



**Registration of a Charge**

Company name: **LONDON SOLE LIMITED**

Company number: **04944961**

Received for Electronic Filing: **25/06/2019**



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**Details of Charge**

Date of creation: **20/06/2019**

Charge code: **0494 4961 0002**

Persons entitled: **BENNETTS (IRONGATE) LIMITED (IN ADMINISTRATION)**

Brief description:

**Contains fixed charge(s).**

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

**Contains negative pledge.**

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**Authentication of Form**

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

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**Authentication of Instrument**

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

**FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL  
INSTRUMENT.**

Certified by:

**GATELEY PLC**



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

Company number: 4944961

Charge code: 0494 4961 0002

The Registrar of Companies for England and Wales hereby certifies that a charge dated 20th June 2019 and created by LONDON SOLE LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 25th June 2019 .

Given at Companies House, Cardiff on 26th June 2019

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



**Companies House**



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

DATED 29 June 2019

- (1) LONDON SOLE LIMITED
- (2) BENNETTS (IRONGATE) LIMITED (IN  
ADMINISTRATION)
- (3) PAUL MALLATRATT and LOUISE FREESTONE

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DEBENTURE

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DATE

20 JUNE

2019

**PARTIES**

- (1) **LONDON SOLE LIMITED** (registered number 04944961) whose registered office is at Kemp House, 160 City Road, London EC1V 2NX (the **Chargor**);
- (2) **BENNETTS (IRONGATE) LIMITED (IN ADMINISTRATION)** (registered number 02264590) whose registered office is Second Floor, Poynt South, Upper Parliament Street, Nottingham NG1 6LF (the **Chargee**); and
- (3) **PAUL MALLATRATT and LOUISE FREESTONE** both of Bridgewood Financial Solutions Limited, Second Floor, Poynt South, Upper Parliament Street, Nottingham, Nottinghamshire NG1 6LF, joint administrators of the Chargee (the **Chargee's Administrators**).

**IT IS AGREED**

1. **DEFINITIONS AND INTERPRETATION**

- 1.1 In this debenture, the following definitions apply:

**Administrator**

any person the Chargee or the Chargee's Administrators appoints to be an administrator of the Chargor under Schedule B1 Insolvency Act;

**Agreement**

the agreement for the sale of the business and certain assets of the Chargee between the Chargor, the Chargee and the Chargee's Administrators dated on or around the date of this debenture;

**Assets**

present and future assets, properties, revenues and rights of every description;

**Bank**

Lloyds Bank Plc;

**Business Day**

any day (other than a Saturday, Sunday or public holiday) during which banks in London are open for normal business;

**Charged Assets**

all Assets from time to time charged or intended to be charged by or under this debenture (and references to the Charged Assets include any part of them);

**Claim**

any action, proceeding, right, claim or demand of any nature, whether actual or contingent or otherwise;

**Delegate**

any delegate, agent, attorney or trustee appointed by the Chargee or the Chargee's Administrators;

**Equipment**

all present and future equipment, plant, machinery, tools, vehicles, furniture, fittings, installations, apparatus and other tangible moveable property for the time being owned by the Chargor, including all spare parts, replacements, modifications and additions;

**Event of Default**

failure to pay the cash element of the Consideration (as defined in the Agreement) on the dates specified in the Agreement or the breach of any other term of the Agreement or the Licence which, if capable of remedy, is not remedied within 5 Business Days;

**Finance Document**

this debenture, the Agreement and any other agreement or document designated as a Finance Document by the Chargor, the Chargee and the Chargee's Administrators from time to time;

**Indemnified Party**

- (a) the Chargee;
- (b) the Chargee's Administrators;
- (c) any Receiver, and/or
- (d) any Delegate,

and any of their officers and employees;

**Insurances**

any policies of insurance in which the Chargor has an interest from time to time;

**Intellectual Property**

all intellectual property rights or equivalent, including patents, trade marks, service marks, business names, domain names, rights in get-up and goodwill, copyright and neighbouring and related rights, moral rights, rights in designs and to inventions, database rights, know-how, trade secrets, confidential information and any other proprietary knowledge and/or information of whatever nature and howsoever arising, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals and claim protection from such rights and all similar or equivalent rights which subsist or may in future subsist in any part of the world;

**Insolvency Act**

the Insolvency Act 1986;

**Licence**

a licence granted by the Chargee to the Chargor dated on or around the date of this debenture;

**Losses**

any loss, cost, damage, award, charge, penalty, fine, expense or any other liability which any of the Indemnified Parties have incurred or suffered, or may, directly or indirectly, incur or suffer, including legal costs and any value added tax or similar tax on any of those;

**LPA**

the Law of Property Act 1925;

**Party**

a party to this debenture;

**Property**

the Assets referred to in **clauses 3.1.1 and 3.1.2**;

**Receivables**

all present and future book and other debts and all other amounts recoverable or receivable by, or due or owing to, the Chargor from other persons (whether actual or contingent and however arising), all proceeds of those debts and other amounts and all rights of any nature held by the Chargor in relation to them;

**Receiver**

any receiver, manager or receiver and manager appointed by the Chargee or the Chargee's Administrators under this debenture;

**Secured Liabilities**

all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or as principal, guarantor, surety or in any other capacity) of the Chargor to the Chargee or the Chargee's Administrators under the Finance Documents, including (i) all interest (including default interest), fees, costs, charges and expenses which the Chargee or the Chargee's Administrators may charge or incur and (ii) any amounts which would be included in any of the above but for any discharge, non-provability, unenforceability or non-allowability of the same in any insolvency or other proceedings;

**Securities**

all present and future stocks, shares, loan capital, debentures, bonds, warrants or other securities (whether or not marketable) held by the Chargor (at law or in equity) together with all dividends, distributions and other Assets paid or payable on such Securities (as the case may be), together with all shares or other Assets accruing to or offered or otherwise derived from or incidental to such Securities;

**Security Interest**

a mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect; and

**Third Parties Act**

the Contracts (Rights of Third Parties) Act 1999.

1.2 In this debenture, a reference to:

1.2.1 a provision of law includes a reference to that provision as replaced, modified or re-enacted from time to time and any subordinate legislation made under that statutory provision from time to time, in each case whether before or after the date of this debenture;

1.2.2 a person includes any individual, firm, company, corporation, government, state or agency of state or any association, trust, joint venture, consortium or partnership (whether or not having separate legal personality);

1.2.3 this debenture or any provision of this debenture or any other agreement, document or instrument is to this debenture, that provision or that agreement, document or instrument as amended, novated, supplemented, extended or restated;

1.2.4 a "Party", the "Chargor", the "Chargee" or the "Chargee's Administrators" will be construed so as to include its successors in title, permitted assigns and permitted transferees;

1.2.5 "disposal" includes any sale, transfer, assignment, grant, lease, licence, declaration of trust or other disposal, whether voluntary or involuntary and "dispose" will be construed accordingly;

1.2.6 "this Security" means any Security Interest created or intended to be created by this debenture; and

1.2.7 the "Charged Assets" means all or any part of them and the "Property" means all or any part of it including land and buildings.

1.3 Words importing the singular include the plural and vice versa and words importing a gender include every gender.

1.4 The words "other", "include", "including" and "in particular" do not limit the generality of any preceding words and any words which follow them will not be construed as being limited in scope to the same class as the preceding words where a wider construction is possible.

1.5 For the purposes of section 2 Law of Property (Miscellaneous Provisions) Act 1989, the terms of any facility or loan agreements, security documents, finance documents and of any side letters between any parties in relation to any of them are incorporated into this debenture.



2. **COVENANT TO PAY**

- 2.1 The Chargor covenants with the Chargee and the Chargee's Administrators that it will pay or discharge on demand the Secured Liabilities when they fall due.
- 2.2 Any amount which is not paid under this debenture when due will bear interest (both before and after judgment and payable on demand) from the due date (or, in the case of costs, fees or expenses incurred, from the date they are so incurred) until the date that amount is unconditionally and irrevocably paid and discharged in full on a daily basis at a rate of 5% a year over the prevailing base rate of the Bank. Such default interest will be calculated on the basis of the actual number of days elapsed and a year of 365 days.

3. **CHARGES**

- 3.1 As a continuing security for the payment of the Secured Liabilities, the Chargor, with full title guarantee, charges, and agrees to charge, in favour of the Chargee the following Assets which are at any time owned by the Chargor or which it is from time to time interested:
- 3.1.1 by way of **first legal mortgage** all the freehold and leasehold property (if any) now vested in or charged to the Chargor, together with all buildings, fixtures and fittings (including trade fixtures and fittings) at any time on or attached to such property;
  - 3.1.2 by way of **first fixed charge** all other present and future interests (not being charged by **clause 3.1.1**) in any freehold or leasehold property vested in or charged to the Chargor, the buildings and fixtures and fittings (including trade fixtures and fittings) at any time on or attached to such property;
  - 3.1.3 by way of **first fixed charge** all proceeds of sale derived from the Property or any buildings, fixtures or fittings (including trade fixtures and fittings) at any time on or attached to the Property, the benefit of all covenants given in respect of the Property or any of those buildings, fixtures or fittings and all licences to enter upon or use land and the benefit of all other agreements relating to land;
  - 3.1.4 by way of **first fixed charge** all Equipment;
  - 3.1.5 by way of **first fixed charge** all Securities;
  - 3.1.6 by way of **first fixed charge** all money standing to the credit of the Chargor from time to time on any accounts with any bank or any other person;
  - 3.1.7 by way of **first fixed charge** all Intellectual Property; and
  - 3.1.8 by way of **first fixed charge** all the goodwill and uncalled capital of the Chargor.
- 3.2 As a continuing security for the payment of the Secured Liabilities, the Chargor, with full title guarantee, assigns and agrees to assign absolutely (subject to a proviso for reassignment on payment in full of the Secured Liabilities) in favour of the Chargee all the rights, title, interest and benefit of the Chargor in and to:
- 3.2.1 the Insurances (together with all proceeds of such Insurances); and
  - 3.2.2 the Receivables.
- 3.3 As further continuing security for the payment of the Secured Liabilities, the Chargor charges with full title guarantee in favour of the Chargee by way of **first floating charge** all its Assets and undertaking both present and future not effectively mortgaged, charged or assigned under the provisions of **clause 3.1** or **3.2**, including heritable property and all other Assets in Scotland.
4. **CONVERSION OF FLOATING CHARGE**
- 4.1 Paragraph 14 of schedule B1 Insolvency Act applies to any floating charge created by or under this debenture (and each such floating charge is a qualifying floating charge for the purposes of the Insolvency Act).
- 4.2 The Chargee or the Chargee's Administrators may, by written notice to the Chargor, convert the floating charge created by this debenture into a fixed charge as regards all or any of the

Chargor's Assets specified in the notice at any time the Chargee or the Chargee's Administrators, in their reasonable opinion, considers those Assets to be in danger of being seized or sold under any form of distress, attachment, execution or other legal process or to be otherwise in jeopardy.

- 4.3 The floating charge created by the Chargor under this debenture will (in addition to the circumstances in which the same will occur under general law) automatically be converted into a fixed charge in relation to the Assets subject to that floating charge if:

4.3.1 without the Chargee's or the Chargee's Administrators prior written consent, the Chargor creates or attempts to create any Security Interest over all or any of the Charged Assets; or

4.3.2 any person levies or attempts to levy any distress, execution, attachment or other process against all or any of the Charged Assets or if any person presents a petition to wind up or applies for an administration order in respect of the Chargor.

5. **NEGATIVE PLEDGE**

The Chargor must not, without the prior written consent of the Chargee or the Chargee's Administrators, create, purport to create or permit to subsist any Security Interest over the Charged Assets.

6. **UNDERTAKINGS**

The Chargor must:

- 6.1 keep the Property in a good state of repair (sufficient as to enable the Property to be let in accordance with all applicable laws and regulations), not carry out any development at any Property and keep all Equipment in good working order and condition;
- 6.2 duly and punctually pay all rates, rents, taxes, charges and other outgoings due by it in respect of the Charged Assets;
- 6.3 permit the Chargee or the Chargee's Administrators or their representatives to have, on reasonable notice, access during normal office hours to the Property and to inspect and take copies of its accounts and records;
- 6.4 in relation to the Charged Assets comply with all its obligations under law, statute or regulation and under any permit, approval, licence or consent;
- 6.5 observe and perform all covenants and stipulations from time to time affecting the Charged Assets, or the manner of use or the enjoyment of them and not enter into any onerous or restrictive obligations affecting the Charged Assets;
- 6.6 not do or permit to be done anything which would or might depreciate, jeopardise or otherwise prejudice this Security or materially diminish the value of any Charged Asset or the effectiveness of this Security;
- 6.7 keep all Charged Assets comprehensively insured for their full replacement value in an amount and form and with an insurance company or underwriters acceptable to the Chargee or the Chargee's Administrators, provided that if the Chargor fails to comply with the terms of this **clause 6.7**, the Chargee or the Chargee's Administrators may, at the Chargor's expense, effect any insurance and generally do the things and take the action as the Chargee or the Chargee's Administrators consider necessary or desirable to prevent or remedy any breach of this **clause 6.7**;
- 6.8 not dispose of any Charged Asset save for the disposal of any Charged Asset charged by way of uncrystallised floating charge only for market value in the ordinary course of its business; and
- 6.9 hold the proceeds of any insurance on trust for the Chargee to be applied as the Chargee or the Chargee's Administrators see fit.

## **7. ENFORCEMENT OF SECURITY**

- 7.1 This Security becomes immediately enforceable on an Event of Default occurring and the Chargee or the Chargee's Administrators may, in its absolute discretion, enforce all or any part of it as it sees fit.
- 7.2 The power of sale and other powers section 101 LPA confers (as varied or extended by this debenture) will arise on and be exercisable without further notice immediately after this debenture is executed. Sections 93 and 103 LPA do not apply to this Security.
- 7.3 When this Security has become enforceable, the Chargee or the Chargee's Administrators may, at the sole cost of the Chargor (payable to the Chargee or the Chargee's Administrators on demand):
- 7.3.1 redeem any prior Security Interest over any Charged Asset; and/or
  - 7.3.2 procure the transfer of that Security Interest to itself; and/or
  - 7.3.3 settle and pass the accounts of any prior mortgagee, chargee or encumbrancer which, once so settled and passed, will be final and binding on the Chargor.
- All money the Chargee or the Chargee's Administrators pay to that prior mortgagee, chargee or encumbrancer under those accounts will form part of the Secured Liabilities.
- 7.4 When this Security becomes enforceable, or if the Chargor so requests by written notice at any time, the Chargee or the Chargee's Administrators (or any Delegate on their behalf) may:
- 7.4.1 appoint any person to be a Receiver of the Charged Assets;
  - 7.4.2 appoint any person to be an Administrator; and/or
  - 7.4.3 exercise all or any of the powers and remedies of a mortgagee in respect of the Charged Assets.
- 7.5 At any time after this Security becomes enforceable:
- 7.5.1 provided that the Chargee or the Chargee's Administrators has given notice to the Chargor that they intend to exercise its rights under this **clause 7.5.1**, the Chargee may exercise in the name of the Chargor any voting rights and any other powers or rights exercisable by the registered holder or bearer of the Securities; and
  - 7.5.2 all dividends, distributions, interest and other sums declared, payable, paid or made in respect of the Securities received by or on behalf of the Chargor will be held on trust for the Chargee or the Chargee's Administrators and may be applied as though they were the proceeds of sale.
- 7.6 The Chargee or the Chargee's Administrators may remove any Receiver appointed by it and appoint a new Receiver in his place. If there is more than one Receiver, they will have power to act individually (unless the deeds or other instruments appointing them say otherwise).
- 7.7 An Administrator will have all the powers given to him under the Insolvency Act.
- 7.8 A Receiver will have the following powers, as well as the powers conferred by the LPA and, although he is not an administrative receiver, by schedule 1 to the Insolvency Act (but without any of the restrictions imposed on the exercise of those powers by those statutes):
- 7.8.1 the same powers to do, or to omit to do, in the name of and on behalf of the Chargor, anything which the Chargor itself could have done or omitted to do with the Charged Assets if they were not the subject of this debenture;
  - 7.8.2 to take possession of, collect and get in the Charged Assets and/or income in respect of which he was appointed;
  - 7.8.3 to manage the Charged Assets and the business of the Chargor;
  - 7.8.4 to redeem any Security Interest;

- 7.8.5 to borrow or raise any money and secure the payment of any money in priority to the Secured Liabilities for the exercise of his powers and/or defraying any costs or liabilities incurred by him in such exercise;
  - 7.8.6 to alter, develop, complete, construct, refurbish or repair any Charged Asset;
  - 7.8.7 to complete or agree to the completion or undertaking (with or without modification) of any project in which the Chargor is interested before his appointment, being a project for the alteration, development, completion, construction, refurbishment or repair of any Property;
  - 7.8.8 to sell or agree to dispose of the Charged Assets over which he was appointed without being limited by any restriction section 103 or 109 LPA imposes and, for that purpose, to enter into covenants and other contractual obligations in the name of, and to bind, the Chargor;
  - 7.8.9 to lease, make agreements for leases, accept surrenders of leases and grant options as the Chargee or the Chargee's Administrators consider suitable and without the need to comply with any of the terms of sections 99 and 100 LPA;
  - 7.8.10 to take any proceedings, in the name of the Chargor or otherwise in respect of the Charged Assets, including proceedings for recovery of arrears on his appointment;
  - 7.8.11 to insure, and renew any insurances over, the Charged Assets he considers suitable or as the Chargee or the Chargee's Administrators direct;
  - 7.8.12 to appoint and employ managers, officers and workmen and engage professional advisers he considers suitable, including power to employ his partners and firm;
  - 7.8.13 to operate any rent review clause for any Property in respect of which he was appointed and to apply for any new or extended lease; and
  - 7.8.14 to agree any arrangement or compromise he considers suitable and to do all other things incidental or conducive to any other power vested in him to realise the Charged Assets.
- 7.9 In making any disposal, the Receiver, the Chargee, the Chargee's Administrators or any Delegate may accept, as consideration, cash, shares, loan capital or other Assets on any terms he may agree. Any contract for disposal may contain conditions excluding or restricting the personal liability of that Receiver, the Chargee, the Chargee's Administrators or that Delegate.
- 7.10 Any Receiver will be the agent of the Chargor and the Chargor will be solely responsible for his acts and defaults and for his remuneration.
- 7.11 Any Receiver will be entitled to remuneration for his services at a rate to be fixed by agreement between him and the Chargee or the Chargee's Administrators (or failing agreement to be fixed by the Chargee or the Chargee's Administrators) without the limits contained in section 109 LPA.
- 7.12 Only money actually paid by a Receiver to the Chargee or the Chargee's Administrators in satisfaction or discharge of the Secured Liabilities may be applied by the Chargee or the Chargee's Administrators in satisfaction of the Secured Liabilities.
- 7.13 Neither the Chargee, the Chargee's Administrators nor any Receiver or Delegate will be liable:
- 7.13.1 in respect of the Charged Assets; or
  - 7.13.2 for any loss or damage which arises out of the exercise or the attempted or purported exercise of, or the failure to exercise any of, their respective powers, unless the loss or damage is caused by its gross negligence or wilful misconduct.

- 7.14 Neither the Chargee, the Chargee's Administrators nor any Receiver or Delegate must take any particular action in relation to the Receivables. Neither will be liable to the Chargor for the manner in which he collects or fails to collect any Receivable.
- 7.15 Without prejudice to the generality of **clause 7.13**, entry into possession of the Charged Assets will not make the Chargee, the Chargee's Administrators, the Receiver or any Delegate liable to account as mortgagee in possession. If the Chargee, the Chargee's Administrators or any Receiver or Delegate enters into possession of the Charged Assets, he may, at any time at his discretion, go out of possession.
- 7.16 All or any of the powers which are conferred by this debenture on a Receiver may be exercised by the Chargee, the Chargee's Administrators or any Delegate without first appointing a Receiver or despite the appointment of any Receiver.
- 7.17 Except to the extent provided by law, an insolvency event for any Chargor will not affect any of the powers described in **clauses 7.8 to 7.16**.
- 7.18 No person dealing with the Chargee, the Chargee's Administrators or with any Receiver or Delegate need:
- 7.18.1 enquire whether the right:
- (a) of the Chargee or the Chargee's Administrators to appoint a Receiver or Delegate; or
  - (b) of any person to exercise any of the powers conferred by this debenture has arisen or become exercisable by the Chargee or the Chargee's Administrators or by any such Receiver or Delegate;
- 7.18.2 be concerned with notice to the contrary, or with the propriety of the exercise or purported exercise of any of those powers. The title of such a buyer and the position of such a person will not be impeachable by reference to any of the above matters.

## **8. CONTINUING SECURITY AND CHARGEES PROTECTIONS**

- 8.1 This debenture will remain in full force and effect as a continuing security until the Chargee or the Chargee's Administrators has certified in writing that the Secured Liabilities have been discharged in full. The Chargee or the Chargee's Administrators may make one or more demands under this debenture.
- 8.2 The Chargor's obligations under this debenture will not be affected by any time, waiver or consent granted to, or composition with the Chargor or any other person.
- 8.3 This debenture will be in addition to, and without prejudice to and will not merge with, any other right, remedy, guarantee or Security Interest which the Chargee or the Chargee's Administrators may at any time hold in respect of any of the Secured Liabilities and this debenture may be enforced without the Chargee or the Chargee's Administrators first having:
- 8.3.1 recourse to any other right, remedy, guarantee or Security Interest held or available to it;
  - 8.3.2 to take action or obtain judgment in any court against the Chargor or any other person;
  - 8.3.3 to make or file any claim in a bankruptcy, liquidation, administration or insolvency of the Chargor or any other person; or
  - 8.3.4 to make demand, enforce or seek to enforce any claim, right or remedy against the Chargor or any other person.

## **9. FURTHER ASSURANCE AND POWER OF ATTORNEY**

- 9.1 The Chargor must promptly do all acts or execute all documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Chargee or the Chargee's Administrators may reasonably specify (and in the form the Chargee may reasonably require) in favour of the Chargee or the Chargee's Administrators or its nominee:

- 9.1.1 to create, perfect, protect or maintain this Security (which may include the execution of a mortgage, charge, assignment or other Security Interest over all or any of the Charged Assets) or for the exercise of any rights, powers and remedies of the Chargee provided by law; and/or
- 9.1.2 to facilitate the realisation of the Charged Assets.
- 9.2 Any document required to be executed by the Chargor under this **clause 9** will be prepared at the cost of the Chargor.
- 9.3 The Chargor by way of security irrevocably appoints the Chargee, the Chargee's Administrators and any Receiver or Delegate (in writing under hand signed by an officer of the Chargee, the Chargee's Administrators or any Receiver or Delegate) severally to be its agents and attorneys in its name and on its behalf to:
- 9.3.1 do all things which the Chargor may be required to do under this debenture;
- 9.3.2 sign, execute, deliver and otherwise perfect any document or Security Interest required to be signed or executed under the terms of this debenture; and
- 9.3.3 sign, execute, deliver and complete any deeds, instruments or other documents and to do all acts and things which may be required by the Chargee, the Chargee's Administrators or any Receiver or Delegate in the exercise of any of their powers under this debenture, or to perfect or vest in the Chargee, any Receiver, any Delegate, its nominees or any purchaser, title to any Charged Assets or which they may deem expedient in connection with the getting in, disposal or realisation of any Charged Assets.
- 9.4 Each agent and attorney may appoint a substitute or delegate his authority. The Chargor ratifies and confirms (and agrees to ratify and confirm) anything which an attorney does under the power of attorney conferred by **clause 9.3**.
10. **PAYMENTS**
- 10.1 Subject to **clause 10.2**, all payments to be made by the Chargor in respect of this debenture, will be made in immediately available funds to the credit of any account as the Chargee or the Chargee's Administrators may designate. All payments will be made free and clear of, and without any deduction for, or on account of, any set-off or counterclaim or, except to the extent required by law, any deduction on account of any taxes.
- 10.2 If the Chargor is required by law to withhold or deduct any taxes from any sum payable under this debenture to the Chargee, the sum so payable by the Chargor will be increased so as to result in the receipt by the Chargee of a net amount equal to the full amount expressed to be payable under this debenture.
- 10.3 The Chargee may set-off any matured obligation due from the Chargor under this debenture against any matured obligation owed by the Chargee to the Chargor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Chargee may convert either obligation at a market rate of exchange reasonably determined by the Chargee.
- 10.4 Any demand, notification or certificate given by the Chargee or the Chargee's Administrators specifying amounts due and payable under or in connection with any of the provisions of this debenture will, in the absence of manifest error, be conclusive and binding on the Chargor.
- 10.5 Any release, discharge or settlement between the Chargor and the Chargee will be deemed conditional upon no payment or Security Interest received or held by the Chargee in respect of the Secured Liabilities being avoided, reduced or ordered to be refunded under any law relating to insolvency, bankruptcy, winding-up, administration or receivership. Notwithstanding any release, discharge or settlement, the Chargee will be entitled to recover the value or amount of such Security Interest or payment from the Chargor or to enforce this debenture as if that release, discharge or settlement had not occurred.
- 10.6 The Chargee or the Chargee's Administrators may apply or refrain from applying all payments received for the Secured Liabilities as they think fit. All money received, recovered or realised by the Chargee or the Chargee's Administrators under this debenture may at the discretion of the Chargee or the Chargee's Administrators be credited to any suspense

account for so long as the Chargee or the Chargee's Administrators determine (with interest accruing at the rate, if any, as the Chargee or the Chargee's Administrators may determine for the account of the Chargor).

## **11. COSTS, EXPENSES AND INDEMNITIES**

11.1 The Chargor must reimburse the Chargee, the Chargee's Administrators, any Receiver, any Delegate and any Administrator for all Losses incurred in connection with the enforcement, attempted enforcement or preservation of any of their rights under:

11.1.1 this debenture; or

11.1.2 any of the documents referred to in this debenture.

11.2 The Chargor must, on demand, indemnify the Indemnified Parties for all Claims and Losses which may be incurred by or made against any of them at any time relating to or arising, directly or indirectly, out of:

11.2.1 the exercise or purported exercise of the powers contained in this debenture;

11.2.2 a claim of any kind made or asserted against any Indemnified Party which would not have arisen if this debenture had not been executed and/or registered; or

11.2.3 a breach by the Chargor of any of its obligations under this debenture,

unless, in the case of **clauses 11.2.1 and 11.2.2**, it was caused by the negligence or wilful misconduct of the Indemnified Party.

11.3 No Indemnified Party will in any way be liable or responsible to the Chargor for any loss or liability of any kind arising from any act or omission by it (whether as mortgagee in possession or otherwise) in relation to the Charged Assets, except to the extent caused by its own negligence or wilful misconduct.

11.4 The Chargor must pay all present and future stamp, registration and similar taxes or charges which may be payable, or determined to be payable, in connection with the execution, delivery, performance or enforcement of this debenture or any judgment given in connection with this debenture.

## **12. THIRD PARTY RIGHTS**

12.1 Subject to **clauses 12.2 and 12.3**, a person who is not a Party will have no rights under the Third Parties Act to enforce or rely upon a provision of this debenture. No Party may hold itself out as trustee of any rights under this debenture for the benefit of any third party unless specifically provided for in this debenture. This **clause 12.1** does not affect any right or remedy of any person which exists, or is available, otherwise than under the Third Parties Act.

12.2 Any person to whom the benefit of any provision of this debenture is assigned under the terms of this debenture may under the Third Parties Act enforce any term of this debenture which confers (expressly or impliedly) any benefit on any such person.

12.3 Any Receiver or Delegate may, subject to the Third Parties Act, rely on any clause of this debenture which expressly confers rights on it.

12.4 The Chargee, the Chargee's Administrators and the Chargor may, by agreement in writing, rescind or vary any of the provisions in this debenture or waive or settle any right or claim under it in any way without the consent of any third party.

## **13. EXCLUSION OF ADMINISTRATORS' PERSONAL LIABILITY**

13.1 Neither the Chargee's Administrators, nor their firm, members, partners, employees, advisers, representatives or agents shall incur any personal liability whatever in relation to this debenture, any associated arrangements or negotiations or under any document or assurance made under this debenture.

13.2 The Chargee's Administrators are party to this debenture in their personal capacities only to receive the benefit of the terms in their favour.

14. **NOTICES**

Any notice given under this debenture must be in writing signed by, or on behalf of, the person giving it. Any notice must be delivered by hand or by prepaid recorded delivery first class post to the Party due to receive it at:

14.1.1 in the case of the Chargor its registered office for the time being marked for the attention of David Howick;

14.1.2 the Chargee or the Administrators at the offices of the Administrators, marked for the attention of Paul Mallatratt,

or to any other address for service in the United Kingdom as that Party may from time to time notify to the other. In the absence of evidence of earlier receipt, a notice served in accordance with this **clause 14** will be deemed to have been received, if delivered by hand, at the time of actual delivery to the address referred to in this **clause 14** or, if delivered by prepaid first class recorded delivery post, two Business Days from the date of posting. If, however, deemed receipt under this **clause 14** would otherwise occur on a day which is not a Business Day or after 5.00 pm on a Business Day, the relevant notice shall be deemed to have been received at 9.00 am on the next Business Day.

15. **GENERAL**

15.1 The Chargee and the Chargee's Administrators may assign or transfer all or any of their rights under this debenture. The Chargor may not assign, transfer, charge, make the subject of a trust or deal in any other manner with this debenture or any of its rights under this debenture or purport to do any of the same without the prior written consent of the Chargee or the Chargee's Administrators.

15.2 No variation to this debenture will be effective unless made in writing and signed by or on behalf of all the Parties. A waiver given or consent granted by the Chargee or the Chargee's Administrators under this debenture will be effective only if given in writing and then only in the instance and for the purpose for which it is given.

15.3 Each provision of this debenture is severable and distinct from the others. If at any time any provision of this debenture is or becomes unlawful, invalid or unenforceable to any extent or in any circumstances for any reason, it will to that extent or in those circumstances be deemed not to form part of this debenture but (except to that extent or in those circumstances in the case of that provision) the legality, validity and enforceability of that and all other provisions of this debenture will not be affected in any way.

15.4 If any provision of this debenture is found to be illegal, invalid or unenforceable in accordance with **clause 15.3** but would be legal, valid or enforceable if some part of the provision were deleted, the provision in question will apply with those modifications as may be necessary to make it legal, valid or enforceable.

15.5 Failure or delay in exercising a right or remedy provided by this debenture or by law does not constitute a waiver of that (or any other) right or remedy. No single or partial exercise, or non-exercise or non-enforcement of any right or remedy provided by this debenture or by law prevents or restricts any further or other exercise or enforcement of that (or any other) right or remedy.

15.6 The Chargee's and the Chargee's Administrators' rights and remedies contained in this debenture are cumulative and not exclusive of any rights or remedies provided by law.

15.7 This debenture may be executed in any number of counterparts each of which when executed and delivered will be an original. All the counterparts together will constitute one and the same document.

16. **GOVERNING LAW AND JURISDICTION**

16.1 This debenture (including any associated non-contractual disputes or claims) is governed by the laws of England and Wales.

16.2 The Parties agree to submit to the non-exclusive jurisdiction of the English Courts in relation to any claim or matter (whether contractual or non-contractual) arising under this debenture. This **clause 16.2** is for the benefit of the Chargee and the Chargee's Administrators only.



**THE CHARGOR** has executed this debenture as a deed and delivered it on the date first set out above.

**CHARGOR**

**EXECUTED** as a deed by **LONDON SOLE LIMITED**  
acting by **DAVID HOWICK**

Witness signature:

Name: *Anne Tiff*  
Address: *61 Moyebere Lane, London, W1V 2PA.*  
Occupation: *Store Manager.*

**CHARGE**

**EXECUTED** as a deed by **BENNETTS (IRONGATE)**  
**LIMITED (IN ADMINISTRATION)** acting by  
Paul Mallatratt its administrator under powers  
conferred by the Insolvency Act 1986

Witness signature:

Name:

Address:

Occupation:

**CHARGE**

**EXECUTED** as a deed by **PAUL MALLATRATT**  
on his behalf and on behalf of his fellow  
joint administrators

Witness signature:

Name:

Address:

Occupation:

DATED 20 June 2019

- (1) LONDON SOLE LIMITED
- (2) BENNETTS (IRONGATE) LIMITED (IN  
ADMINISTRATION)
- (3) PAUL MALLATRATT and LOUISE FREESTONE

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DEBENTURE

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DATE

20 June

2019

**PARTIES**

- (1) **LONDON SOLE LIMITED** (registered number 04944961) whose registered office is at Kemp House, 160 City Road, London EC1V 2NX (the **Chargor**);
- (2) **BENNETTS (IRONGATE) LIMITED (IN ADMINISTRATION)** (registered number 02264590) whose registered office is Second Floor, Poynt South, Upper Parliament Street, Nottingham NG1 6LF (the **Chargee**); and
- (3) **PAUL MALLATRATT and LOUISE FREESTONE** both of Bridgewood Financial Solutions Limited, Second Floor, Poynt South, Upper Parliament Street, Nottingham, Nottinghamshire NG1 6LF, joint administrators of the Chargee (the **Chargee's Administrators**).

**IT IS AGREED**

**1. DEFINITIONS AND INTERPRETATION**

- 1.1 In this debenture, the following definitions apply:

**Administrator**

any person the Chargee or the Chargee's Administrators appoints to be an administrator of the Chargor under Schedule B1 Insolvency Act;

**Agreement**

the agreement for the sale of the business and certain assets of the Chargee between the Chargor, the Chargee and the Chargee's Administrators dated on or around the date of this debenture;

**Assets**

present and future assets, properties, revenues and rights of every description;

**Bank**

Lloyds Bank Plc;

**Business Day**

any day (other than a Saturday, Sunday or public holiday) during which banks in London are open for normal business;

**Charged Assets**

all Assets from time to time charged or intended to be charged by or under this debenture (and references to the Charged Assets include any part of them);

**Claim**

any action, proceeding, right, claim or demand of any nature, whether actual or contingent or otherwise;

**Delegate**

any delegate, agent, attorney or trustee appointed by the Chargee or the Chargee's Administrators;

**Equipment**

all present and future equipment, plant, machinery, tools, vehicles, furniture, fittings, installations, apparatus and other tangible moveable property for the time being owned by the Chargor, including all spare parts, replacements, modifications and additions;

**Event of Default**

failure to pay the cash element of the Consideration (as defined in the Agreement) on the dates specified in the Agreement or the breach of any other term of the Agreement or the Licence which, if capable of remedy, is not remedied within 5 Business Days;

**Finance Document**

this debenture, the Agreement and any other agreement or document designated as a Finance Document by the Chargor, the Chargee and the Chargee's Administrators from time to time;

**Indemnified Party**

- (a) the Chargee;
- (b) the Chargee's Administrators;
- (c) any Receiver, and/or
- (d) any Delegate,

and any of their officers and employees;

**Insurances**

any policies of insurance in which the Chargor has an interest from time to time;

**Intellectual Property**

all intellectual property rights or equivalent, including patents, trade marks, service marks, business names, domain names, rights in get-up and goodwill, copyright and neighbouring and related rights, moral rights, rights in designs and to inventions, database rights, know-how, trade secrets, confidential information and any other proprietary knowledge and/or information of whatever nature and howsoever arising, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals and claim protection from such rights and all similar or equivalent rights which subsist or may in future subsist in any part of the world;

**Insolvency Act**

the Insolvency Act 1986;

**Licence**

a licence granted by the Chargee to the Chargor dated on or around the date of this debenture;

**Losses**

any loss, cost, damage, award, charge, penalty, fine, expense or any other liability which any of the Indemnified Parties have incurred or suffered, or may, directly or indirectly, incur or suffer, including legal costs and any value added tax or similar tax on any of those;

**LPA**

the Law of Property Act 1925;

**Party**

a party to this debenture;

**Property**

the Assets referred to in **clauses 3.1.1 and 3.1.2;**

**Receivables**

all present and future book and other debts and all other amounts recoverable or receivable by, or due or owing to, the Chargor from other persons (whether actual or contingent and however arising), all proceeds of those debts and other amounts and all rights of any nature held by the Chargor in relation to them;

**Receiver**

any receiver, manager or receiver and manager appointed by the Chargee or the Chargee's Administrators under this debenture;

**Secured Liabilities**

all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or as principal, guarantor, surety or in any other capacity) of the Chargor to the Chargee or the Chargee's Administrators under the Finance Documents, including (i) all interest (including default interest), fees, costs, charges and expenses which the Chargee or the Chargee's Administrators may charge or incur and (ii) any amounts which would be included in any of the above but for any discharge, non-provability, unenforceability or non-allowability of the same in any insolvency or other proceedings;

**Securities**

all present and future stocks, shares, loan capital, debentures, bonds, warrants or other securities (whether or not marketable) held by the Chargor (at law or in equity) together with all dividends, distributions and other Assets paid or payable on such Securities (as the case may be), together with all shares or other Assets accruing to or offered or otherwise derived from or incidental to such Securities;

**Security Interest**

a mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect; and

**Third Parties Act**

the Contracts (Rights of Third Parties) Act 1999.

**1.2**

In this debenture, a reference to:

- 1.2.1 a provision of law includes a reference to that provision as replaced, modified or re-enacted from time to time and any subordinate legislation made under that statutory provision from time to time, in each case whether before or after the date of this debenture;
- 1.2.2 a person includes any individual, firm, company, corporation, government, state or agency of state or any association, trust, joint venture, consortium or partnership (whether or not having separate legal personality);
- 1.2.3 this debenture or any provision of this debenture or any other agreement, document or instrument is to this debenture, that provision or that agreement, document or instrument as amended, novated, supplemented, extended or restated;
- 1.2.4 a "Party", the "Chargor", the "Chargee" or the "Chargee's Administrators" will be construed so as to include its successors in title, permitted assigns and permitted transferees;
- 1.2.5 "disposal" includes any sale, transfer, assignment, grant, lease, licence, declaration of trust or other disposal, whether voluntary or involuntary and "dispose" will be construed accordingly;
- 1.2.6 "this Security" means any Security Interest created or intended to be created by this debenture; and
- 1.2.7 the "Charged Assets" means all or any part of them and the "Property" means all or any part of it including land and buildings.

**1.3**

Words importing the singular include the plural and vice versa and words importing a gender include every gender.

**1.4**

The words "other", "include", "including" and "in particular" do not limit the generality of any preceding words and any words which follow them will not be construed as being limited in scope to the same class as the preceding words where a wider construction is possible.

**1.5**

For the purposes of section 2 Law of Property (Miscellaneous Provisions) Act 1989, the terms of any facility or loan agreements, security documents, finance documents and of any side letters between any parties in relation to any of them are incorporated into this debenture.

## 2. COVENANT TO PAY

- 2.1 The Chargor covenants with the Chargee and the Chargee's Administrators that it will pay or discharge on demand the Secured Liabilities when they fall due.
- 2.2 Any amount which is not paid under this debenture when due will bear interest (both before and after judgment and payable on demand) from the due date (or, in the case of costs, fees or expenses incurred, from the date they are so incurred) until the date that amount is unconditionally and irrevocably paid and discharged in full on a daily basis at a rate of 5% a year over the prevailing base rate of the Bank. Such default interest will be calculated on the basis of the actual number of days elapsed and a year of 365 days.

## 3. CHARGES

- 3.1 As a continuing security for the payment of the Secured Liabilities, the Chargor, with full title guarantee, charges, and agrees to charge, in favour of the Chargee the following Assets which are at any time owned by the Chargor or which it is from time to time interested:
- 3.1.1 by way of **first legal mortgage** all the freehold and leasehold property (if any) now vested in or charged to the Chargor, together with all buildings, fixtures and fittings (including trade fixtures and fittings) at any time on or attached to such property;
- 3.1.2 by way of **first fixed charge** all other present and future interests (not being charged by clause 3.1.1) in any freehold or leasehold property vested in or charged to the Chargor, the buildings and fixtures and fittings (including trade fixtures and fittings) at any time on or attached to such property;
- 3.1.3 by way of **first fixed charge** all proceeds of sale derived from the Property or any buildings, fixtures or fittings (including trade fixtures and fittings) at any time on or attached to the Property, the benefit of all covenants given in respect of the Property or any of those buildings, fixtures or fittings and all licences to enter upon or use land and the benefit of all other agreements relating to land;
- 3.1.4 by way of **first fixed charge** all Equipment;
- 3.1.5 by way of **first fixed charge** all Securities;
- 3.1.6 by way of **first fixed charge** all money standing to the credit of the Chargor from time to time on any accounts with any bank or any other person;
- 3.1.7 by way of **first fixed charge** all Intellectual Property; and
- 3.1.8 by way of **first fixed charge** all the goodwill and uncalled capital of the Chargor.
- 3.2 As a continuing security for the payment of the Secured Liabilities, the Chargor, with full title guarantee, assigns and agrees to assign absolutely (subject to a proviso for reassignment on payment in full of the Secured Liabilities) in favour of the Chargee all the rights, title, interest and benefit of the Chargor in and to:
- 3.2.1 the Insurances (together with all proceeds of such Insurances); and
- 3.2.2 the Receivables.
- 3.3 As further continuing security for the payment of the Secured Liabilities, the Chargor charges with full title guarantee in favour of the Chargee by way of **first floating charge** all its Assets and undertaking both present and future not effectively mortgaged, charged or assigned under the provisions of clause 3.1 or 3.2, including heritable property and all other Assets in Scotland.
- ## 4. CONVERSION OF FLOATING CHARGE
- 4.1 Paragraph 14 of schedule B1 Insolvency Act applies to any floating charge created by or under this debenture (and each such floating charge is a qualifying floating charge for the purposes of the Insolvency Act).
- 4.2 The Chargee or the Chargee's Administrators may, by written notice to the Chargor, convert the floating charge created by this debenture into a fixed charge as regards all or any of the

Chargor's Assets specified in the notice at any time the Chargee or the Chargee's Administrators, in their reasonable opinion, considers those Assets to be in danger of being seized or sold under any form of distress, attachment, execution or other legal process or to be otherwise in jeopardy.

- 4.3 The floating charge created by the Chargor under this debenture will (in addition to the circumstances in which the same will occur under general law) automatically be converted into a fixed charge in relation to the Assets subject to that floating charge if:

4.3.1 without the Chargee's or the Chargee's Administrators prior written consent, the Chargor creates or attempts to create any Security Interest over all or any of the Charged Assets; or

4.3.2 any person levies or attempts to levy any distress, execution, attachment or other process against all or any of the Charged Assets or if any person presents a petition to wind up or applies for an administration order in respect of the Chargor.

5. **NEGATIVE PLEDGE**

The Chargor must not, without the prior written consent of the Chargee or the Chargee's Administrators, create, purport to create or permit to subsist any Security Interest over the Charged Assets.

6. **UNDERTAKINGS**

The Chargor must:

- 6.1 keep the Property in a good state of repair (sufficient as to enable the Property to be let in accordance with all applicable laws and regulations), not carry out any development at any Property and keep all Equipment in good working order and condition;
- 6.2 duly and punctually pay all rates, rents, taxes, charges and other outgoings due by it in respect of the Charged Assets;
- 6.3 permit the Chargee or the Chargee's Administrators or their representatives to have, on reasonable notice, access during normal office hours to the Property and to inspect and take copies of its accounts and records;
- 6.4 in relation to the Charged Assets comply with all its obligations under law, statute or regulation and under any permit, approval, licence or consent;
- 6.5 observe and perform all covenants and stipulations from time to time affecting the Charged Assets, or the manner of use or the enjoyment of them and not enter into any onerous or restrictive obligations affecting the Charged Assets;
- 6.6 not do or permit to be done anything which would or might depreciate, jeopardise or otherwise prejudice this Security or materially diminish the value of any Charged Asset or the effectiveness of this Security;
- 6.7 keep all Charged Assets comprehensively insured for their full replacement value in an amount and form and with an insurance company or underwriters acceptable to the Chargee or the Chargee's Administrators, provided that if the Chargor fails to comply with the terms of this **clause 6.7**, the Chargee or the Chargee's Administrators may, at the Chargor's expense, effect any insurance and generally do the things and take the action as the Chargee or the Chargee's Administrators consider necessary or desirable to prevent or remedy any breach of this **clause 6.7**;
- 6.8 not dispose of any Charged Asset save for the disposal of any Charged Asset charged by way of uncrystallised floating charge only for market value in the ordinary course of its business; and
- 6.9 hold the proceeds of any insurance on trust for the Chargee to be applied as the Chargee or the Chargee's Administrators see fit.



7. **ENFORCEMENT OF SECURITY**

- 7.1 This Security becomes immediately enforceable on an Event of Default occurring and the Chargee or the Chargee's Administrators may, in its absolute discretion, enforce all or any part of it as it sees fit.
- 7.2 The power of sale and other powers section 101 LPA confers (as varied or extended by this debenture) will arise on and be exercisable without further notice immediately after this debenture is executed. Sections 93 and 103 LPA do not apply to this Security.
- 7.3 When this Security has become enforceable, the Chargee or the Chargee's Administrators may, at the sole cost of the Chargor (payable to the Chargee or the Chargee's Administrators on demand):
- 7.3.1 redeem any prior Security Interest over any Charged Asset; and/or
  - 7.3.2 procure the transfer of that Security Interest to itself; and/or
  - 7.3.3 settle and pass the accounts of any prior mortgagee, chargee or encumbrancer which, once so settled and passed, will be final and binding on the Chargor.
- All money the Chargee or the Chargee's Administrators pay to that prior mortgagee, chargee or encumbrancer under those accounts will form part of the Secured Liabilities.
- 7.4 When this Security becomes enforceable, or if the Chargor so requests by written notice at any time, the Chargee or the Chargee's Administrators (or any Delegate on their behalf) may:
- 7.4.1 appoint any person to be a Receiver of the Charged Assets;
  - 7.4.2 appoint any person to be an Administrator; and/or
  - 7.4.3 exercise all or any of the powers and remedies of a mortgagee in respect of the Charged Assets.
- 7.5 At any time after this Security becomes enforceable:
- 7.5.1 provided that the Chargee or the Chargee's Administrators has given notice to the Chargor that they intend to exercise its rights under this **clause 7.5.1**, the Chargee may exercise in the name of the Chargor any voting rights and any other powers or rights exercisable by the registered holder or bearer of the Securities; and
  - 7.5.2 all dividends, distributions, interest and other sums declared, payable, paid or made in respect of the Securities received by or on behalf of the Chargor will be held on trust for the Chargee or the Chargee's Administrators and may be applied as though they were the proceeds of sale.
- 7.6 The Chargee or the Chargee's Administrators may remove any Receiver appointed by it and appoint a new Receiver in his place. If there is more than one Receiver, they will have power to act individually (unless the deeds or other instruments appointing them say otherwise).
- 7.7 An Administrator will have all the powers given to him under the Insolvency Act.
- 7.8 A Receiver will have the following powers, as well as the powers conferred by the LPA and, although he is not an administrative receiver, by schedule 1 to the Insolvency Act (but without any of the restrictions imposed on the exercise of those powers by those statutes):
- 7.8.1 the same powers to do, or to omit to do, in the name of and on behalf of the Chargor, anything which the Chargor itself could have done or omitted to do with the Charged Assets if they were not the subject of this debenture;
  - 7.8.2 to take possession of, collect and get in the Charged Assets and/or income in respect of which he was appointed;
  - 7.8.3 to manage the Charged Assets and the business of the Chargor;
  - 7.8.4 to redeem any Security Interest;

- 7.8.5 to borrow or raise any money and secure the payment of any money in priority to the Secured Liabilities for the exercise of his powers and/or defraying any costs or liabilities incurred by him in such exercise;
- 7.8.6 to alter, develop, complete, construct, refurbish or repair any Charged Asset;
- 7.8.7 to complete or agree to the completion or undertaking (with or without modification) of any project in which the Chargor is interested before his appointment, being a project for the alteration, development, completion, construction, refurbishment or repair of any Property;
- 7.8.8 to sell or agree to dispose of the Charged Assets over which he was appointed without being limited by any restriction section 103 or 109 LPA imposes and, for that purpose, to enter into covenants and other contractual obligations in the name of, and to bind, the Chargor;
- 7.8.9 to lease, make agreements for leases, accept surrenders of leases and grant options as the Chargee or the Chargee's Administrators consider suitable and without the need to comply with any of the terms of sections 99 and 100 LPA;
- 7.8.10 to take any proceedings, in the name of the Chargor or otherwise in respect of the Charged Assets, including proceedings for recovery of arrears on his appointment;
- 7.8.11 to insure, and renew any insurances over, the Charged Assets he considers suitable or as the Chargee or the Chargee's Administrators direct;
- 7.8.12 to appoint and employ managers, officers and workmen and engage professional advisers he considers suitable, including power to employ his partners and firm;
- 7.8.13 to operate any rent review clause for any Property in respect of which he was appointed and to apply for any new or extended lease; and
- 7.8.14 to agree any arrangement or compromise he considers suitable and to do all other things incidental or conducive to any other power vested in him to realise the Charged Assets.
- 7.9 In making any disposal, the Receiver, the Chargee, the Chargee's Administrators or any Delegate may accept, as consideration, cash, shares, loan capital or other Assets on any terms he may agree. Any contract for disposal may contain conditions excluding or restricting the personal liability of that Receiver, the Chargee, the Chargee's Administrators or that Delegate.
- 7.10 Any Receiver will be the agent of the Chargor and the Chargor will be solely responsible for his acts and defaults and for his remuneration.
- 7.11 Any Receiver will be entitled to remuneration for his services at a rate to be fixed by agreement between him and the Chargee or the Chargee's Administrators (or failing agreement to be fixed by the Chargee or the Chargee's Administrators) without the limits contained in section 109 LPA.
- 7.12 Only money actually paid by a Receiver to the Chargee or the Chargee's Administrators in satisfaction or discharge of the Secured Liabilities may be applied by the Chargee or the Chargee's Administrators in satisfaction of the Secured Liabilities.
- 7.13 Neither the Chargee, the Chargee's Administrators nor any Receiver or Delegate will be liable:
  - 7.13.1 in respect of the Charged Assets; or
  - 7.13.2 for any loss or damage which arises out of the exercise or the attempted or purported exercise of, or the failure to exercise any of, their respective powers, unless the loss or damage is caused by its gross negligence or wilful misconduct.

- 7.14 Neither the Chargee, the Chargee's Administrators nor any Receiver or Delegate must take any particular action in relation to the Receivables. Neither will be liable to the Chargor for the manner in which he collects or fails to collect any Receivable.
- 7.15 Without prejudice to the generality of **clause 7.13**, entry into possession of the Charged Assets will not make the Chargee, the Chargee's Administrators, the Receiver or any Delegate liable to account as mortgagee in possession. If the Chargee, the Chargee's Administrators or any Receiver or Delegate enters into possession of the Charged Assets, he may, at any time at his discretion, go out of possession.
- 7.16 All or any of the powers which are conferred by this debenture on a Receiver may be exercised by the Chargee, the Chargee's Administrators or any Delegate without first appointing a Receiver or despite the appointment of any Receiver.
- 7.17 Except to the extent provided by law, an insolvency event for any Chargor will not affect any of the powers described in **clauses 7.8 to 7.16**.
- 7.18 No person dealing with the Chargee, the Chargee's Administrators or with any Receiver or Delegate need:
- 7.18.1 enquire whether the right:
- (a) of the Chargee or the Chargee's Administrators to appoint a Receiver or Delegate; or
  - (b) of any person to exercise any of the powers conferred by this debenture has arisen or become exercisable by the Chargee or the Chargee's Administrators or by any such Receiver or Delegate;
- 7.18.2 be concerned with notice to the contrary, or with the propriety of the exercise or purported exercise of any of those powers. The title of such a buyer and the position of such a person will not be impeachable by reference to any of the above matters.

## 8. CONTINUING SECURITY AND CHARGEES PROTECTIONS

- 8.1 This debenture will remain in full force and effect as a continuing security until the Chargee or the Chargee's Administrators has certified in writing that the Secured Liabilities have been discharged in full. The Chargee or the Chargee's Administrators may make one or more demands under this debenture.
- 8.2 The Chargor's obligations under this debenture will not be affected by any time, waiver or consent granted to, or composition with the Chargor or any other person.
- 8.3 This debenture will be in addition to, and without prejudice to and will not merge with, any other right, remedy, guarantee or Security Interest which the Chargee or the Chargee's Administrators may at any time hold in respect of any of the Secured Liabilities and this debenture may be enforced without the Chargee or the Chargee's Administrators first having:
- 8.3.1 recourse to any other right, remedy, guarantee or Security Interest held or available to it;
  - 8.3.2 to take action or obtain judgment in any court against the Chargor or any other person;
  - 8.3.3 to make or file any claim in a bankruptcy, liquidation, administration or insolvency of the Chargor or any other person; or
  - 8.3.4 to make demand, enforce or seek to enforce any claim, right or remedy against the Chargor or any other person.

## 9. FURTHER ASSURANCE AND POWER OF ATTORNEY

- 9.1 The Chargor must promptly do all acts or execute all documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Chargee or the Chargee's Administrators may reasonably specify (and in the form the Chargee may reasonably require) in favour of the Chargee or the Chargee's Administrators or its nominee:

- 9.1.1 to create, perfect, protect or maintain this Security (which may include the execution of a mortgage, charge, assignment or other Security Interest over all or any of the Charged Assets) or for the exercise of any rights, powers and remedies of the Chargee provided by law; and/or
- 9.1.2 to facilitate the realisation of the Charged Assets.
- 9.2 Any document required to be executed by the Chargor under this **clause 9** will be prepared at the cost of the Chargor.
- 9.3 The Chargor by way of security irrevocably appoints the Chargee, the Chargee's Administrators and any Receiver or Delegate (in writing under hand signed by an officer of the Chargee, the Chargee's Administrators or any Receiver or Delegate) severally to be its agents and attorneys in its name and on its behalf to:
  - 9.3.1 do all things which the Chargor may be required to do under this debenture;
  - 9.3.2 sign, execute, deliver and otherwise perfect any document or Security Interest required to be signed or executed under the terms of this debenture; and
  - 9.3.3 sign, execute, deliver and complete any deeds, instruments or other documents and to do all acts and things which may be required by the Chargee, the Chargee's Administrators or any Receiver or Delegate in the exercise of any of their powers under this debenture, or to perfect or vest in the Chargee, any Receiver, any Delegate, its nominees or any purchaser, title to any Charged Assets or which they may deem expedient in connection with the getting in, disposal or realisation of any Charged Assets.
- 9.4 Each agent and attorney may appoint a substitute or delegate his authority. The Chargor ratifies and confirms (and agrees to ratify and confirm) anything which an attorney does under the power of attorney conferred by **clause 9.3**.
- 10. **PAYMENTS**
- 10.1 Subject to **clause 10.2**, all payments to be made by the Chargor in respect of this debenture, will be made in immediately available funds to the credit of any account as the Chargee or the Chargee's Administrators may designate. All payments will be made free and clear of, and without any deduction for, or on account of, any set-off or counterclaim or, except to the extent required by law, any deduction on account of any taxes.
- 10.2 If the Chargor is required by law to withhold or deduct any taxes from any sum payable under this debenture to the Chargee, the sum so payable by the Chargor will be increased so as to result in the receipt by the Chargee of a net amount equal to the full amount expressed to be payable under this debenture.
- 10.3 The Chargee may set-off any matured obligation due from the Chargor under this debenture against any matured obligation owed by the Chargee to the Chargor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Chargee may convert either obligation at a market rate of exchange reasonably determined by the Chargee.
- 10.4 Any demand, notification or certificate given by the Chargee or the Chargee's Administrators specifying amounts due and payable under or in connection with any of the provisions of this debenture will, in the absence of manifest error, be conclusive and binding on the Chargor.
- 10.5 Any release, discharge or settlement between the Chargor and the Chargee will be deemed conditional upon no payment or Security Interest received or held by the Chargee in respect of the Secured Liabilities being avoided, reduced or ordered to be refunded under any law relating to insolvency, bankruptcy, winding-up, administration or receivership. Notwithstanding any release, discharge or settlement, the Chargee will be entitled to recover the value or amount of such Security Interest or payment from the Chargor or to enforce this debenture as if that release, discharge or settlement had not occurred.
- 10.6 The Chargee or the Chargee's Administrators may apply or refrain from applying all payments received for the Secured Liabilities as they think fit. All money received, recovered or realised by the Chargee or the Chargee's Administrators under this debenture may at the discretion of the Chargee or the Chargee's Administrators be credited to any suspense

account for so long as the Chargee or the Chargee's Administrators determine (with interest accruing at the rate, if any, as the Chargee or the Chargee's Administrators may determine for the account of the Chargor).

**11. COSTS, EXPENSES AND INDEMNITIES**

11.1 The Chargor must reimburse the Chargee, the Chargee's Administrators, any Receiver, any Delegate and any Administrator for all Losses incurred in connection with the enforcement, attempted enforcement or preservation of any of their rights under:

11.1.1 this debenture; or

11.1.2 any of the documents referred to in this debenture.

11.2 The Chargor must, on demand, indemnify the Indemnified Parties for all Claims and Losses which may be incurred by or made against any of them at any time relating to or arising, directly or indirectly, out of:

11.2.1 the exercise or purported exercise of the powers contained in this debenture;

11.2.2 a claim of any kind made or asserted against any Indemnified Party which would not have arisen if this debenture had not been executed and/or registered; or

11.2.3 a breach by the Chargor of any of its obligations under this debenture,

unless, in the case of **clauses 11.2.1 and 11.2.2**, it was caused by the negligence or wilful misconduct of the Indemnified Party.

11.3 No Indemnified Party will in any way be liable or responsible to the Chargor for any loss or liability of any kind arising from any act or omission by it (whether as mortgagee in possession or otherwise) in relation to the Charged Assets, except to the extent caused by its own negligence or wilful misconduct.

11.4 The Chargor must pay all present and future stamp, registration and similar taxes or charges which may be payable, or determined to be payable, in connection with the execution, delivery, performance or enforcement of this debenture or any judgment given in connection with this debenture.

**12. THIRD PARTY RIGHTS**

12.1 Subject to **clauses 12.2 and 12.3**, a person who is not a Party will have no rights under the Third Parties Act to enforce or rely upon a provision of this debenture. No Party may hold itself out as trustee of any rights under this debenture for the benefit of any third party unless specifically provided for in this debenture. This **clause 12.1** does not affect any right or remedy of any person which exists, or is available, otherwise than under the Third Parties Act.

12.2 Any person to whom the benefit of any provision of this debenture is assigned under the terms of this debenture may under the Third Parties Act enforce any term of this debenture which confers (expressly or impliedly) any benefit on any such person.

12.3 Any Receiver or Delegate may, subject to the Third Parties Act, rely on any clause of this debenture which expressly confers rights on it.

12.4 The Chargee, the Chargee's Administrators and the Chargor may, by agreement in writing, rescind or vary any of the provisions in this debenture or waive or settle any right or claim under it in any way without the consent of any third party.

**13. EXCLUSION OF ADMINISTRATORS' PERSONAL LIABILITY**

13.1 Neither the Chargee's Administrators, nor their firm, members, partners, employees, advisers, representatives or agents shall incur any personal liability whatever in relation to this debenture, any associated arrangements or negotiations or under any document or assurance made under this debenture.

13.2 The Chargee's Administrators are party to this debenture in their personal capacities only to receive the benefit of the terms in their favour.

14. **NOTICES**

Any notice given under this debenture must be in writing signed by, or on behalf of, the person giving it. Any notice must be delivered by hand or by prepaid recorded delivery first class post to the Party due to receive it at:

- 14.1.1 in the case of the Chargor its registered office for the time being marked for the attention of David Howick;
- 14.1.2 the Chargee or the Administrators at the offices of the Administrators, marked for the attention of Paul Mallatratt,

or to any other address for service in the United Kingdom as that Party may from time to time notify to the other. In the absence of evidence of earlier receipt, a notice served in accordance with this **clause 14** will be deemed to have been received, if delivered by hand, at the time of actual delivery to the address referred to in this **clause 14** or, if delivered by prepaid first class recorded delivery post, two Business Days from the date of posting. If, however, deemed receipt under this **clause 14** would otherwise occur on a day which is not a Business Day or after 5.00 pm on a Business Day, the relevant notice shall be deemed to have been received at 9.00 am on the next Business Day.

15. **GENERAL**

- 15.1 The Chargee and the Chargee's Administrators may assign or transfer all or any of their rights under this debenture. The Chargor may not assign, transfer, charge, make the subject of a trust or deal in any other manner with this debenture or any of its rights under this debenture or purport to do any of the same without the prior written consent of the Chargee or the Chargee's Administrators.
- 15.2 No variation to this debenture will be effective unless made in writing and signed by or on behalf of all the Parties. A waiver given or consent granted by the Chargee or the Chargee's Administrators under this debenture will be effective only if given in writing and then only in the instance and for the purpose for which it is given.
- 15.3 Each provision of this debenture is severable and distinct from the others. If at any time any provision of this debenture is or becomes unlawful, invalid or unenforceable to any extent or in any circumstances for any reason, it will to that extent or in those circumstances be deemed not to form part of this debenture but (except to that extent or in those circumstances in the case of that provision) the legality, validity and enforceability of that and all other provisions of this debenture will not be affected in any way.
- 15.4 If any provision of this debenture is found to be illegal, invalid or unenforceable in accordance with **clause 15.3** but would be legal, valid or enforceable if some part of the provision were deleted, the provision in question will apply with those modifications as may be necessary to make it legal, valid or enforceable.
- 15.5 Failure or delay in exercising a right or remedy provided by this debenture or by law does not constitute a waiver of that (or any other) right or remedy. No single or partial exercise, or non-exercise or non-enforcement of any right or remedy provided by this debenture or by law prevents or restricts any further or other exercise or enforcement of that (or any other) right or remedy.
- 15.6 The Chargee's and the Chargee's Administrators' rights and remedies contained in this debenture are cumulative and not exclusive of any rights or remedies provided by law.
- 15.7 This debenture may be executed in any number of counterparts each of which when executed and delivered will be an original. All the counterparts together will constitute one and the same document.

16. **GOVERNING LAW AND JURISDICTION**

- 16.1 This debenture (including any associated non-contractual disputes or claims) is governed by the laws of England and Wales.
- 16.2 The Parties agree to submit to the non-exclusive jurisdiction of the English Courts in relation to any claim or matter (whether contractual or non-contractual) arising under this debenture. This **clause 16.2** is for the benefit of the Chargee and the Chargee's Administrators only.

