Bank of Scotland plc
Rocco Forte Hotels Limited		Bank of Scotland plc
Rocco Forte Hotels Limited		Bank of Scotland plc
Rocco Forte Hotels Limited		Bank of Scotland plc
Rocco Forte & Family (London) Limited		Bank of Scotland plc

Name of Chargor	Account number	Name of Account Bank and sort code
Rocco Forte & Family (Hotel Management) Limited	[REDACTED]	Bank of Scotland plc [REDACTED]
Rocco Forte & Family (Hotel Management) Limited	[REDACTED]	Bank of Scotland plc [REDACTED]
Rocco Forte & Family (Hotel Management) Limited	[REDACTED]	Bank of Scotland plc [REDACTED]
Rocco Forte & Family (Hotel Management) Limited	[REDACTED]	Bank of Scotland plc [REDACTED]
Rocco Forte & Family (Luxury Hotels) Limited	[REDACTED]	Bank of Scotland plc [REDACTED]
Rocco Forte & Family (Luxury Hotels) Limited	[REDACTED]	Bank of Scotland plc [REDACTED]
Rocco Forte & Family (Luxury Hotels) Limited	[REDACTED]	Bank of Scotland plc [REDACTED]
Rocco Forte & Family (Luxury Hotels) Limited	[REDACTED]	Bank of Scotland plc [REDACTED]
Rocco Forte & Family (Italy) Limited	[REDACTED]	Bank of Scotland plc [REDACTED]
Rocco Forte & Family (Italy) Limited	[REDACTED]	Bank of Scotland plc [REDACTED]
Rocco Forte Hotels Limited	[REDACTED]	Bank of Scotland plc [REDACTED]
Rocco Forte Hotels Limited	[REDACTED]	Bank of Scotland plc [REDACTED]
The Balmoral Hotel Edinburgh Limited	[REDACTED]	Bank of Scotland plc [REDACTED]
The Balmoral Hotel Edinburgh Limited	[REDACTED]	Bank of Scotland plc [REDACTED]
RF Corporate UK Limited	[REDACTED]	Bank of Scotland plc [REDACTED]
Rocco Forte & Family (Hotel Management) Limited	[REDACTED]	Bank of Scotland plc [REDACTED]

2. Where a Collection Account is not specified for any Chargor, this is based on our understanding that such Chargor does not currently receive any payment (from a person which is not a Group Company) which would be required by the terms of Clause 6.1 of the Debenture to be credited to a Collection Account. However, we hereby require that each such Chargor notifies us in advance if it foresees that any such payment will be received by it. In those circumstances, we will require a Collection Account to be opened for such Chargor into which all payments to which Clause 6.1 of the Debenture refers will be made.

3. The terms defined in the Debenture shall, where the context so admits, have the same meaning in this letter.

Yours faithfully

.....  
For and on behalf of  
Bank of Scotland plc  
(acting as Security Trustee)

We hereby confirm our agreement to the foregoing terms on behalf of each Chargor.

.....  
For and on behalf of  
Rocco Forte Hotels Limited

## PART 2

### FORM OF NOTICE TO BE SERVED AT COMPLETION BY THE CHARGORS ON THE ACCOUNT BANK PURSUANT TO CLAUSE 6.2 OF THE DEBENTURE

[\*\*\*ON THE HEADED NOTEPAPER OF THE COMPANY\*\*\*]

[\*\*\*Account Bank\*\*\*]

[\*\*\*Address\*\*\*]

For the attention of [ \*\*\* ]

[\*\*\*date\*\*\*]

Dear Sirs

**NOTICE OF CHARGE: DEBENTURE DATED [\*\*\*] (THE "DEBENTURE") BETWEEN ROCCO FORTE HOTELS LIMITED AND THE OTHER COMPANIES LISTED THEREIN (1) (THE "CHARGORS") AND BANK OF SCOTLAND PLC (2) (THE "SECURITY TRUSTEE") AS TRUSTEE FOR THE BENEFICIARIES (AS DEFINED IN THE DEBENTURE)**

1. This letter constitutes notice to you that, under the Debenture, we have each:
  - 1.1. charged our Receivables to the Security Trustee;
  - 1.2. undertaken to the Security Trustee to pay into our Collection Account with you (as specified in the attached copy of the Security Trustee's letter to us of today) all money which we receive in respect of our Receivables (other than monies paid into a Mandatory Prepayment Account, Holding Account, or any overseas bank account (subject to Clause 27.33 (Cash Management) of the Facilities Agreement)) and, pending such payment, to hold all money so received on trust for the Security Trustee; and
  - 1.3. charged all our interests and rights (if any) in or to any money at any time standing to the credit of our Collection Account to the Security Trustee.
2. We each hereby irrevocably and unconditionally instruct and authorise you (notwithstanding any previous instructions which we may have given you to the contrary):
  - 2.1. to disclose to the Security Trustee, without any reference to or further authority from us and without any enquiry by you as to the justification for such disclosure, such information relating to our Collection Account and the amount from time to time standing to its credit as the Security Trustee may, at any time and from time to time, request you to disclose to it.
  - 2.2. at any time after the Security Trustee has notified you that the Debenture has become enforceable:
    - 2.2.1. at any time and from time to time upon receipt by you of instructions in writing from the Security Trustee, to pay or release to the Security Trustee all or any of the money standing to the credit of our Collection Account (after your exercise of any rights of set-off then available to you in accordance with the Finance Documents) and

generally to act in accordance with such instructions in relation to our Collection Account, without any reference to or further authority from us and without any enquiry by you as to the justification for such instructions or their validity;

- 2.2.2. to comply with the terms of any written instructions in any way relating or purporting to relate to our Collection Account which you may receive at any time and from time to time from the Security Trustee without any reference to or further authority from us and without any enquiry by you as to the justification for such notice, statement or instructions or its or their validity;
  - 2.2.3. not to act upon our instructions with regard to our Collection Account unless and until the Security Trustee confirms those instructions to you in writing and, in particular but without limitation, in these circumstances no Chargor shall be permitted to withdraw any amount from any Collection Account without the prior written consent of the Security Trustee; and
  - 2.2.4. after your exercise of any rights of set-off then available to you in accordance with the Finance Documents, to hold all sums from time to time standing to the credit of our Collection Account to the order of the Security Trustee.
3. The instructions and authorisations which are contained in this letter shall remain in full force and effect until we and the Security Trustee together give you notice in writing revoking them.
  4. This letter and all non-contractual obligations arising in any way whatsoever out of or in connection with this letter shall be governed by and construed in accordance with English law.
  5. Please will you acknowledge receipt of this letter and confirm your acceptance of the instructions and authorisations contained in it by signing and returning to the Security Trustee the attached copy of this letter.

Yours faithfully

.....  
For and on behalf of  
[\*\*\*each Chargor\*\*\*]

**[On copy:**

For the benefit of the Security Trustee (for itself and on behalf of the Beneficiaries). we:

1. hereby acknowledge receipt of this letter; and
2. without prejudice to the terms of the Inter Creditor Agreement dated [\*\*\*] to which we (along with others) are party, accept the instructions contained in the letter and agree to act in accordance them.

We also confirm that we have not received notice of any interest of any third party in any of the Collection Accounts.

.....  
For and on behalf of [\*\*\* the Account Bank \*\*\*]

## SCHEDULE 5 - FORMS OF NOTICES OF ASSIGNMENT

### PART 1

#### FORM OF NOTICE OF ASSIGNMENT OF MANAGEMENT CONTRACTS

To: [\*Relevant counterparty\*]

[\*date\*]

Dear Sirs,

#### Notice of Assignment

We refer to the management contract dated [ \*\*\* ] made between you (1) and us (2) relating to the management of [ \*\*\* relevant hotel\*\*\* ] (the "**Management Contract**").

We refer to a debenture (the "**Debenture**") dated [ \*\*\* ] made between, inter alia, Bank of Scotland plc (the "**Security Trustee**") and ourselves. Terms defined in the Debenture are to have the same meanings in this letter.

We hereby give you notice that our rights under the Management Contract have been assigned to the Security Trustee by Clause 3.1 (Assignments) of the Debenture.

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

Please confirm your acknowledgement of this notice by signing the acknowledgements set out at the foot of the enclosed duplicate hereof and by returning the same to Bank of Scotland plc [REDACTED] marked for the attention of Dave North.

Signed

.....

for and on behalf of

[ \*\*\*relevant Chargor\*\*\* ]



[on copy]

**ACKNOWLEDGEMENT**

To: Bank of Scotland plc



For the attention of: Dave North

We, [ \*\*\*relevant counterparty\*\*\* ] hereby acknowledge receipt of a notice of assignment from [ \*\*\*relevant Chargor\*\*\* ] of which the attached is a copy (the "**Notice of Assignment**").

We confirm that we have not received notice of any other assignment of the Management Contract or any interest therein.

For and on behalf of

.....  
[ \*\*\*relevant counterparty\*\*\* ]

Dated:

**PART 2**  
**FORM OF NOTICE OF ASSIGNMENT OF HEDGING AGREEMENTS**

To:       [\*Hedge Counterparty\*]

[\*date\*]

Dear Sirs,

**Notice of Assignment**

We refer to a Debenture (the "**Debenture**") dated [ \*\*\* ] made between, inter alia, [ \*\*\* ] (the "**Security Trustee**") and ourselves. Terms defined in the Debenture are to have the same meanings in this letter.

We hereby give you notice that we have assigned all our rights, title and interest in and to the Hedging Agreements [\* define \*] to the Security Trustee by Clause 3.1.2 (Assignments) of the Debenture.

We irrevocably and unconditionally instruct and authorise you (notwithstanding any previous directions which we may have given you to the contrary):

1.       unless otherwise directed by the Security Trustee, to furnish or disclose to the Security Trustee in addition to ourselves all notices, matters or things required under the Hedging Agreements to be furnished and disclosed to ourselves;
2.       at any time after an Event of Default has occurred and is continuing, to hold to the order of the Security Trustee all sums from time to time due and payable by you to us under the Hedging Agreements;
3.       at any time after an Event of Default has occurred and is continuing, to pay or release all or any part of the sums from time to time due and payable by you to us under the Hedging Agreements in accordance with the written instructions given to you by the Security Trustee from time to time; and
4.       at any time after an Event of Default has occurred and is continuing, to comply with the terms of any written notice or instructions in any way relating to, or purporting to relate to the Debenture, the sums payable to the Company from time to time under the Hedging Agreements or the debts represented thereby, which you receive from the Security Trustee from time to time without reference to or further authority from the Company and without any enquiry by you as to the justification for or validity of such notice or instruction.

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

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

Please confirm your acknowledgement of this notice by signing the acknowledgements set out at the foot of the enclosed duplicate hereof and by returning the same to Bank of Scotland plc. [REDACTED] marked for the attention of Dave North.

Signed

.....  
for and on behalf of  
[\*\*\*relevant Chargor\*\*\*]

[on copy]

**ACKNOWLEDGEMENT**

To: Bank of Scotland plc



For the attention of: Dave North

We, [ \*\*\* Hedge Counterparty\*\*\* ] hereby acknowledge receipt of a notice of assignment from the Company of which the attached is a copy (the "**Notice of Assignment**").

We confirm that we have not received notice of any other assignment of the Hedging Agreements described in the Notice of Assignment or any interest therein.

For and on behalf of

.....

[ \*\*\* Hedging Counterparty \*\*\* ]

Dated:

**PART 3**  
**FORM OF NOTICE OF ASSIGNMENT OF INSURANCE POLICIES**

**Form of Notice of Assignment and Receipt**

To:     [ ]

Dated:

**[Chargor]**

[Chargor] hereby gives notice that by a debenture dated [ ] (the "**Deed**") (a certified copy of which is attached) it has assigned by way of security to Bank of Scotland plc as Security Trustee all its right, title, interest and benefit, whether present or future, in and to the policies described below. The assignment secures monies, obligations and liabilities due owing or incurred to the Beneficiaries (as defined in the Deed).

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 Bank of Scotland plc, [REDACTED] marked for the attention of Dave North.

<b>Property Insured</b>	<b>Sum Assured (£)</b>	<b>Insurer</b>	<b>Policy No.</b>	<b>Expiry Date of Policy</b>	<b>Cover</b>
-----------------------------	----------------------------	----------------	-------------------	----------------------------------	--------------

Signed

.....  
for and on behalf of  
[Chargor]

[on copy]

**ACKNOWLEDGEMENT**

To: Bank of Scotland plc



For the attention of: Dave North

**[Chargor]**

We hereby acknowledge receipt of a notice of the assignment of certain insurance policies (as listed in that notice) (the "**Policies**") from [Chargor] to Bank of Scotland plc of which the attached is a copy.

We confirm that we have not received notice of any other assignment of the Policies or any interest therein.

Signed by

.....  
for and on behalf of  
[Insurer]

Dated

EXECUTION PAGE

THE CHARGORS

**EXECUTED** and **DELIVERED** as a **DEED** by  
**ROCCO FORTE HOTELS LIMITED** (pursuant  
to a resolution of its Board of Directors) acting  
by a director in the presence of:



Director



Witness

*Callaghan Paul McKeen Smith*

Full Name



Address



Occupation

**EXECUTED** and **DELIVERED** as a **DEED** by  
**ROCCO FORTE & FAMILY (LUXURY  
HOTELS) LIMITED** (pursuant to a resolution  
of its Board of Directors) acting by a director in  
the presence of:



Director



Witness

*Anthony Martin*

Full Name

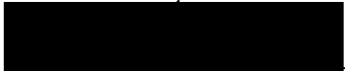


Address



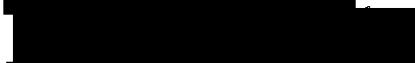
Occupation

**EXECUTED and DELIVERED as a DEED by  
ROCCO FORTE & FAMILY (EXECUTIVE  
HOTEL PROGRAM) LIMITED** (pursuant to a  
resolution of its Board of Directors) acting by a  
director in the presence of:

 Witness

Anthony Martin Full Name

 Address



 Occupation



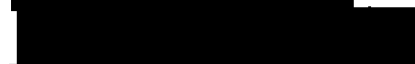
Director

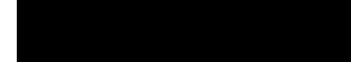
**EXECUTED and DELIVERED as a DEED by  
ROCCO FORTE & FAMILY (RUSSIA)  
LIMITED** (pursuant to a resolution of its Board  
of Directors) acting by a director in the  
presence of:

 Witness

Anthony Martin Full Name

 Address



 Occupation



Director



**EXECUTED and DELIVERED as a DEED by  
ROCCO FORTE & FAMILY (ITALY) LIMITED**  
(pursuant to a resolution of its Board of  
Directors) acting by a director in the presence  
of:

 Witness

Anthony Martin Full Name

 Address

 Occupation

  
Director

**EXECUTED and DELIVERED as a DEED by  
ROCCO FORTE & FAMILY (GERMANY)  
LIMITED** (pursuant to a resolution of its Board  
of Directors) acting by a director in the  
presence of:

 Witness

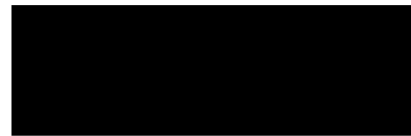
Anthony Martin Full Name

 Address

 Occupation

  
Director

**EXECUTED** and **DELIVERED** as a **DEED** by  
**ROCCO FORTE & FAMILY (HOTEL  
MANAGEMENT) LIMITED** (pursuant to a  
resolution of its Board of Directors) acting by a  
director in the presence of:



Director



Witness

Yperio Michaelides

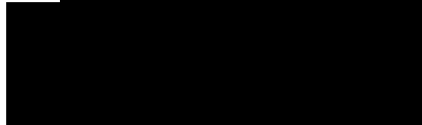
Full Name



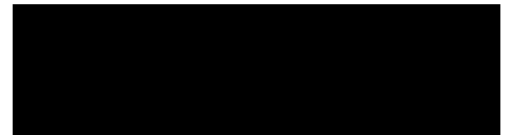
Address



Occupation



**EXECUTED** and **DELIVERED** as a **DEED** by  
**RF CORPORATE UK LIMITED** (pursuant to a  
resolution of its Board of Directors) acting by a



Director



Witness

Collegian Paul McCarty-Smith

Full Name



Address



Occupation



**EXECUTED and DELIVERED as a DEED by  
THE BALMORAL HOTEL EDINBURGH  
LIMITED** (pursuant to a resolution of its Board  
of Directors) acting by a director in the  
presence of:



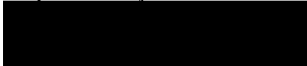
Director



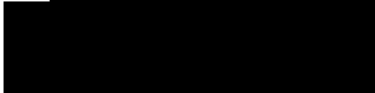
Witness

Yiannis Michaelides

Full Name



Address



Occupation

**EXECUTED and DELIVERED as a DEED by  
ROCCO FORTE & FAMILY (BELGIUM)  
LIMITED** (pursuant to a resolution of its Board  
of Directors) acting by a director in the  
presence of:



Director



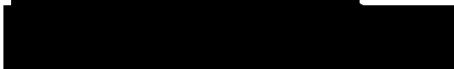
Witness

Anthony MARTIN

Full Name



Address



Occupation

**EXECUTED and DELIVERED** as a **DEED** by **ROCCO FORTE & FAMILY (LONDON) LIMITED** (pursuant to a resolution of its Board of Directors) acting by a director in the presence of:

[Redacted Signature]

Director

[Redacted Signature]

Witness

Marios Michaelides

Full Name

[Redacted Address]

Address

[Redacted Address]

[Redacted Occupation]

Occupation

**EXECUTED and DELIVERED** as a **DEED** by **RFFF LIMITED** (pursuant to a resolution of its Board of Directors) acting by a director in the presence of:

[Redacted Signature]

Director

[Redacted Signature]

Witness

Antonios Martin

Full Name

[Redacted Address]

Address

[Redacted Address]

[Redacted Occupation]

Occupation

**EXECUTED** and **DELIVERED** as a **DEED** by  
**RFFG LIMITED** (pursuant to a resolution of its  
Board of Directors) acting by a director in the  
presence of:

\_\_\_\_\_  
Director

\_\_\_\_\_  
Witness

ANDREW MARTIN Full Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Occupation

**THE SECURITY TRUSTEE**

Signed by  
for and on behalf of **BANK OF SCOTLAND  
PLC**

\_\_\_\_\_  
Attorney

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Full Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Occupation

**DATED** 16 April 2024

**THE COMPANIES NAMED IN SCHEUDLE 1**

**(as Chargors)**

**- and -**

**BANK OF SCOTLAND PLC**

**(as Security Trustee)**

**DEBENTURE**

**This Deed is entered into with the benefits of and subject to the terms of the Intercreditor Agreement (as defined herein)**

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This Debenture is made on 16 April 2024

**BETWEEN:**

- (1) The companies named in Schedule 1 (The Chargors); and
- (2) Bank of Scotland plc as Security Trustee.

**Witnesses as follows:**

**1. DEFINITIONS AND INTERPRETATION**

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

**"Account Bank"** means Bank of Scotland plc.

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

**"Assets"** means in relation to a Chargor, all its undertaking, property, assets, revenues and rights of every description, or any part of them (other than the Excluded Intellectual Property).

**"Beneficiary"** means each Finance Party and any administrator, receiver or delegate appointed pursuant to this Debenture.

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

**"Collection Accounts"** means in relation to a Chargor, its account with the Account Bank into which it is required to pay its Receivables pursuant to Clause 6.1 (Collection Account).

**"Company"** means Rocco Forte Hotels Limited a limited liability company incorporated under the laws of England and Wales with registered number 03277921.

**"Declared Default"** means that an Event of Default has occurred and as a result the Agent has taken steps to exercise any of its rights under Clause 28.19 (Acceleration) of the Facilities Agreement.

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

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

**"Derivative Rights"** includes:

- (a) allotments, rights, money or property arising at any time in relation to any Investments (other than the Excluded Investments) by way of conversion, exchange, redemption, bonus, preference, option or otherwise;

- (b) dividends, distributions, interest and other income paid or payable in relation to any Investments (other than the Excluded Investments); and
- (c) stock, shares and securities offered in addition to or in substitution for any Investments (other than the Excluded Investments).

**"Event of Default"** means an Event of Default under and as defined in the Facilities Agreement.

**"Excluded Intellectual Property"** means the Intellectual Property and associated rights the subject of the deed of assignment dated 9 March 2015 and made between Sir Rocco Forte Limited (as assignor) and the Company (as assignee).

**"Excluded Investments"** means all Investments in a Ringfenced Company held by a Chargor.

**"Excluded Leasehold"** means the lease dated 27 April 2007 and made between Rocco Forte Hotels Limited (previously Rocco Forte & Family Limited) and The Crown Estate Commissioners in relation to the property known as 70 Jermyn Street, London SW1Y 6NY Street or any other lease entered into by either Rocco Forte Hotels Limited or Rocco Forte & Family (Hotel Management) Limited from time to time in relation to its corporate office in London.

**"Facilities Agreement"** means the facilities agreement made between, amongst others, Rocco Forte Hotels Limited (formerly Rocco Forte & Family Limited) and Bank of Scotland plc as Arranger, Original Lender, Agent, Security Trustee and in various other capacities originally dated 6 March 2015 and as further amended and/or restated from time to time (each term as defined therein).

**"Finance Document"** means any Finance Document under and as defined in the Facilities Agreement, and "Finance Documents" shall be construed accordingly.

**"Finance Party"** means any Finance Party under and as defined in the Facilities Agreement, and "Finance Parties" shall be construed accordingly.

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

**"Financial Collateral Regulations"** means the Financial Collateral Arrangements (No. 2) Regulations 2003 (SI 2003 No. 3226), as amended.

**"Fixed Security Asset"** means an Asset for the time being comprised within an assignment created by Clause 3.1 (Assignments) or within a mortgage or fixed charge created by Clause 3.2 (Fixed security) or arising on crystallisation of a floating charge whether under Clause 4 (Crystallisation) or otherwise and for the avoidance of doubt excludes the Excluded Intellectual Property, the Excluded Leasehold and the Excluded Investments.

**"Floating Charge Asset"** means an Asset for the time being comprised within the floating charge created by Clause 3.3 (Creation of Floating Charge) but, in relation to Assets situated

in Scotland and charged by clause 3.3.2 only in so far as concerns the floating charge over that Asset (and, for the avoidance of doubt, excluding the Excluded Intellectual Property).

**"Group"** means the Company and its Subsidiaries for the time being.

**"Hedging Agreements"** has the meaning given to that term in the Facilities Agreement.

**"Hedge Counterparty"** has the meaning given to that term in the Facilities Agreement.

**"Insurance Policy"** means any contract or policy of insurance of any Chargor (including all cover notes) of whatever nature which are from time to time taken out by or on behalf of any Chargor or (to the extent of its interest) in which any Chargor has an interest at any time, including any key-man policies in place.

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

**"Intellectual Property Rights"** in relation to a Chargor, means all and any of its Intellectual Property and all other intellectual property rights, causes of action, interests and assets charged by it pursuant to Clause 3.2.3 (k) to (q) inclusive other than the Excluded Intellectual Property.

**"Intercreditor Agreement"** means the intercreditor agreement originally dated 9 March 2015 between inter alia the Company, the Agent, the Security Trustee, the Hedge Counterparties, the Lenders as further amended and/or restated from time to time.

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

**"Land"** means freehold and leasehold, and any other estate in, land (other than the Excluded Leasehold) and (outside England and Wales) immovable property and in each case all buildings and structures upon and all things affixed to Land (including trade and tenant's fixtures).

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

**"Management Contracts"** means the Management Contracts under and as defined in the Facilities Agreement.

**"New Chargor"** means a member of the Group which becomes a Chargor under this Debenture in accordance with Clause 28 (Accession of a New Chargor).

**"Obligor"** means an Obligor under and as defined in the Facilities Agreement and "Obligors" shall be construed accordingly.

**"Party"** means a party to this Debenture.

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

**"Receiver"** means a receiver and manager appointed under Clause 16 (Appointment of a Receiver or an Administrator) including (where the context requires or permits) any substituted receiver and manager.

**"Relevant System"** has the meaning given to that term by the Uncertificated Securities Regulations 2001 as amended by the Uncertificated Securities (Amendment and EU Exit) Regulations 2019, for any replacement thereof and includes the CREST system and also any other system or facility (whether established in the United Kingdom or elsewhere) providing means for the deposit of, and clearance of transactions in, Investments (other than the Excluded Investments).

**"Ringfenced Companies"** has the meaning given to that term in the Facilities Agreement and "Ringfenced Company" means one of them.

**"Secured Sums"** means all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or in any other capacity whatsoever) of any Obligor 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"** means a mortgage, charge (whether fixed or floating, legal or equitable), pledge, lien, assignment by way of security or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.

**"Security Trustee"** means Bank of Scotland plc acting as security agent and trustee for the Beneficiaries including any successor appointed by the Beneficiaries pursuant to the Finance Documents.

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

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

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

- 1.2.1. References to any Party shall be construed so as to include that Party's respective successors in title, permitted assigns and permitted transferees.
- 1.2.2. "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".
- 1.2.3. A "person" includes any person, firm, company, corporation, government, state or agency of a state or any association, joint venture, trust or partnership (whether or not having separate legal personality) of two or more of the foregoing.
- 1.2.4. "Property" includes any interest (legal or equitable) in real or personal property and any thing in action.
- 1.2.5. "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.
- 1.2.6. "Writing" includes facsimile transmission legibly received except in relation to any certificate, notice or other document which is expressly required by this Debenture to be signed and "written" has a corresponding meaning.
- 1.2.7. Subject to Clause 32.4 (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 and, in addition, references to this Debenture shall include (with effect from the date on which it comes into force) each Deed of Accession and Charge executed pursuant to it.

- 1.2.8. References to uncertificated Investments are to Investments the title to which can be transferred by means of an electronic or other entry in a Relevant System and references to certificated Investments are to Investments which are not uncertificated Investments.
- 1.2.9. The singular shall include the plural and vice versa and any gender shall include the other genders.
- 1.2.10. Clauses, paragraphs and Schedules shall be construed as references to Clauses and paragraphs of, and Schedules to, this Debenture.
- 1.2.11. 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.
- 1.2.12. Headings in this Debenture are inserted for convenience and shall not affect its interpretation.
- 1.2.13. A Default (other than an Event of Default) is "continuing" for the purposes of the Finance Documents if it has not been remedied or waived and an Event of Default for those purposes is "continuing" if it has not been remedied or waived.
- 1.2.14. "Blank stock transfer form" means an undated stock transfer form executed by two directors or a director and the secretary of a Chargor or by one director in the presence of a witness but with the section relating to the consideration and the transferee left blank.
- 1.3. Conflict of terms: If any conflict arises between the covenants and undertakings in Clause 11 (Land) and Clause 12 (Intellectual Property Rights) and the covenants and undertakings in Clause 27 (General Undertakings) of the Facilities Agreement, the covenants and undertakings given in the Facilities Agreement shall prevail.
- 1.4. Law of Property (Miscellaneous Provisions) Act 1994: The limitations on liability set out in Section 6 of the Law of Property (Miscellaneous Provisions) Act 1994 shall not apply to, or in respect of, the covenants implied by virtue of Sections 2(1)(a), 3 and 4 of that Act on the part of any Chargor by its execution and delivery of this Debenture.
- 1.5. Law of Property (Miscellaneous Provisions) Act 1989: The terms of the Finance Documents and of any side letters between one or more of the Chargor or other Obligors and/or the Beneficiaries (or any of them) relating thereto are incorporated in this Debenture to the extent required for any purported disposition of the Fixed Security Assets or Floating Charge Assets contained in this Debenture to be 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: Each Chargor (as primary obligor and not merely as surety or guarantor) covenants with the Security Trustee that it will, on the Security Trustee's written demand, pay

or discharge the Secured Sums at the times and in the manner provided in the relevant Finance Documents.

2.2. Proviso: The covenants contained in this Clause 2 and the security created by this Debenture shall not extend to or include any liability or sum which would otherwise cause any such covenant or security to be unlawful or prohibited by any applicable law.

2.3. Demands:

2.3.1. The making of one demand shall not preclude the Security Trustee from making any further demands.

2.3.2. Any third party dealing with the Security Trustee or any Receiver shall not be concerned to see or enquire as to the validity of any demand under this Debenture.

### **3. CREATION OF SECURITY**

3.1. Assignments: Each Chargor, with full title guarantee, as security for the payment or discharge of all Secured Sums, assigns (insofar as the same are capable of assignment) absolutely to the Security Trustee:

3.1.1. all of its rights, title and interest from time to time in respect of any sums payable to it pursuant to the Insurance Policies;

3.1.2. all of its rights, title and interest from time to time in respect of the Hedging Agreements; and

3.1.3. all of its rights, title and interest from time to time in respect of all Management Contracts.

3.2. Fixed Security: Each Chargor, with full title guarantee, as security for the payment or discharge of all Secured Sums, charges to the Security Trustee:

3.2.1. by way of legal mortgage, all Land in England and Wales now vested in it and registered at the Land Registry, in each case as described in Schedule 2 (Registered Land to be Mortgaged);

3.2.2. by way of legal mortgage, all other Land in England and Wales now vested in it and not registered at the Land Registry;

3.2.3. by way of fixed charge:

(a) all other Land which is now, or in the future becomes, its property;

(b) all interests and rights in or relating to Land or the proceeds of sale of Land now or in the future belonging to it;

- (c) all plant and machinery now or in the future attached to any Land which, or an interest in which, is charged by it under the preceding provisions of this Clause 3.2;
- (d) all rental and other income and all debts and claims now or in the future due or owing to it under or in connection with any lease, agreement or licence relating to Land;
- (e) all Specified Investments which are now its property, including all proceeds of sale derived from them;
- (f) all Specified Investments in which that Chargor may in the future acquire any interest (legal or equitable), including all proceeds of sale derived from them;
- (g) all Derivative Rights of a capital nature now or in the future accruing or offered in respect of its Specified Investments;
- (h) all Derivative Rights of an income nature now or in the future accruing or offered at any time in respect of its Specified Investments;
- (i) all insurance or assurance contracts or policies now or in the future held by or otherwise benefiting it which relate to Fixed Security Assets or which are now or in the future deposited by it with the Security Trustee, together with all its rights and interests in such contracts and policies (including the benefit of all claims arising and all money payable under them) apart from any claims which are otherwise subject to a fixed charge or assignment (at law or in equity) in this Debenture;
- (j) all its goodwill and uncalled capital for the time being;
- (k) to the extent not effectively assigned under Clause 3.1 (Assignments), all other Intellectual Property (other than the Excluded Intellectual Property) presently belonging to it, including any Intellectual Property (other than the Excluded Intellectual Property) to which it is not absolutely entitled or to which it is entitled together with others;
- (l) all Intellectual Property (other than the Excluded Intellectual Property) that may be acquired by or belong to it in the future, including any such Intellectual Property (other than the Excluded Intellectual Property) to which it is not absolutely entitled or to which it is entitled together with others;
- (m) to the extent not effectively assigned under Clause 3.1 (Assignments), the benefit of all agreements and licences now or in the future entered into or enjoyed by it relating to the use or exploitation of any Intellectual Property (other than the Excluded Intellectual Property) in any part of the world;



- (n) all its rights now or in the future in relation to trade secrets, confidential information and knowhow in any part of the world;
- (o) all its rights and causes of action in respect of infringement(s) (past, present or future) of the rights referred to in Clause 3.2.3 (k) to (m) inclusive of this Clause;
- (p) all trade debts now or in the future owing to it;
- (q) all other debts now or in the future owing to it, excluding those arising on fluctuating accounts with other members of the Group;
- (r) the benefit of all instruments, guarantees, charges, pledges and other security and all other rights and remedies available to it in respect of any Fixed Security Asset except to the extent that such items are for the time being effectively assigned under Clause 3.1 (Assignments);
- (s) all its interests and rights (if any) in or to any money at any time standing to the credit of any Collection Account;
- (t) any beneficial interest, claim or entitlement it has to any pension fund now or in the future;
- (u) all rights, money or property accruing or payable to it now or in the future under or by virtue of a Fixed Security Asset except to the extent that such rights, money or property are for the time being effectively assigned or charged by fixed charge under the foregoing provisions of this Debenture;
- (v) all moneys at any time standing to the credit of any Holding Account and/or Mandatory Prepayment Account; and
- (w) the benefit of all licences, consents and authorisations held in connection with its business or the use of any Asset and the right to recover and receive all compensation which may be payable in respect of them.

3.3. Creation of floating charge: Each Chargor, with full title guarantee, charges to the Security Trustee as security for the payment or discharge of all Secured Sums, by way of floating charge:

- 3.3.1. all its Assets, including any Assets comprised within a charge which is reconverted under Clause 4.4 (Reconversion); and
- 3.3.2. without exception, all its Assets in so far as they are for the time being situated in Scotland or governed by Scots law,

but in each case so that such Chargor shall not create any Security (save for Permitted Security) over any such Asset (which, for the avoidance of doubt, does not include the Excluded Intellectual Property) (whether having priority over, or ranking pari passu with or subject to, this floating charge) or take any other step referred to in Clause 7 (Negative pledge

and other restrictions) with respect to any such Asset (which, for the avoidance of doubt, does not include the Excluded Intellectual Property), and such Chargor shall not, without the consent of the Security Trustee, sell, transfer, part with or dispose of any such Asset (which, for the avoidance of doubt, does not include the Excluded Intellectual Property) (except by way of a Permitted Disposal or by way of a sale in the ordinary course of its business to the extent that such action is not otherwise prohibited by any Finance Document). For the avoidance of doubt the floating charge shall not cover the Excluded Intellectual Property.

3.4. Notices of Assignment:

- 3.4.1. Each Chargor shall, following notice from the Security Trustee at any time an Event of Default is continuing, execute a notice of assignment in respect of the Management Contracts in substantially the form set out in Part 1 of Schedule 5 (Forms of Notices of Assignments) and promptly deliver them to the relevant party.
- 3.4.2. Each Chargor shall within 3 Business Days of the date of the Debenture give notice to the insurers (and any broker) of the security over the Insurance Policies and their proceeds created by this Debenture in substantially the form set out in Part 3 of Schedule 5 (Forms of Notice and Assignment) and otherwise comply with its obligations in Clause 27 (General Undertakings) of the Facilities Agreement.
- 3.4.3. Each Chargor shall within 3 Business Days of the date of this Debenture execute a notice of assignment in respect of the Hedging Agreements in substantially the form set out in Part 2 of Schedule 5 (Forms of Notices of Assignments) and promptly deliver the notice to each Hedge Counterparty. Where the Hedge Counterparty is Bank of Scotland plc and/or Lloyds Bank Corporate Markets plc, the Parties agree that notice in the form set out in Part 2 of Schedule 5 (Forms of Notices of Assignments) shall be deemed to have been automatically served on such Hedge Counterparty in respect of each Hedging Agreement and acknowledged by such Hedge Counterparty.
- 3.4.4. The Company shall use reasonable endeavours to procure the execution and delivery to the Security Trustee of acknowledgments by the addressees of the notices delivered to them pursuant to Clauses 3.4.1, 3.4.2 and 3.4.3 above.

3.5. Priority:

- 3.5.1. Any fixed Security created by a Chargor and subsisting in favour of the Security Trustee shall (save as the Security Trustee may otherwise declare at or after the time of its creation) have priority over the floating charge created by Clause 3.3 (Creation of floating charge).
- 3.5.2. Any Security created in the future by a Chargor (except in favour of the Security Trustee) shall be expressed to be subject to this Debenture and shall rank in order of priority behind the charges created by this Debenture. For the avoidance of doubt any Security granted by a member of the Group over the shares of any Ringfenced Company in favour of a third party funder of such Ringfenced Company shall rank

ahead of the floating charge granted by such members of the Group in favour of the Finance Parties pursuant to the Transaction Security.

3.6. Application to the Land Registry: Each Chargor:

3.6.1. in relation to each register of title of any present and future Land of that Chargor which is charged to the Security Trustee under this Debenture or pursuant to Clause 9 (Further Assurance), consents to the Security Trustee (or its solicitors) at any time:

(a) submitting a Form RX1 (application to register a restriction) in the following terms:

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

3.6.2. submitting a Form CH2 (application to enter an obligation to make further advances); and

3.6.3. covenants to submit an application to the appropriate Land Registry for the first registration of any unregistered Land in England and Wales mortgaged by Clause 3.2 (Fixed security) at its own expense, promptly following its execution of this Debenture.

**4. CRYSTALLISATION**

4.1. Crystallisation by notice: The floating charge created by each Chargor in Clause 3.3 (Creation of floating charge) may, subject to Clause 4.5 (Moratorium Assets), be crystallised into a fixed charge by notice in writing given at any time by the Security Trustee to the relevant Chargor (or to the Company on its behalf) if:

4.1.1. a Declared Default has occurred;

4.1.2. the Security Trustee acting reasonably considers that a Default under paragraphs (a), (c) or (d) of Clause 28.6 (Insolvency) or Clause 28.7 (Insolvency Proceedings) of the Facilities Agreement has occurred and is continuing; or

4.1.3. the Security Trustee acting reasonably considers that any of the Assets expressed to be charged to the Security Trustee by this Debenture may be in jeopardy or in danger of being seized or sold pursuant to any form of legal process; or

4.1.4. a circumstance envisaged by Clause 4.2.1 occurs and the Security Trustee acting reasonably considers that such crystallisation is necessary in order to protect the priority of its security.

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

4.2. Automatic crystallisation: If, without the Security Trustee's prior written consent:

4.2.1. any Chargor, in contravention of any Finance Document, resolves to take or takes any step to:

- (a) charge or otherwise encumber any of its Floating Charge Assets;
- (b) create a trust over any of its Floating Charge Assets; or
- (c) dispose of any Floating Charge Asset (except by way of sale in the ordinary course of such Chargor's business to the extent that such disposal is not otherwise prohibited by any Finance Document); or

4.2.2. 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

4.2.3. an Event of Default under Clause 28.6 (Insolvency) or 28.7 (Insolvency Proceedings) of the Facilities Agreement has occurred,

then the floating charge created by Clause 3.3 (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 Clause 4.2.3 above into a fixed charge over all Floating Charge Assets of the relevant Chargor.

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

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

4.5. Moratorium Assets: The floating charge created by each Chargor in Clause 3.3 (Creation of floating charge) may not be converted into a fixed charge solely by reason of the obtaining of a moratorium or anything done with a view to obtaining a moratorium under section 1A and Schedule A1 of the Insolvency Act 1986.

4.6. Scotland: The terms of Clause 4.1 (Crystallisation by notice) and 4.2 (Automatic Crystallisation) shall not apply in respect of any property or assets situated in Scotland or governed by Scots law if and to the extent that any such conversion is ineffective under Scots law or would result in any Receiver being unable to exercise any powers under Section 72 of the Insolvency Act 1986.

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

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

5.1.1. deposit with the Security Trustee, and the Security Trustee shall be entitled to retain during the continuance of the security created by this Debenture, all deeds and documents of title relating to all its Fixed Security Assets, including policies of insurance and assurance, certificates of registration and certificates constituting or evidencing Specified Investments; and

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

provided that the Security Trustee shall not require or effect the transfer of any Specified Investments into its name or into the name of any nominee of the Security Trustee unless an Event of Default has occurred and is continuing.

5.2. Insurance:

5.2.1. Each Chargor shall:

(a) maintain at all times insurance policies which comply with Clause 27 (General Undertakings) of the Facilities Agreement and comply with the terms of all such insurance policies, including any stipulations or restrictions as to use or operation of any asset, and shall not do or permit anything which may make any insurance policy void or voidable; and

(b) make notifications to insurers of any claims or prospective claims in accordance with the provisions of the relevant insurance policy and diligently pursue the making of recoveries from insurers.

5.2.2. Each Chargor shall procure that the interest of the Security Trustee is noted on the face of all its insurance policies in such form as the Security Trustee may require.

5.2.3. If any default shall at any time be made in effecting or maintaining insurance required by this Clause or in promptly producing any payment receipt to the Security Trustee on demand or depositing any policy with the Security Trustee pursuant to the Transaction Security Documents, the Security Trustee (acting reasonably) may take out or renew such insurances in such sums as the Security Trustee may think expedient and all money reasonably and properly expended by the Security Trustee under this provision shall be recoverable by the Security Trustee under Clause 24 (Costs, Expenses and Liabilities).

## **6. COLLECTION OF RECEIVABLES**

- 6.1. Collection Account: Except where moneys are to be paid into a Mandatory Prepayment Account, Holding Account or into any overseas bank account (subject to Clause 27.33 (Cash Management) of the Facilities Agreement) in accordance with the terms of any other Finance Document, each Chargor shall collect and realise all its Receivables and, immediately on receipt, pay all money so collected into the Collection Account specified from time to time by the Security Trustee in a notice substantially in the form set out in Part 1 of Schedule 4 (Collection of Receivables). Each Chargor shall, pending such payment, hold all money so received upon trust for the Security Trustee.
- 6.2. Notice to Account Bank: Each Chargor (or the Company on its behalf) shall, immediately after the execution of this Debenture, give notice to the Account Bank substantially in the form set out in Part 2 of Schedule 4 (Collection of Receivables) and shall use reasonable endeavours to procure that the Account Bank signs and delivers the form of acknowledgement to that notice. Where the Account Bank holding a Collection Account is Bank of Scotland plc, the Parties agree that notice in the form set out in Part 2 of Schedule 4 (Collection of Receivables) shall be deemed to have been automatically served on such Account Bank in respect of each Collection Account and acknowledged by such Account Bank.
- 6.3. No derogation: No Chargor shall purport, without the Security Trustee's prior written consent, to charge, factor, discount, assign, postpone, subordinate, release or waive its rights in respect of any Receivable in favour of any person or do or omit to do anything which might delay or prejudice its full recovery, other than in relation to the commutation of Receivables with its customers in the ordinary course of business.
- 6.4. Factored debts: If the Security Trustee releases, waives or postpones its rights in respect of any Receivable to enable a Chargor to factor or discount them to any person (the "factor"), the charges created by this Debenture shall in all other respects remain in full force and effect. In particular, all amounts becoming due to such Chargor from the factor and any Receivables reassigned, or due to be reassigned to such Chargor, shall be subject to the relevant fixed charge created by this Debenture, subject only to any defences or rights of set-off which the factor may have against such Chargor.
- 6.5. Information: Each Chargor shall deliver to the Security Trustee such particulars as to the amount and nature of its Receivables as the Security Trustee may from time to time reasonably require.

## **7. NEGATIVE PLEDGE AND OTHER RESTRICTIONS**

No Chargor shall, without the prior written consent of the Security Trustee (and with the exception of Permitted Security, Permitted Disposals or as otherwise permitted by the Facilities Agreement):

- 7.1. create, or agree or attempt to create, or permit to subsist, any Security or any trust over any of its Assets; or

- 7.2. sell, assign, lease, license or sub-license, or grant any interest in, any of its Fixed Security Assets, or part with possession or ownership of them, or purport or agree to do so.

## **8. RIGHT OF APPROPRIATION**

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

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

- 8.3. Value: The value of any Financial Collateral appropriated under Clause 8.2 (Right of Appropriation) shall be:

8.3.1. in the case of cash, its face value at the time of appropriation; and

8.3.2. in the case of financial instruments or other financial collateral, their market value at the time of appropriation as determined (after appropriation) by the Security Trustee (acting reasonably) by reference to a public index or other applicable generally recognised source or such other process as the Security Trustee (acting reasonably) may select, including a valuation carried out by an independent firm of accountants or valuers appointed by the Security Trustee after consultation with the Chargor;

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

- 8.4. Surplus or Shortfall: The Security Trustee will account to the relevant Chargor for any amount by which the value of the appropriated Assets exceeds the Secured Sums then due and the Chargors shall remain liable to the Security Trustee for any amount by which the value of the appropriated Assets is less than the Secured Sums then due.

- 8.5. Confirmation: Each Chargor agrees that (i) all its Financial Collateral has been delivered, transferred, held, registered or otherwise designated so as to be in the possession or under the control of the Security Trustee or a person acting on its behalf; and (ii) the method of valuing such Financial Collateral under Clause 8.3 (Value) is commercially reasonable for the purposes of the Financial Collateral Regulation.

## **9. FURTHER ASSURANCE**

- 9.1. Each Chargor shall (and the Company shall procure that each Chargor will) promptly do all such acts and execute all such documents (including assignments, transfers, mortgages, charges, notices, forms and instructions) as the Security Trustee may reasonably specify and

in such form as the Security Trustee may reasonably require (in favour of the Security Trustee or its nominee(s)) in order to:

- 9.1.1. perfect or protect the Security created or intended to be created by this Debenture (which may include the execution of a mortgage, charge, assignment (other than a legal assignment of Receivables in respect of trade debtors), transfer, notice, instruction or other Security over all or any of the Assets which are, or are intended to be, the subject of the Security constituted by this Debenture) or for the exercise of any rights, powers and remedies of any Beneficiary provided by this Debenture or by law;
  - 9.1.2. confer on the Security Trustee or confer on the Beneficiaries, Security over any Assets of that Chargor located in any jurisdiction outside England and Wales which is (to the extent permitted by local law) equivalent or similar to the Security intended to be conferred by or pursuant to this Debenture; and/or
  - 9.1.3. facilitate the realisation of the Assets subject to the Security conferred or intended to be conferred by this Debenture or the exercise of any rights vested in the Security Trustee, any Receiver, Administrator or nominee, including executing any transfer, conveyance, charge, assignment or assurance of all or any of the Assets which are the subject of the Security constituted by this Debenture, making any registration and giving any notice, order or instructions.
- 9.2. Each Chargor shall (and the Company shall procure that each Chargor shall) take all such action as is available to it (including making all filings and registrations) as may be necessary for the purpose of the creation, perfection, protection or maintenance of any Security conferred or intended to be conferred on the Security Trustee or the Beneficiaries by or pursuant to this Debenture but not on terms that are materially more onerous. Without prejudice to the generality of this Clause 9, at the request of the Security Trustee each Chargor will promptly execute a legal mortgage, charge or assignment (other than a legal assignment of Receivables in respect of trade debtors) over any of the Assets subject to or intended to be subject to any fixed security created by this Debenture in favour of the Security Trustee in such form as the Security Trustee may reasonably require.
- 9.3. Authorisations: Without prejudice to the Chargors' obligations under any Finance Document, each Chargor irrevocably authorises the Security Trustee to effect such registrations, renewals, payments and notifications or carry out such acts or things at the expense of such Chargor as shall, in the reasonable opinion of the Security Trustee, be necessary or prudent to protect the Security Trustee's interests in relation to the Intellectual Property Rights or to protect or maintain the Intellectual Property Rights or any of them. Each Chargor shall give the Security Trustee all such reasonable assistance as it may request.

## **10. 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 Beneficiary as banker against any Chargor or any security, guarantee, indemnity and/or negotiable instrument now or in the future held by any Beneficiary.

## **11. LAND**

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

- 11.1.1. Repair: keep all its buildings and all its plant, machinery, fixtures, fittings and other effects charged by it under this Debenture in good and substantial repair (fair wear and tear excepted) and in good working order and condition and will not, without the prior written consent of the Security Trustee, alter, pull down, remove or dispose of any of them, except in the ordinary course of repair, maintenance or improvement or as permitted under the Facilities Agreement;
- 11.1.2. Payments: punctually pay or cause to be paid all rates, taxes, levies, charges, duties, assessments, impositions and outgoings whatever assessed, charged or imposed, now or in the future, in respect of its Land or Land in which it has an interest to the extent that failure to do so could be reasonably be expected to materially adversely affect the value of the Land or the value of the Security constituted by the Debenture and, when reasonably required by the Security Trustee, produce to it proof of such payment;
- 11.1.3. Contracts: comply in all material respects with the terms of all agreements, assignments, contracts, conveyances, grants and other deeds and documents for the time being binding on it or affecting its Land or its use or enjoyment and not take any action which, or omit to take any action the omission of which, results in any of its interests or estates in its Land being adversely affected;
- 11.1.4. Compliance with lease: punctually pay the rents reserved by and observe and perform in all material respects the other material covenants, agreements or obligations on its part to be observed and performed which are contained in any lease, agreement for lease, tenancy agreement or licence to occupy relating to any Land and enforce the observance and performance by the landlord or licensor of its material obligations under any such document;
- 11.1.5. Notices, orders and proposals: supply to the Security Trustee copies of any notice, order or proposal affecting its Land which may be materially adverse to the interests of the Beneficiaries:
  - (a) within seven Business Days of receipt where it is received from any competent authority or tenant; and
  - (b) within three Business Days of receipt where it is received from any landlord,

and at its cost either punctually comply with such notice or order or (if so requested by the Security Trustee (acting reasonably)) make or join with the Security Trustee in making such

objections or representations or taking such other steps as the Security Trustee (acting reasonably) may think fit.

11.1.6. Building operations: complete with reasonable expedition any building operations to the reasonable satisfaction of any competent authority and in conformity with all requisite planning and by-law consents;

11.1.7. Valuation reports: promptly on receipt, cause a copy of each professional valuation report which it obtains in relation to its Land to be provided to the Security Trustee;

11.1.8. Notification of non-compliance: notify the Security Trustee, promptly on receipt, of any material claim, notice or other communication received by it alleging non-compliance by it in relation to any matter referred to in this Clause 11.1;

11.1.9. Acquisitions: notify the Security Trustee promptly upon its acquisition of any Land;

11.1.10. Access to Land: permit the Security Trustee (but without the Security Trustee being under any obligation to do so) to:

(a) inspect, at reasonable times and on reasonable notice, any of its Land, and

(b) enter upon all or any of its Land to effect such repairs as the Security Trustee may consider necessary, without becoming liable as a mortgagee in possession.

11.2. Negative covenants: No Chargor shall, unless otherwise permitted by the Facilities Agreement, without the prior written consent of the Security Trustee (such consent not to be unreasonably withheld or delayed):

11.2.1. No building: save in the ordinary course of business, carry out any building work on its Land, or make any structural alteration to any building on its Land, or, save in respect of any planning permission which relates to works which are not material and are in the interests of good estate management, apply for any planning consent for the development or change of use of its Land, or at any time sever, remove or dispose of any fixture on it if any such action would be reasonably likely to materially adversely affect the value of such Land;

11.2.2. No onerous obligations: enter into any onerous or restrictive obligation affecting its Land or create or permit to arise any overriding interest or any easement or right whatever in or over it which would be reasonably likely to affect adversely its value or the value of the Security constituted by this Debenture over it;

11.2.3. No leasing: exercise any power of leasing in relation to its Land, accept surrenders of leases of its any Land or agree to do so, or enter into any operating leases or similar arrangement in respect of any of its land;

11.2.4. No lease extensions: extend, renew on substantially different terms or vary any lease or tenancy agreement or give any licence to assign or underlet in relation to

its Land to the extent that it would be reasonably likely to materially adversely effect its value or the value of the Security constituted by this Debenture;

11.2.5. No elections: make any election to waive the exemption under paragraph 2 of Schedule 10 of the Value Added Tax Act 1994 in its capacity as landlord of any such Land;

11.2.6. Possession: part with possession of its Land (except on the determination of any lease, tenancy or licence granted to it) or except as expressly permitted by the terms of the Finance Documents; or

11.2.7. No sharing: share the occupation of any Land with any other person or agree to do so.

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

## **12. INTELLECTUAL PROPERTY RIGHTS**

12.1. Positive Covenants: Each Chargor shall preserve and maintain all Intellectual Property Rights unless in the Chargor's reasonable opinion they are no longer required for its business.

12.2. Negative covenants: Without the prior written consent of the Security Trustee (other than as expressly permitted by the Finance Documents), no Chargor shall, unless otherwise permitted by the Facilities Agreement:

12.2.1. No disposals etc: sell, assign, lease, license, sub-license or grant any interest in its Intellectual Property Rights, or purport or agree to do so or part with possession or ownership of them, or allow any third party access to, or the right to use or exploit, any Intellectual Property Rights;

12.2.2. Contracts: enter into any contract or arrangement for supply or otherwise whereby any third party obtains any assignment of or any right or licence in relation to any Intellectual Property Rights on the occurrence or non-occurrence of any future event or circumstance whatever;

12.2.3. Trade marks: amend the specification of any registered trade mark included in its Intellectual Property Rights or authorise or permit any third party to register any trade mark which is the same as or confusingly similar to any such trade mark in respect of goods or services which are the same as or similar to the goods or services for which such trade mark is registered; or

12.2.4. Patents: amend the specification or drawings referred to in any granted patent.

## **13. SPECIFIED INVESTMENTS**

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

13.2. Before Enforcement: Unless and until this Debenture has become enforceable:

- 13.2.1. all voting powers and other rights attaching to Specified Investments belonging to a Chargor shall continue to be exercised by such Chargor for so long as it remains their registered owner and such Chargor shall not permit, except to the extent permitted under any Finance Documents, any person other than such Chargor, the Security Trustee or the Security Trustee's nominee to be registered as holder of such Specified Investments or any part of them; and
- 13.2.2. If Specified Investments belonging to a Chargor are registered in the name of the Security Trustee or the Security Trustee's nominee, all voting powers and other rights attaching to them shall be exercised by the Security Trustee or the Security Trustee's nominee in accordance with instructions in writing from time to time received from such Chargor and, in the absence of any such instructions, the Security Trustee or the Security Trustee's nominee shall not exercise any such rights.

13.3. After Enforcement: At any time after this Debenture has become enforceable:

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

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

- 13.4. Negative covenant: Each Chargor covenants with the Security Trustee that it will not, unless permitted under the Finance Documents or with the prior written consent of the Security Trustee (such consent not to be unreasonably withheld or delayed) consent to its Specified Investments being consolidated, sub-divided or converted or any rights attached to them being varied.

- 13.5. Nomination: Each Chargor shall terminate with immediate effect all nominations it may have made under Sections 145 and 146 of the Act in respect of the Specified Investment and pending such termination procure that any person so nominated:

- 13.5.1. does not exercise any rights in respect of the Specified Investments (or any of them) without the prior written approval of the Security Trustee; and
- 13.5.2. immediately upon receipt, forward to the Security Agent all communications or other information received in respect of any Specified Investments for which it has been so nominated.

No Chargor shall exercise any rights under Section 145 and 146 of the Act to nominate any person in respect of the Specified Investments (or any of them).

#### **14. OPENING OF NEW ACCOUNTS**

- 14.1. Creation of new account: On receiving notice that any Chargor has granted Security over or otherwise encumbered or disposed of any of its Assets in contravention of any Finance Document, a Beneficiary may rule off all its accounts and open new accounts with such Chargor.
- 14.2. 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 that 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.

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

- 15.1. Section 103 of the Law of Property Act 1925: Section 103 of the Law of Property Act 1925 shall not apply to this Debenture, and the statutory power of sale shall arise on, and be exercisable at any time after, the execution of this Debenture. However, the Security Trustee shall not exercise such power of sale until this Debenture has become enforceable.
- 15.2. Powers of sale extended: The statutory powers of sale, leasing and accepting surrenders exercisable by the Security Trustee by virtue of this Debenture are extended so as to authorise the Security Trustee (whether in its own name or that of the Chargor concerned) to:
- 15.2.1. grant a lease of any Land vested in a Chargor or in which it has an interest on such terms and conditions as the Security Trustee shall think fit; and
- 15.2.2. sever any fixtures from Land vested in a Chargor and sell them separately.

#### **16. APPOINTMENT OF A RECEIVER OR AN ADMINISTRATOR**

- 16.1. 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:
- 16.1.1. the occurrence of a Declared Default;

- 16.1.2. a step or proceeding is taken for the appointment of an administrator, liquidator or provisional liquidator in relation to a Chargor;
- 16.1.3. notices to creditors are sent out under section 98 of the Insolvency Act 1986 in relation to a Chargor;
- 16.1.4. a proposal is made in relation to a Chargor for a voluntary arrangement under Part I of the Insolvency Act 1986;
- 16.1.5. a step or proceeding is taken in relation to a Chargor with a view to seeking a moratorium; or
- 16.1.6. a request has been made by the Company and/or a Chargor to the Security Trustee for the appointment of a Receiver or an administrator over its Assets or in respect of a Chargor,

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

- 16.2. Power to act separately: Where more than one Receiver or administrator is appointed, the appointees shall have power to act separately unless the Security Trustee shall specify to the contrary.
- 16.3. Receiver's remuneration: The Security Trustee may from time to time determine the remuneration of a Receiver.
- 16.4. Removal of Receiver: The Security Trustee 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.
- 16.5. Further appointments of a Receiver: Such an appointment of a Receiver shall not preclude:
  - 16.5.1. the Security Trustee 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
  - 16.5.2. the appointment of an additional Receiver to act while the first Receiver continues to act.
- 16.6. Receiver's agency: The Receiver shall be the agent of the relevant Chargor (which shall be solely liable for his acts, defaults and remuneration) unless and until such Chargor goes into liquidation, after which time he shall act as principal and shall not become the agent of the Security Trustee or any other Beneficiary.

## **17. POWERS OF A RECEIVER**

The Receiver may exercise, in relation to each Chargor over whose Assets he is appointed, all the powers, rights and discretions set out under the Law of Property Act 1925 and 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:

- 17.1. sell, lease, let, license, grant options over and vary the terms of, terminate or accept surrenders of leases, licences or tenancies of, all or any of the Assets of the relevant Chargor, without the need to observe any of the provisions of Sections 99 and 100 of the Law of Property Act 1925, in such manner and generally on such terms and conditions as he shall think fit in his absolute and unfettered discretion and any such sale or disposition may be for cash, Investments or other valuable consideration (in each case payable in a lump sum or by instalments) and carry any such transactions into effect in the name of and on behalf of such Chargor;
- 17.2. promote the formation of a Subsidiary of the relevant Chargor with a view to such Subsidiary purchasing, leasing, licensing or otherwise acquiring interests in all or any of the Assets of such Chargor;
- 17.3. sever any fixtures from Land and/or sell them separately;
- 17.4. exercise all voting and other rights attaching to Investments owned by the relevant Chargor;
- 17.5. arrange for the purchase, lease, licence or acquisition of all or any Assets of the relevant Chargor by any Subsidiary contemplated by Clause 17.2 above on a basis whereby the consideration may be for cash, Investments, shares of profits or sums calculated by reference to profits or turnover or royalties or licence fees or otherwise, whether or not secured on the assets of such Subsidiary and whether or not such consideration is payable or receivable in a lump sum or by instalments over such period as the Receiver may think fit;
- 17.6. make any arrangement or compromise with any Beneficiary or others as he shall think fit;
- 17.7. make and effect all repairs, renewals and improvements to the Assets of the relevant Chargor and effect, renew or increase insurances on such terms and against such risks as he shall think fit;
- 17.8. appoint managers, officers and agents for the above purposes at such remuneration as the Receiver may determine;
- 17.9. redeem any prior encumbrance and settle and pass the accounts of the encumbrancer and any accounts so settled and passed shall (subject to any manifest error) be conclusive and binding on the relevant Chargor and the money so paid shall be deemed an expense properly incurred by the Receiver;
- 17.10. 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 relevant Chargor;

- 17.11. commence and/or complete any building operations upon any Land of the relevant Chargor and apply for and obtain any planning permissions, building regulation consents or licences, in each case as he may in his absolute discretion think fit;
- 17.12. take all steps necessary to effect all registrations, renewals, applications and notifications as the Receiver may in his discretion think prudent to maintain in force or protect any of the relevant Chargor's Intellectual Property Rights; and
- 17.13. 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.

## **18. POWER OF ATTORNEY**

- 18.1. Appointment of attorney: Each Chargor, by way of security and to more fully secure the performance of its obligations under this Debenture, hereby irrevocably appoints the Security Trustee (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:
  - 18.1.1. do anything which that Chargor is obliged to do (but has not done) in accordance with this Debenture, including to execute and deliver and otherwise perfect any agreement, assurance, deed, instrument or document; and
  - 18.1.2. enable the Security Trustee or any such nominee and/or Receiver to exercise (or to delegate) all or any of the rights conferred on it by this Debenture or by statute in relation to this Debenture or the Assets charged, or purported to be charged, by it.
- 18.2. Ratification: Each Chargor ratifies and confirms whatever any attorney lawfully does or purports to do pursuant to his appointment under this clause.
- 18.3. Sums recoverable: All sums expended by the Security Trustee nominee and/or any Receiver under this Clause 18 shall be recoverable from each Chargor under Clause 24 (Costs, expenses and liabilities).

## **19. OTHER POWERS EXERCISABLE BY THE SECURITY TRUSTEE**

- 19.1. Receiver's powers: All powers of a Receiver conferred by this Debenture may be exercised by the Security Trustee after this Debenture has become enforceable. In that event, Clause 17.9 shall be read and construed as if the words "be charged on the Assets of the relevant Chargor" were substituted for the words "be deemed an expense properly incurred by the Receiver".
- 19.2. Receipt of debts: The Security Trustee, its nominee or any manager, officer or agent of the Security Trustee is hereby irrevocably empowered to:
  - 19.2.1. receive all trade debts and other debts and claims which may be assigned to the Security Trustee pursuant to this Debenture and/or Clause 9 (Further assurance);



19.2.2. on payment give an effectual discharge for them and on non-payment to take and institute (if the Security Trustee in its sole discretion so decides) all steps and proceedings either in the name of the relevant Chargor or in the name of the Security Trustee for their recovery; and

19.2.3. agree accounts and make allowances and give time to any surety.

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

19.3. Security Trustee's powers: The Security Trustee shall have no liability or responsibility to any Chargor arising out of the exercise or non-exercise of the powers conferred on it by this Clause 19, except for gross negligence or wilful default.

19.4. No duty of enquiry: The Security Trustee need not enquire as to the sufficiency of any sums received by it in respect of any debt or claim or make any claim or take any other action to collect in or enforce them.

## **20. APPLICATION OF MONEY RECEIVED BY THE SECURITY TRUSTEE OR A RECEIVER**

20.1. 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:

20.1.1. In or towards satisfaction of the Secured Sums in the manner applicable under the terms of the Inter Creditor Agreement; and

20.1.2. as to the surplus (if any), to the person or persons entitled to it.

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

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

## **21. PROTECTION OF THIRD PARTIES**

21.1. No duty to enquire: No purchaser from, or other person dealing with, the Security Trustee, its nominee or any Receiver or administrator appointed under this Debenture shall be concerned to enquire whether any of the powers which the Security Trustee has exercised or purported

to exercise has arisen or become exercisable, or whether this Debenture has become enforceable, or whether any nominee, Receiver or administrator has been validly appointed, or whether any event or cause has happened to authorise the Security Trustee, 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.

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

## **22. PROTECTION OF THE SECURITY TRUSTEE, ANY NOMINEE AND RECEIVER**

- 22.1. Limitation: Neither the Security Trustee nor any nominee nor Receiver shall be liable in respect of any Liability which arises out of the exercise or the purported exercise of, or the failure to exercise, any of their respective powers under or by virtue of this Debenture, except if and in so far as such Liability results from its own gross negligence or wilful default.
- 22.2. Entry into possession: Without prejudice to the generality of Clause 22.1 (Limitation), neither the Security Trustee, any nominee nor any Receiver shall be liable to account as mortgagee in possession or otherwise for any sum not actually received by it or him respectively. If and whenever the Security Trustee, or any nominee enters into possession of any Assets, it shall be entitled at any time at its discretion to go out of possession.

## **23. SECURITY TRUSTEE**

- 23.1. Security Trustee as trustee: The Security Trustee declares itself to be a trustee of this Debenture (and any other Security 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 the manner provided for in the Inter Creditor Agreement.
- 23.2. Trustee Act 2000: The Parties agree that the Security Trustee shall not be subject to the duty of care imposed on trustees by the Trustee Act 2000.
- 23.3. No partnership: Nothing in this Debenture shall constitute or be deemed to constitute a partnership between any of the Beneficiaries and the Security Trustee.

## **24. COSTS, EXPENSES AND LIABILITIES**

- 24.1. Costs and expenses: Each Chargor will, promptly on the Security Trustee's written demand from time to time, reimburse the Security Trustee for all costs and expenses (including legal fees) on a full indemnity basis, together with VAT thereon, reasonably incurred by it in connection with:
- 24.1.1. the negotiation, preparation and execution of this Debenture and any Deed of Accession and Charge; and

- 24.1.2. the completion of the transactions and perfection of the Security contemplated in this Debenture in Clause 9 (Further Assurance) and in any Deed of Accession and Charge.
- 24.2. Enforcement costs: If an Event of Default has occurred and is continuing, each Chargor shall, within three Business Days of the Security Trustee's written demand, pay to the Security Trustee, for each Beneficiary on a full indemnity basis, the amount of all costs and expenses (including legal, valuation, accountancy and consultancy fees and commission and out of pocket expenses), and any VAT thereon, incurred by the Security Trustee and/or any other Beneficiary in connection with the exercise, enforcement and/or preservation of any of its rights under this Debenture and any Deed of Accession and Charge (or any of the documents contemplated by such documents) or any proceedings instituted by or against the Security Trustee, in any jurisdiction.
- 24.3. Indemnity for Liabilities: Other than in the event of wilful default of the Security Trustee, each Chargor shall also, within three Business Days of the Security Trustee's written demand, reimburse or pay to the Security Trustee, its employees or agents, and any nominee on demand (on the basis of a full indemnity) the amount of all Liabilities incurred by the Security Trustee, its employees or agents, in connection with:
- 24.3.1. any default or delay by such Chargor in the performance of any of its obligations under this Debenture;
- 24.3.2. the exercise, or the attempted or purported exercise, by or on behalf of the Security Trustee of any of its powers or any other action taken by or on behalf of the Security Trustee with a view to or in connection with the recovery of the Secured Sums, the enforcement of the Security created by this Debenture or for any other purpose contemplated in this Debenture;
- 24.3.3. the carrying out or consideration of any other act or matter which the Security Trustee may (acting reasonably) consider to be necessary after the occurrence of an Event of Default to the preservation, improvement or benefit of any Asset; and
- 24.3.4. 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.

## **25. INTEREST ON OVERDUE AMOUNTS**

- 25.1. Any amount not paid in accordance with this Debenture when due shall (subject to Clause 25.2 below) carry interest at the rate and in accordance with the terms contained in the relevant Finance Document in relation to overdue sums or at such other rate as may be agreed between the relevant Chargor and Beneficiary from time to time. In each case, interest shall accrue on a day to day basis until the date of irrevocable and unconditional repayment in full and, if unpaid, shall be compounded on the terms so agreed or (in the absence of such agreed terms) with quarterly rests on the Security Trustee's usual quarterly interest days. Interest shall continue to be charged and compounded on this basis after as well as before any demand or judgment.

- 25.2. Clause 25.1 above shall not apply to the extent that default interest on such amount for such period is charged pursuant to the relevant Finance Document and itself constitutes part of the Secured Sums.

**26. SET-OFF**

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

**27. TRANSFER BY A BENEFICIARY**

- 27.1. Any Beneficiary may at any time assign and transfer all or any of its rights in relation to this Debenture to any person to whom it is permitted to transfer any of its rights under the relevant Finance Documents or otherwise grant an interest in them to any person.
- 27.2. The Security Trustee may assign and transfer all of its rights and obligations under this Debenture to any replacement Security Trustee appointed in accordance with the Inter Creditor Agreement. Upon such assignment and transfer becoming effective, the replacement Security Trustee 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 Security Trustee.

**28. ACCESSION OF A NEW CHARGOR**

- 28.1. Method: Any member of the Group may at any time, with the prior written approval of the Security Trustee, become a party to this Debenture by delivering to the Security Trustee in form and substance satisfactory to it:
- 28.1.1. a Deed of Accession and Charge; and
- 28.1.2. certified extracts from the minutes of a meeting of its Board of Directors evidencing the due authorisation and execution of the Deed of Accession and Charge and any other conditions precedent required by the Finance Documents.
- 28.2. New Chargor bound: The New Chargor shall become a chargor under this Debenture with effect from the time when the Deed of Accession and Charge takes effect, at which point:
- 28.2.1. the New Chargor shall become bound by all the terms of this Debenture and shall assume the same obligations as "Chargor" as if it were an original party to this Debenture; and
- 28.2.2. the other Chargors shall assume the same obligations in respect of the New Chargor as if it were an original party to this Debenture.

## **29. RELEASE OF SECURITY**

- 29.1. Redemption: Subject to Clause 29.2 (Avoidance of Payments), if all Secured Sums have been unconditionally and irrevocably paid in full and none of the Beneficiaries are under any further actual or contingent liability to make advance or provide other financial accommodation to any person under any Finance Document, the Security Trustee will (at the request and cost of the Chargors), execute and do all such reasonable acts as may be necessary to release the Assets from the Security constituted by this Debenture. Such release shall not prejudice the rights of the Security Trustee under Clause 24 (Costs, Expenses and Liabilities).
- 29.2. Avoidance of Payments: If the Security Trustee 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 each Chargor under this Debenture and the Security constituted by this Debenture shall continue and such amount shall not be considered to have been irrevocably paid.

## **30. THIRD PARTY RIGHTS**

- 30.1. Directly enforceable rights: Pursuant to the Contracts (Rights of Third Parties) Act 1999:
- 30.1.1. the provisions of Clause 26 (Set-off), and Clause 27 (Transfer by a Beneficiary) shall be directly enforceable by a Beneficiary;
  - 30.1.2. the provisions of Clause 16 (Appointment of a Receiver or an Administrator) to Clause 24 (Protection of the Security Trustee and Receiver) inclusive shall be directly enforceable by any nominee or Receiver; and
  - 30.1.3. the provisions of Clause 21 (Protection of third parties) shall be directly enforceable by any purchaser.
- 30.2. Exclusion of Contracts (Rights of Third Parties) Act 1999: Save as otherwise expressly provided in Clause 30.1 (Directly enforceable rights), no person other than a Party shall have any right by virtue of either the Contracts (Rights of Third Parties) Act 1999 or any other provision of English law under which rights might accrue to persons other than a party, to enforce any term (express or implied) of this Debenture.
- 30.3. Rights of the Parties to vary: The Parties (or the Company, on behalf of the Chargors, and the Security Trustee (on behalf of the Beneficiaries)) may by agreement vary any term of this Debenture (including this Clause 30) without the necessity of obtaining any consent from any other person.

## **31. JOINT AND SEPARATE LIABILITY**

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

## **32. FORBEARANCE, SEVERABILITY, VARIATIONS AND CONSENTS**

- 32.1. 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.
- 32.2. Severability: No provision of this Debenture shall be avoided or invalidated by reason only of one or more other provisions being invalid or unenforceable.
- 32.3. 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.
- 32.4. Variations: No variation of this Debenture shall be valid and constitute part of this Debenture, unless such variation shall have been made in writing and signed by the Security Trustee (on behalf of the Beneficiaries) and the Company (on behalf of the Chargors) or by all Parties.
- 32.5. Consents: Save as otherwise expressly specified in this Debenture, any consent of the Security Trustee may be given absolutely or on any terms and subject to any conditions as the Security Trustee may determine in its entire discretion.

## **33. COUNTERPARTS**

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

## **34. NOTICES**

- 34.1. Communications in writing: Any communication to be made under or in connection with this Debenture shall be made in writing and, unless otherwise stated, may be made by fax or letter.
- 34.2. Addresses: The address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with this Debenture is:
- 34.2.1. in the case of the Chargors, set out in Schedule 1 (The Chargors) and in the case of any New Chargor, set out in the relevant Deed of Accession and Charge; and
- 34.2.2. in the case of the Security Trustee, that identified with its name at the end of this Debenture,
- or any substitute address, fax number or department or officer as the Chargor may notify to the Security Trustee (or the Security Trustee may notify to the Company if a change is made by the Security Trustee) by not less than five Business Days' notice.
- 34.3. Delivery:
- 34.3.1. Any communication or document made or delivered by one person to another under or in connection with this Debenture will only be effective:

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

and, if a particular department or officer is specified as part of its address details provided under Clause 34.2 (Addresses), if addressed to that department or officer.

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

34.3.3. Any communication or document made or delivered to the Company in accordance with this Clause will be deemed to have been made or delivered to each of the Chargors.

34.3.4. Any communication or document which becomes effective, in accordance with Clauses 34.3.1 to 34.3.3 above, after 5.00 p.m. in the place of receipt shall be deemed only to become effective on the following day.

#### 34.4. Electronic Communication:

34.4.1. Any communication to be made between any two Parties under or in connection with this Debenture may be made by electronic mail or other electronic means (including, without limitation, by way of posting to a secure website) if those two Parties:

- (a) notify each other in writing of their electronic mail address and/or any other information required to enable the transmission of information by that means; and
- (b) notify each other of any change to their address or any other such information supplied by them by not less than five Business Days' notice.

34.4.2. Any such electronic communication as specified in Clause 34.4.1 above to be made between an Obligor and the Security Trustee 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.

34.4.3. Any such electronic communication as specified in Clause 34.4.1 above made between any two Parties will be effective only when actually received (or made available) in readable form and in the case of any electronic communication made by a Party to the Security Trustee only if it is addressed in such a manner as the Security Trustee shall specify for this purpose.

34.4.4. Any electronic communication which becomes effective, in accordance with Clause 34.4.3 above, after 5:00 p.m. in the place in which the Party to whom the relevant communication is sent or made available has its address for the purpose of this Agreement shall be deemed only to become effective on the following day.

34.4.5. Any reference in this Debenture to a communication being sent or received shall be construed to include that communication being made available in accordance with this Clause 34.4.

**34.5. English language:**

34.5.1. Any notice given under or in connection with this Debenture must be in English.

34.5.2. All other documents provided under or in connection with any Finance Document must be:

(a) in English; or

(b) if not in English, and if so required by the Security Agent, accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

34.6. Notification of Change: Promptly upon receipt of notification of an address or fax number or change of address or fax number pursuant to Clause 34.2 (Addresses) or changing its own address or fax number, the Security Trustee shall notify the other parties.

**35. SECURITY TRUSTEE**

The provisions of Clause 13 (Security Trustee) and Clause 21 (Consents, amendments and override) of the Inter Creditor Agreement shall apply to the Security Trustee's rights, obligations and duties under this Debenture as if set out in this Debenture in full.

**36. 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.

**37. ENFORCEMENT**

**37.1. Jurisdiction:**

37.1.1. The courts of England shall have exclusive jurisdiction to settle any claim, dispute or matter of difference which may arise in any way whatsoever out of or in connection with this Debenture (including a dispute regarding the existence, validity or termination of this Debenture or any claim for set-off) or the legal relationships established by this Debenture (a "Dispute"), only where such Dispute is the subject of proceedings commenced by a Chargor.



- 37.1.2. Where a Dispute is the subject of proceedings commenced by one or more Beneficiaries, the Beneficiaries are entitled to bring such proceedings in any court or courts of competent jurisdiction (including but not limited to the courts of England). If any Chargor raises a counter-claim in the context of proceedings commenced by one or more of the Beneficiaries, that Chargor shall bring such counter-claim before the court seized of the Beneficiary's claim and no other court.
- 37.1.3. The commencement of legal proceedings in one or more jurisdictions shall not, to the extent allowed by law, preclude any Beneficiary from commencing legal actions or proceedings in any other jurisdiction, whether concurrently or not.
- 37.1.4. To the extent allowed by law, each Chargor irrevocably waives any objection it may now or hereafter have on any grounds whatsoever to the laying of venue of any legal proceeding, and any claim it may now or hereafter have that any such legal proceeding has been brought in an inappropriate or inconvenient forum.

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

# SCHEDULE 1 - THE CHARGORS

Name of Chargor	Registered Number	Address for Service and Fax Number
Rocco Forte Hotels Limited (the "Company")	03277921	70 Jermyn Street, London, SW1Y 6NY  Fax: 020 7321 2424
Rocco Forte & Family (Luxury Hotels) Limited	04413112	70 Jermyn Street, London, SW1Y 6NY  Fax: 020 7321 2424
Rocco Forte & Family (Executive Hotel Program) Limited	03365725	70 Jermyn Street, London, SW1Y 6NY  Fax: 020 7321 2424
Rocco Forte & Family (Russia) Limited	03298971	70 Jermyn Street, London, SW1Y 6NY  Fax: 020 7321 2424
Rocco Forte & Family (Italy) Limited	03391144	70 Jermyn Street, London, SW1Y 6NY  Fax: 020 7321 2424
Rocco Forte & Family (Germany) Limited	03710232	70 Jermyn Street, London, SW1Y 6NY  Fax: 020 7321 2424
Rocco Forte & Family (Hotel Management) Limited	04045930	70 Jermyn Street, London, SW1Y 6NY  Fax: 020 7321 2424
RF Corporate UK Ltd	03225754	70 Jermyn Street, London, SW1Y 6NY  Fax: 020 7321 2424
Rocco Forte & Family (Belgium) Limited	03893836	70 Jermyn Street, London, SW1Y 6NY  Fax: 020 7321 2424
Rocco Forte & Family (London) Limited	04713134	70 Jermyn Street, London, SW1Y 6NY  Fax: 020 7321 2424

Name of Chargor	Registered Number	Address for Service and Fax Number
RFFF Limited	05133159	70 Jermyn Street, London, SW1Y 6NY  Fax: 020 7321 2424
RFFG Limited	03197645	70 Jermyn Street, London, SW1Y 6NY  Fax: 020 7321 2424
The Balmoral Hotel Edinburgh Limited	8472373	70 Jermyn Street, London, SW1Y 6NY  Fax: 020 7321 2424

## SCHEDULE 2 REGISTERED LAND TO BE MORTGAGED

Name of Chargor/Registered Proprietor	Description of Property	Title Number
RFFG Limited (formerly called Browns Hotel Limited) (company number 03197645)	Browns Hotel 29, 29B, 30, 31, 32, 33 and 34 Albemarle Street and 21, 22, 23 and 24 Dover Street, London	NGL312325
RFFG Limited (formerly called Browns Hotel Limited) (company number 03197645)	19 Dover Street, London W1X 3PB	182483
RFFG Limited (formerly called Browns Hotel Limited) (company number 03197645)	20 Dover Street, London W1S 4LU	LN244516

Unregistered land subject to first registration upon the execution of this Debenture:

None

The address for service of the Security Trustee in the case of registered land is Bank of Scotland plc,  
[REDACTED] marked for the attention of Dave North.

### SCHEDULE 3 FORM OF DEED OF ACCESSION AND CHARGE FOR A NEW CHARGOR

THIS DEED OF ACCESSION AND CHARGE is made on 20\*\*

#### BETWEEN:

- (1) **\*\*INSERT THE NAME OF THE NEW CHARGOR\*\***] (registered in [England and Wales] under number [ \*\*\* ]) (the "New Chargor");
- (2) **Rocco Forte Hotels Limited** (registered in England and Wales under number 03277921) (the "Company"); and
- (3) **Bank of Scotland plc** (the "Security Trustee").

#### WHEREAS:

- (A) This Deed is supplemental to a Debenture (the "Principal Deed") dated [\*\*\*insert date\*\*\*] between (1) the [\*\*\*Identify original Chargors\*\*\*] and (2) the Security Trustee as agent and trustee for the Beneficiaries named in the Principal Deed (the "Beneficiaries").
- (B) [\*\*\*Note: Set out details of any previous Deed of Accession and Charge.\*\*\*]
- (C) The New Chargor has agreed to charge in favour of the Security Trustee, on the terms contained in the Principal Deed, all of its property, undertaking and assets to secure the Secured Sums, and to accede to the Principal Deed.

THIS DEED WITNESSES as follows:

#### 1. DEFINITIONS AND INTERPRETATION

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

#### 2. ACCESSION BY THE NEW CHARGOR TO THE PRINCIPAL DEED

- 2.1. Accession: The New Chargor agrees to be bound by all the terms of the Principal Deed and to perform all obligations of a Chargor under, and in accordance with, the Principal Deed with effect from the date of this Deed, as if it had been an original party to the Principal Deed as a Chargor.
- 2.2. Covenant to pay: The New Chargor (as primary obligor and not merely as surety) covenants with the Security Trustee that it will, on the Security Trustee's written demand, pay or discharge the Secured Sums at the times and in the manner provided in the relevant Finance Documents.
- 2.3. Proviso: The covenants contained in this Clause and the security created by this Deed shall not extend to or include any liability or sum which would otherwise cause any such covenant or security to be unlawful or prohibited by any applicable law.

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

### **3. ASSIGNMENTS**

[ \*\*\* Incorporate in the execution copy of the deed of accession the relevant final text from Clause 3.1 (Assignments) of the Principal Deed. This will include the assignment of Insurance Policies as a minimum \*\*\* ]

### **4. FIXED SECURITY**

[ \*\*\* Incorporate in the execution copy of the deed of accession the final text from Clause 3.2 (Fixed Security) of the Principal Deed with consequential changes. Note: where the New Chargor has real property or IP it will be scheduled \*\*\*]

### **5. CREATION OF FLOATING CHARGE**

- 5.1. [ \*\*\* Incorporate in the execution copy of the deed of accession the final text (when settled) from Clause 3.3 (Creation of a floating charge) of the Principal Deed with consequential amendments \*\*\* ]

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

- 5.3. Paragraph 14 of Schedule B1 of the Insolvency Act 1986 shall apply to this Deed and to the floating charges contained in this Deed.

### **6. RIGHT OF APPROPRIATION**

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

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

- 6.3. The value of any Financial Collateral appropriated under Clause 6.2 shall be:

6.3.1. in the case of cash, its face value at the time of appropriation; and

6.3.2. in the case of financial instruments or other financial collateral, their market value at the time of appropriation as determined (after appropriation) by the Security Trustee

by reference to a public index or other applicable generally recognised price source or such other process as the Security Trustee may select, including a valuation carried out by an independent firm of accountants or valuers appointed by the Security Trustee;

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

6.4. The Security Trustee will account to the New Chargor for any amount by which the value of the appropriated Assets exceeds the Secured Sums and the New Chargor shall remain liable to the Security Trustee for any amount by which the value of the appropriated Assets is less than the Secured Sums.

6.5. The New Chargor agrees that (i) all its Financial Collateral has been delivered, transferred, held, registered or otherwise designated so as to be in the possession or under the control of the Security Trustee or a person acting on its behalf; and (ii) the method of valuing such Financial Collateral under Clause 6.3 is commercially reasonable.

## **7. APPLICATION TO THE LAND REGISTRY**

The New Chargor:

7.1. in relation to each register of title of any present and future Land of the New Chargor which is charged to the Security Trustee under this Deed, consents to the Security Trustee (or its solicitors) at any time:

7.1.1. submitting a Form RX1 (application to register a restriction) to enter the following restriction in Form P:

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

7.1.2. submitting a Form CH2 (application to enter an obligation to make further advances); and

7.2. covenants to submit an application to the appropriate Land Registry for the first registration of any unregistered Land in England and Wales mortgaged by Clause 4 (Fixed security) at its own expense, immediately following its execution of this Deed.

## **8. POWER OF ATTORNEY**

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

- 8.1.1. do anything which the New Chargor is obliged to do (but has not done) in accordance with this Deed, including to execute and deliver and otherwise perfect any agreement, assurance, deed, instrument or document; and
  - 8.1.2. enable the Security Trustee or any such Receiver to exercise (or to delegate) all or any of the rights conferred on it by this Deed or by statute in relation to this Deed or the Assets charged, or purported to be charged, by it.
- 8.2. Ratification: The New Chargor ratifies and confirms whatever any attorney lawfully does or purports to do pursuant to its appointment under this clause.
- 8.3. Sums recoverable: All sums expended by the Security Trustee or any Receiver under this clause shall be recoverable from the New Chargor under Clause 24 (Costs, expenses and liabilities) of the Principal Deed.

## **9. NOTICES**

All notices or demands to be given or made pursuant to this Deed shall be given or made in the manner set out in Clause 34 (Notices) of the Principal Deed. The New Chargor's address for service is set out in Schedule 2 (Notice Details).

## **10. COUNTERPARTS**

This Deed 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.

## **11. GOVERNING LAW**

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

## **12. ENFORCEMENT**

### **12.1. Jurisdiction:**

12.1.1. The courts of England shall have exclusive jurisdiction to settle any claim, dispute or matter of difference which may arise in anyway whatsoever out of or in connection with this Deed (including a dispute regarding the existence, validity or termination of this Deed or any claim for set-off) or the legal relationships established by this Deed (a "Dispute"), only where such Dispute is the subject of proceedings commenced by the New Chargor.

12.1.2. Where a Dispute is the subject of proceedings commenced by one or more Beneficiaries, the Beneficiaries are entitled to bring such proceedings in any court or courts of competent jurisdiction (including but not limited to the courts of England). If any Chargor raises a counter-claim in the context of proceedings commenced by one or more of the Beneficiaries, that Chargor shall bring such counter-claim before the court seized of the Beneficiaries' claim and no other court.



- 12.1.3. The commencement of legal proceedings in one or more jurisdictions shall not, to the extent allowed by law, preclude the Beneficiaries from commencing legal actions or proceedings in any other jurisdiction, whether concurrently or not.
- 12.1.4. To the extent allowed by law, the New Chargor irrevocably waives any objection it may now or hereafter have on any grounds whatsoever to the laying of venue of any legal proceeding, and any claim it may now or hereafter have that any such legal proceeding has been brought in an inappropriate or inconvenient forum.
- 12.2. [\*\*\*Service of process: Without prejudice to any other mode of service allowed under any relevant law, the New Chargor:
- 12.2.1. irrevocably appoints [\*\*\*the Company \*\*\*] as its agent for service of process in relation to any proceedings before the English courts in connection with this Deed; and
- 12.2.2. agrees that failure by a process agent to notify it of the process will not invalidate the proceedings concerned.\*\*\*]

**13. FINANCE DOCUMENT**

This Deed is a Finance Document.

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

## SCHEDULE 1 TO DEED OF ACCESSION

### Registered land to be mortgaged

Name of Chargor/Registered Proprietor	Description of Property	Title Number

### Unregistered land subject to first registration upon the execution of this Deed


The address for service of the Security Trustee in the case of registered land is Bank of Scotland plc,  
[REDACTED] marked for the attention of Dave North.

## SCHEDULE 2 TO DEED OF ACCESSION

### Notice Details

[\*\*\*Set out here the notice details for the New Chargo\*\*\*]

### EXECUTION

#### THE NEW CHARGOR

**EXECUTED** and **DELIVERED** as a **DEED** by  
[\*\*\*NEW CHARGOR\*\*\*] (pursuant to a  
resolution of its Board of Directors) acting by a  
director in the presence of:

\_\_\_\_\_  
Director

\_\_\_\_\_ Witness

\_\_\_\_\_ Full Name

\_\_\_\_\_ Address

\_\_\_\_\_  
\_\_\_\_\_ Occupation

#### THE COMPANY

**EXECUTED** and **DELIVERED** as a **DEED** by  
**ROCCO FORTE HOTELS LIMITED** (pursuant  
to a resolution of its Board of Directors) acting  
by a director in the presence of:

\_\_\_\_\_  
Director

\_\_\_\_\_ Witness

\_\_\_\_\_ Full Name

\_\_\_\_\_ Address

\_\_\_\_\_  
\_\_\_\_\_ Occupation

**THE SECURITY TRUSTEE**

Signed by  
for and on behalf of **BANK OF SCOTLAND**  
**PLC**

\_\_\_\_\_  
Authorised Signatory

\_\_\_\_\_ Witness

\_\_\_\_\_ Full Name

\_\_\_\_\_ Address

\_\_\_\_\_

\_\_\_\_\_ Occupation

## SCHEDULE 4

### PART 1 COLLECTION OF RECEIVABLES

Form of notice to be delivered by the Security Trustee to each Chargor pursuant to Clause 6.1 of the Debenture

[\*\*\*TO BE TYPED ON THE HEADED NOTEPAPER OF THE SECURITY TRUSTEE\*\*\*]

Rocco Forte Hotels Limited  
70 Jermyn Street  
London  
SW1Y 6NY

(on behalf of the Chargors)

[\*\*\*date\*\*\*]

Dear Sirs

**DEBENTURE DATED [ \*\*\* ] (THE "DEBENTURE") BETWEEN ROCCO FORTE HOTELS LIMITED AND THE OTHER COMPANIES LISTED THEREIN (1) AND BANK OF SCOTLAND PLC (2) (THE "SECURITY TRUSTEE") AS TRUSTEE FOR THE BENEFICIARIES (AS DEFINED IN THE DEBENTURE)**

1. In accordance with Clause 6.1 (Collection Account) of the Debenture, we hereby direct that each Chargor pays into its Collection Account specified below all money which it may henceforth receive in respect of Receivables (other than monies paid into a Mandatory Prepayment Account, Holding Account, or any overseas bank account (subject to Clause 27.33 (Cash Management) of the Facilities Agreement)) charged by the Debenture, until otherwise instructed by us in writing.

Name of Chargor	Account number	Name of Account Bank and sort code
The Balmoral Hotel Edinburgh Limited		Bank of Scotland plc 
Rocco Forte Hotels Limited		Bank of Scotland plc 
Rocco Forte Hotels Limited		Bank of Scotland plc 
Rocco Forte Hotels Limited		Bank of Scotland plc 
Rocco Forte & Family (London) Limited		Bank of Scotland plc 

Name of Chargor	Account number	Name of Account Bank and sort code
Rocco Forte & Family (Hotel Management) Limited	[REDACTED]	Bank of Scotland plc [REDACTED]
Rocco Forte & Family (Hotel Management) Limited	[REDACTED]	Bank of Scotland plc [REDACTED]
Rocco Forte & Family (Hotel Management) Limited	[REDACTED]	Bank of Scotland plc [REDACTED]
Rocco Forte & Family (Hotel Management) Limited	[REDACTED]	Bank of Scotland plc [REDACTED]
Rocco Forte & Family (Luxury Hotels) Limited	[REDACTED]	Bank of Scotland plc [REDACTED]
Rocco Forte & Family (Luxury Hotels) Limited	[REDACTED]	Bank of Scotland plc [REDACTED]
Rocco Forte & Family (Luxury Hotels) Limited	[REDACTED]	Bank of Scotland plc [REDACTED]
Rocco Forte & Family (Luxury Hotels) Limited	[REDACTED]	Bank of Scotland plc [REDACTED]
Rocco Forte & Family (Luxury Hotels) Limited	[REDACTED]	Bank of Scotland plc [REDACTED]
Rocco Forte & Family (Italy) Limited	[REDACTED]	Bank of Scotland plc [REDACTED]
Rocco Forte & Family (Italy) Limited	[REDACTED]	Bank of Scotland plc [REDACTED]
Rocco Forte Hotels Limited	[REDACTED]	Bank of Scotland plc [REDACTED]
Rocco Forte Hotels Limited	[REDACTED]	Bank of Scotland plc [REDACTED]
The Balmoral Hotel Edinburgh Limited	[REDACTED]	Bank of Scotland plc [REDACTED]
The Balmoral Hotel Edinburgh Limited	[REDACTED]	Bank of Scotland plc [REDACTED]
RF Corporate UK Limited	[REDACTED]	Bank of Scotland plc [REDACTED]
Rocco Forte & Family (Hotel Management) Limited	[REDACTED]	Bank of Scotland plc [REDACTED]

2. Where a Collection Account is not specified for any Chargor, this is based on our understanding that such Chargor does not currently receive any payment (from a person which is not a Group Company) which would be required by the terms of Clause 6.1 of the Debenture to be credited to a Collection Account. However, we hereby require that each such Chargor notifies us in advance if it foresees that any such payment will be received by it. In those circumstances, we will require a Collection Account to be opened for such Chargor into which all payments to which Clause 6.1 of the Debenture refers will be made.

3. The terms defined in the Debenture shall, where the context so admits, have the same meaning in this letter.

Yours faithfully

.....  
For and on behalf of  
Bank of Scotland plc  
(acting as Security Trustee)

We hereby confirm our agreement to the foregoing terms on behalf of each Chargor.

.....  
For and on behalf of  
Rocco Forte Hotels Limited

## PART 2

### FORM OF NOTICE TO BE SERVED AT COMPLETION BY THE CHARGORS ON THE ACCOUNT BANK PURSUANT TO CLAUSE 6.2 OF THE DEBENTURE

[\*\*\*ON THE HEADED NOTEPAPER OF THE COMPANY\*\*\*]

[\*\*\*Account Bank\*\*\*]

[\*\*\*Address\*\*\*]

For the attention of [ \*\*\* ]

[\*\*\*date\*\*\*]

Dear Sirs

**NOTICE OF CHARGE: DEBENTURE DATED [\*\*\*] (THE "DEBENTURE") BETWEEN ROCCO FORTE HOTELS LIMITED AND THE OTHER COMPANIES LISTED THEREIN (1) (THE "CHARGORS") AND BANK OF SCOTLAND PLC (2) (THE "SECURITY TRUSTEE") AS TRUSTEE FOR THE BENEFICIARIES (AS DEFINED IN THE DEBENTURE)**

1. This letter constitutes notice to you that, under the Debenture, we have each:
  - 1.1. charged our Receivables to the Security Trustee;
  - 1.2. undertaken to the Security Trustee to pay into our Collection Account with you (as specified in the attached copy of the Security Trustee's letter to us of today) all money which we receive in respect of our Receivables (other than monies paid into a Mandatory Prepayment Account, Holding Account, or any overseas bank account (subject to Clause 27.33 (Cash Management) of the Facilities Agreement)) and, pending such payment, to hold all money so received on trust for the Security Trustee; and
  - 1.3. charged all our interests and rights (if any) in or to any money at any time standing to the credit of our Collection Account to the Security Trustee.
2. We each hereby irrevocably and unconditionally instruct and authorise you (notwithstanding any previous instructions which we may have given you to the contrary):
  - 2.1. to disclose to the Security Trustee, without any reference to or further authority from us and without any enquiry by you as to the justification for such disclosure, such information relating to our Collection Account and the amount from time to time standing to its credit as the Security Trustee may, at any time and from time to time, request you to disclose to it.
  - 2.2. at any time after the Security Trustee has notified you that the Debenture has become enforceable:
    - 2.2.1. at any time and from time to time upon receipt by you of instructions in writing from the Security Trustee, to pay or release to the Security Trustee all or any of the money standing to the credit of our Collection Account (after your exercise of any rights of set-off then available to you in accordance with the Finance Documents) and



generally to act in accordance with such instructions in relation to our Collection Account, without any reference to or further authority from us and without any enquiry by you as to the justification for such instructions or their validity;

- 2.2.2. to comply with the terms of any written instructions in any way relating or purporting to relate to our Collection Account which you may receive at any time and from time to time from the Security Trustee without any reference to or further authority from us and without any enquiry by you as to the justification for such notice, statement or instructions or its or their validity;
  - 2.2.3. not to act upon our instructions with regard to our Collection Account unless and until the Security Trustee confirms those instructions to you in writing and, in particular but without limitation, in these circumstances no Chargor shall be permitted to withdraw any amount from any Collection Account without the prior written consent of the Security Trustee; and
  - 2.2.4. after your exercise of any rights of set-off then available to you in accordance with the Finance Documents, to hold all sums from time to time standing to the credit of our Collection Account to the order of the Security Trustee.
3. The instructions and authorisations which are contained in this letter shall remain in full force and effect until we and the Security Trustee together give you notice in writing revoking them.
  4. This letter and all non-contractual obligations arising in any way whatsoever out of or in connection with this letter shall be governed by and construed in accordance with English law.
  5. Please will you acknowledge receipt of this letter and confirm your acceptance of the instructions and authorisations contained in it by signing and returning to the Security Trustee the attached copy of this letter.

Yours faithfully

.....  
For and on behalf of  
[\*\*\*each Chargor\*\*\*]

[On copy:

For the benefit of the Security Trustee (for itself and on behalf of the Beneficiaries). we:

1. hereby acknowledge receipt of this letter; and
2. without prejudice to the terms of the Inter Creditor Agreement dated [\*\*\*] to which we (along with others) are party, accept the instructions contained in the letter and agree to act in accordance them.

We also confirm that we have not received notice of any interest of any third party in any of the Collection Accounts.

.....  
For and on behalf of [\*\*\* the Account Bank \*\*\*]

## SCHEDULE 5 - FORMS OF NOTICES OF ASSIGNMENT

### PART 1

#### FORM OF NOTICE OF ASSIGNMENT OF MANAGEMENT CONTRACTS

To: [\*Relevant counterparty\*]

[\*date\*]

Dear Sirs,

#### Notice of Assignment

We refer to the management contract dated [ \*\*\* ] made between you (1) and us (2) relating to the management of [ \*\*\* relevant hotel\*\*\* ] (the "**Management Contract**").

We refer to a debenture (the "**Debenture**") dated [ \*\*\* ] made between, inter alia, Bank of Scotland plc (the "**Security Trustee**") and ourselves. Terms defined in the Debenture are to have the same meanings in this letter.

We hereby give you notice that our rights under the Management Contract have been assigned to the Security Trustee by Clause 3.1 (Assignments) of the Debenture.

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

Please confirm your acknowledgement of this notice by signing the acknowledgements set out at the foot of the enclosed duplicate hereof and by returning the same to Bank of Scotland plc, [REDACTED] marked for the attention of Dave North.

Signed

.....

for and on behalf of

[ \*\*\*relevant Chargor\*\*\* ]

[on copy]

## ACKNOWLEDGEMENT

To: Bank of Scotland plc

[REDACTED]

For the attention of: Dave North

We, [ \*\*\*relevant counterparty\*\*\* ] hereby acknowledge receipt of a notice of assignment from [ \*\*\*relevant Chargor\*\*\* ] of which the attached is a copy (the "**Notice of Assignment**").

We confirm that we have not received notice of any other assignment of the Management Contract or any interest therein.

For and on behalf of

.....  
[ \*\*\*relevant counterparty\*\*\* ]

Dated:

**PART 2**  
**FORM OF NOTICE OF ASSIGNMENT OF HEDGING AGREEMENTS**

To: [\*Hedge Counterparty\*]

[\*date\*]

Dear Sirs,

**Notice of Assignment**

We refer to a Debenture (the "**Debenture**") dated [ \*\*\* ] made between, inter alia, [ \*\*\* ] (the "**Security Trustee**") and ourselves. Terms defined in the Debenture are to have the same meanings in this letter.

We hereby give you notice that we have assigned all our rights, title and interest in and to the Hedging Agreements [\* define \*] to the Security Trustee by Clause 3.1.2 (Assignments) of the Debenture.

We irrevocably and unconditionally instruct and authorise you (notwithstanding any previous directions which we may have given you to the contrary):

1. unless otherwise directed by the Security Trustee, to furnish or disclose to the Security Trustee in addition to ourselves all notices, matters or things required under the Hedging Agreements to be furnished and disclosed to ourselves;
2. at any time after an Event of Default has occurred and is continuing, to hold to the order of the Security Trustee all sums from time to time due and payable by you to us under the Hedging Agreements;
3. at any time after an Event of Default has occurred and is continuing, to pay or release all or any part of the sums from time to time due and payable by you to us under the Hedging Agreements in accordance with the written instructions given to you by the Security Trustee from time to time; and
4. at any time after an Event of Default has occurred and is continuing, to comply with the terms of any written notice or instructions in any way relating to, or purporting to relate to the Debenture, the sums payable to the Company from time to time under the Hedging Agreements or the debts represented thereby, which you receive from the Security Trustee from time to time without reference to or further authority from the Company and without any enquiry by you as to the justification for or validity of such notice or instruction.

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

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

Please confirm your acknowledgement of this notice by signing the acknowledgements set out at the foot of the enclosed duplicate hereof and by returning the same to Bank of Scotland plc, [REDACTED] marked for the attention of Dave North.

Signed

.....  
for and on behalf of  
[\*\*\*relevant Chargor\*\*\*]

[on copy]

**ACKNOWLEDGEMENT**

To: Bank of Scotland plc



For the attention of: Dave North

We, [ \*\*\* Hedge Counterparty\*\*\* ] hereby acknowledge receipt of a notice of assignment from the Company of which the attached is a copy (the "**Notice of Assignment**").

We confirm that we have not received notice of any other assignment of the Hedging Agreements described in the Notice of Assignment or any interest therein.

For and on behalf of

.....  
[ \*\*\* Hedging Counterparty \*\*\* ]

Dated:

**PART 3**  
**FORM OF NOTICE OF ASSIGNMENT OF INSURANCE POLICIES**

**Form of Notice of Assignment and Receipt**

To:     ☐

Dated:

**[Chargor]**

[Chargor] hereby gives notice that by a debenture dated [    ] (the "**Deed**") (a certified copy of which is attached) it has assigned by way of security to Bank of Scotland plc as Security Trustee all its right, title, interest and benefit, whether present or future, in and to the policies described below. The assignment secures monies, obligations and liabilities due owing or incurred to the Beneficiaries (as defined in the Deed).

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 Bank of Scotland plc, [REDACTED]  
[REDACTED] marked for the attention of Dave North.

<b>Property Insured</b>	<b>Sum Assured (£)</b>	<b>Insurer</b>	<b>Policy No.</b>	<b>Expiry Date of Policy</b>	<b>Cover</b>
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Signed

.....  
for and on behalf of  
[Chargor]



[on copy]

**ACKNOWLEDGEMENT**

To: Bank of Scotland plc

For the attention of: Dave North

**[Chargor]**

We hereby acknowledge receipt of a notice of the assignment of certain insurance policies (as listed in that notice) (the "**Policies**") from [Chargor] to Bank of Scotland plc of which the attached is a copy.

We confirm that we have not received notice of any other assignment of the Policies or any interest therein.

Signed by

.....  
for and on behalf of  
[Insurer]

Dated

## EXECUTION PAGE

### THE CHARGORS

**EXECUTED** and **DELIVERED** as a **DEED** by  
**ROCCO FORTE HOTELS LIMITED** (pursuant  
to a resolution of its Board of Directors) acting  
by a director in the presence of:

\_\_\_\_\_  
Director

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Full Name

\_\_\_\_\_  
Address

\_\_\_\_\_

\_\_\_\_\_  
Occupation

**EXECUTED** and **DELIVERED** as a **DEED** by  
**ROCCO FORTE & FAMILY (LUXURY  
HOTELS) LIMITED** (pursuant to a resolution  
of its Board of Directors) acting by a director in  
the presence of:

\_\_\_\_\_  
Director

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Full Name

\_\_\_\_\_  
Address

\_\_\_\_\_

\_\_\_\_\_  
Occupation

**EXECUTED and DELIVERED as a DEED by  
ROCCO FORTE & FAMILY (EXECUTIVE  
HOTEL PROGRAM) LIMITED** (pursuant to a  
resolution of its Board of Directors) acting by a  
director in the presence of:

\_\_\_\_\_ Witness  
\_\_\_\_\_ Full Name  
\_\_\_\_\_ Address  
\_\_\_\_\_  
\_\_\_\_\_ Occupation

\_\_\_\_\_  
Director

**EXECUTED and DELIVERED as a DEED by  
ROCCO FORTE & FAMILY (RUSSIA)  
LIMITED** (pursuant to a resolution of its Board  
of Directors) acting by a director in the  
presence of:

\_\_\_\_\_ Witness  
\_\_\_\_\_ Full Name  
\_\_\_\_\_ Address  
\_\_\_\_\_  
\_\_\_\_\_ Occupation

\_\_\_\_\_  
Director

**EXECUTED and DELIVERED as a DEED by  
ROCCO FORTE & FAMILY (ITALY) LIMITED**  
(pursuant to a resolution of its Board of  
Directors) acting by a director in the presence  
of:

\_\_\_\_\_ Witness  
\_\_\_\_\_ Full Name  
\_\_\_\_\_ Address  
\_\_\_\_\_  
\_\_\_\_\_ Occupation

\_\_\_\_\_  
Director

**EXECUTED and DELIVERED as a DEED by  
ROCCO FORTE & FAMILY (GERMANY)  
LIMITED** (pursuant to a resolution of its Board  
of Directors) acting by a director in the  
presence of:

\_\_\_\_\_ Witness  
\_\_\_\_\_ Full Name  
\_\_\_\_\_ Address  
\_\_\_\_\_  
\_\_\_\_\_ Occupation

\_\_\_\_\_  
Director

**EXECUTED and DELIVERED as a DEED by  
ROCCO FORTE & FAMILY (HOTEL  
MANAGEMENT) LIMITED** (pursuant to a  
resolution of its Board of Directors) acting by a  
director in the presence of:

\_\_\_\_\_  
Director

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Full Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Occupation

**EXECUTED and DELIVERED as a DEED by  
RF CORPORATE UK LIMITED** (pursuant to a  
resolution of its Board of Directors) acting by a  
director in the presence of:

\_\_\_\_\_  
Director

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Full Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Occupation

**EXECUTED and DELIVERED as a DEED by  
THE BALMORAL HOTEL EDINBURGH  
LIMITED** (pursuant to a resolution of its Board  
of Directors) acting by a director in the  
presence of:

\_\_\_\_\_ Witness  
\_\_\_\_\_ Full Name  
\_\_\_\_\_ Address  
\_\_\_\_\_  
\_\_\_\_\_ Occupation

\_\_\_\_\_  
Director

**EXECUTED and DELIVERED as a DEED by  
ROCCO FORTE & FAMILY (BELGIUM)  
LIMITED** (pursuant to a resolution of its Board  
of Directors) acting by a director in the  
presence of:

\_\_\_\_\_ Witness  
\_\_\_\_\_ Full Name  
\_\_\_\_\_ Address  
\_\_\_\_\_  
\_\_\_\_\_ Occupation

\_\_\_\_\_  
Director

**EXECUTED** and **DELIVERED** as a **DEED** by  
**ROCCO FORTE & FAMILY (LONDON)**  
**LIMITED** (pursuant to a resolution of its Board  
of Directors) acting by a director in the  
presence of:

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Full Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Occupation

\_\_\_\_\_  
Director

**EXECUTED** and **DELIVERED** as a **DEED** by  
**RFFF LIMITED** (pursuant to a resolution of its  
Board of Directors) acting by a director in the  
presence of:

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Full Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Occupation

\_\_\_\_\_  
Director

**EXECUTED and DELIVERED as a DEED by  
RFFG LIMITED** (pursuant to a resolution of its  
Board of Directors) acting by a director in the  
presence of:

\_\_\_\_\_  
Director

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Full Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Occupation

**THE SECURITY TRUSTEE**

Signed by KATHRYN WHITEHOUSE  
for and on behalf of **BANK OF SCOTLAND**

\_\_\_\_\_  
Attorney

\_\_\_\_\_  
Witness

BLAIR DALY Full Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Occupation