



Registration of a Charge

Company name: **Rouge 2 Limited**

Company number: **05611304**



X5E7IJ5L

Received for Electronic Filing: **26/08/2016**

Details of Charge

Date of creation: **12/08/2016**

Charge code: **0561 1304 0004**

Persons entitled: **DCG NOMINEES LIMITED AS SECURITY TRUSTEE**

Brief description: **NONE.**

Contains fixed charge(s).

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

Contains negative pledge.

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:

JOHN WALLER



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 5611304

Charge code: 0561 1304 0004

The Registrar of Companies for England and Wales hereby certifies that a charge dated 12th August 2016 and created by Rouge 2 Limited was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 26th August 2016 .

Given at Companies House, Cardiff on 30th August 2016

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

COMPOSITE GUARANTEE AND DEBENTURE

Dated 12 August 2016

between

RED MIDCO LIMITED

and the other companies listed in Schedule 1

and

DCG NOMINEES LIMITED
as Security Trustee

This Guarantee and Debenture is subject to the terms of
the Intercreditor Agreement (as defined herein)



Dickson Minto W.S.
Edinburgh

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GUARANTEE AND DEBENTURE

THIS COMPOSITE GUARANTEE AND DEBENTURE is made the 12 day of August 2016

BETWEEN:

- (1) THE COMPANIES listed in Schedule 1 (*The Charging Companies*) (the "Charging Companies"); and
- (2) DCG NOMINEES LIMITED as agent and trustee for itself and for each of the other Secured Parties on the terms and conditions set out in the Shareholders' Agreement (as hereinafter defined) (in such capacity as agent and trustee hereinafter referred to as the "Security Trustee" which expression shall include each person appointed as the Security Trustee at the date of this Guarantee and Debenture or any additional security trustee appointed for the purpose of, and in accordance with, the Shareholders' Agreement).

WHEREAS:

- (A) Midco issued the Investor Loan Notes to the Noteholders; and
- (B) the Security Trustee has been appointed by the Noteholders and has agreed to hold the benefit of this Guarantee and Debenture in accordance with the terms of the Shareholders' Agreement.

NOW THIS DEED WITNESSES as follows:

1. DEFINITIONS AND INTERPRETATION

1.1. Definitions from Loan Note Instruments

Words and expressions defined in the Loan Note Instruments whose definitions are imported into such instruments shall bear the same meaning in this Guarantee and Debenture (including, without limitation, the recitals and schedules hereto) unless otherwise defined herein or unless the context otherwise requires.

1.2. Definitions

In this Guarantee and Debenture and the recitals hereto:

"A Loan Note Instrument" means the eurobond instrument issued by Midco on 1 July 2011 as amended and restated on 24 February 2012 pursuant to a supplemental series A eurobond instrument, as further amended and restated on 31 March 2015 by a second supplemental series A eurobond instrument, as further amended and restated on 1 April 2016 by a third supplemental series A eurobond instrument and as further amended and restated on or around the date hereof, constituting the A Loan Notes.

"A Loan Notes" means the series A secured eurobonds of £1.00 each created by Midco together with any additional loan notes issued from time to time under the A Loan Note Instrument.

"A Noteholders" means the holders from time to time of A Loan Notes or any of them as the context may require and **"A Noteholder"** shall be construed accordingly.

"Act" means The Law of Property Act 1925.

"B Loan Note Instrument" means the eurobond instrument issued by Midco on 1 July 2011, as amended and restated on 24 February 2012 pursuant to a supplemental series B eurobond instrument, as further amended and restated on 31 March 2015 by a second supplemental series B eurobond instrument, as further amended and restated on 1 April 2016 by a third supplemental series B eurobond instrument and as further amended and restated on or around the date hereof by a fourth supplemental series B eurobond instrument, constituting the B Loan Notes.

"B Loan Notes" means the series B secured eurobonds of £1.00 each created by Midco together with any additional loan notes issued from time to time under the B Loan Note Instrument.

"B Noteholders" means the holders from time to time of B Loan Notes or any of them as the context may require and **"B Noteholder"** shall be construed accordingly.

"Charged Property" means the property, assets or income of each Charging Company mortgaged, charged or assigned to the Security Trustee by or pursuant to this Guarantee and Debenture.

"Charging Companies" means each company listed in Schedule 1 (*The Charging Companies*) and **"Charging Company"** will be construed accordingly.

"Default Rate" means the aggregate of four per cent. per annum over the base rate for the time being of the Bank of England.

"Environment" means humans, animals, plants and all other living organisms including the ecological systems of which they form part and the following media:

- (a) air (including without limitation, air within natural or man-made structures, whether above or below ground);
- (b) water (including without limitation, territorial, coastal and inland waters, water under or within land and water in drains and sewers); and
- (c) land (including without limitation, land under water).

"Environmental Law" means any applicable law or regulation which relates to:

- (a) the pollution or protection of the Environment;
- (b) harm to or the protection of human health;
- (c) the conditions of the workplace; or
- (d) the generation, handling, storage, use, release or spillage of any emission or substance which, alone or in combination with any other, is capable of causing harm to the Environment including, without limitation, any waste.

"Event of Default" means the occurrence of any event described in Clause 6 (Default) of the A Loan Note Instrument or Clause 6 (Default) of the B Loan Note Instrument).

"Finance Documents" means the A Loan Note Instrument, the B Loan Note Instrument and each Security Document (as such term is defined in both the A Loan Note Instrument and the B Loan Note Instrument).

"Financial Collateral Regulations" means the Financial Collateral Arrangements (No. 2) Regulations (SI 2003 No. 3226).

"Group" means Topco and each of its Subsidiaries from time to time and "member of the Group" shall be construed accordingly.

"Insurance Policies" means the insurance policies in which a Charging Company may from time to time have an interest and "Insurance Policy" shall be construed accordingly.

"Intellectual Property Rights" means the Specified Intellectual Property Rights and any other licences and patents (including applications and the rights to apply therefor), copyrights, rights in trade marks whether registered or not, trade names, rights in service marks whether registered or not, registered designs, business names, design rights, moral rights, inventions, know-how and rights in confidential information.

"Intercreditor Agreement" means the intercreditor agreement dated on or about the date of this Guarantee and Debenture between Topco, HSBC Bank plc, the Security Trustee (as Junior Security Trustee), the Obligors, the Intra-Group Creditors, the Investors, the Dunedin Lender, the A Shareholder (as each term is therein defined) and Leumi ABL Limited.

"Interest Payment Date" means the Interest Payment Date (as defined in the A Loan Note Instrument) and the Interest Payment Date (as defined in the B Loan Note Instrument).

"Investment Interests" means all shares and stock in the capital of any company (other than the Shares), debentures, securities, certificates or deposits, interests in collective investment schemes, warrants, options and any other rights to subscribe for or acquire any such investments held by or on behalf of a Charging Company in any manner whatsoever or in which it otherwise has an interest together in all cases with all rights, including

dividends and other distributions arising in relation thereto in any manner whatsoever.

"Investor Loan Notes" means the A Loan Notes and the B Loan Notes.

"Legal Reservations" means:

- (a) the principle that equitable remedies may be granted or refused at the discretion of a court and the limitation of enforcement by laws relating to bankruptcy, insolvency, liquidation, reorganisation, court schemes, moratoria, administration and other laws generally affecting the rights of creditors;
- (b) the time barring of claims under the Limitation Act 1980 and the Foreign Limitation Periods Act 1984, the possibility that an undertaking to assume liability for or indemnify a person against non-payment of UK stamp duty may be void and defences of set-off or counterclaim;
- (c) the principle that in certain circumstances Security granted by way of fixed charge may be recharacterised as a floating charge or that Security purported to be constituted by an assignment may be recharacterised as a charge;
- (d) the principle that any additional interest imposed pursuant to any relevant agreement may be held to be unenforceable on the grounds that it is a penalty and thus void;
- (e) the principle that an English court may not give effect to an indemnity for legal costs incurred by an unsuccessful litigant;
- (f) the principle that the creation or purported creation of Security over any contract or agreement which is subject to a prohibition against transfer, assignment or charging, may be void, ineffective or invalid and may give rise to a breach entitling the contracting party to terminate or take any other action in relation to such contract or agreement; and
- (g) similar principles, rights and defences under the laws of any other relevant jurisdiction.

"Legally Mortgaged Property" means the freehold, leasehold and other immovable property described in Schedule 3 (*The Legally Mortgaged Property*) together with the proceeds of sale thereof and all buildings and trade and other fixtures on any such property belonging to or charged to each Charging Company and machinery thereon and therein and all rights, licenses, guarantees, rents, deposits, contracts, covenants and warranties relating to any such property.

"Loan Note Instruments" means the A Loan Note Instrument and the B Loan Note Instrument.

"**Midco**" means Red Midco Limited, a company incorporated in England and Wales (registered number 07551890) and having its registered office at 5th Floor, 33 Gracechurch Street, London EC3V 0BT.

"**Noteholders**" means the A Noteholders and the B Noteholders.

"**Obligor**" means any member of the Group which has any liability to all or any of the Secured Parties under any Finance Document.

"**Planning Acts**" means the Town and Country Planning Act 1990, the Planning (Listed Building and Conservation Areas) Act 1990, the Planning (Hazardous Substances) Act 1990, the Planning (Consequential Provisions) Act 1990, the Planning and Compensation Act 1991, the Planning and Compulsory Purchase Act 2004 and all regulations made or taking effect as if made thereunder in each case as from time to time amended and re-enacted by subsequent legislation and regulations.

"**Property**" means the Legally Mortgaged Property and any other present and future freehold or leasehold property together with the proceeds of sale thereof and all buildings and trade and other fixtures on any such property.

"**Plant and Equipment**" means plant, machinery, computers, office and other equipment and vehicles together with the benefit of any obligations and warranties given by the manufacturer or supplier of such plant, machinery, computers, office or other equipment or vehicles and the benefit of all maintenance agreements entered into in respect of such plant, machinery, computers, office and other equipment and vehicles.

"**Quasi-Security**" means an arrangement or transaction in terms of which a Charging Company:

- (a) sells, transfers or otherwise disposes of any of its assets on terms whereby they are or may be leased to or re-acquired by any other member of the Group;
- (b) sells, transfers or otherwise disposes of any of its receivables on recourse terms;
- (c) enters into an arrangement under which money or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts; or
- (d) enters into any other preferential arrangements having a similar effect,

in circumstances where the arrangement or transactions is entered into primarily as a method of raising any indebtedness or of financing the acquisition of an asset.

"**Receiver**" means a receiver and manager, receiver or administrative receiver and includes any substitute receiver, receiver and manager or administrative receiver.

"Secured Liabilities" means all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or as principal debtor, guarantor, surety or otherwise or as the equivalent obligor under the laws of any other jurisdiction) of each Charging Company and each other Obligor to the Security Trustee and the other Secured Parties (or any of them) under the Finance Documents together with:

- (a) any refinancing, novation, refunding, deferral or extension of or increase in any of those obligations or liabilities;
- (b) any further advances and additional facilities which may be made by any Secured Party to any Charging Company or any other Obligor under any agreement expressed to be supplemental to any of the Finance Documents and all interest, fees and costs in connection therewith;
- (c) any claim for damages or restitution in the event of rescission of any of those obligations or liabilities or otherwise in connection with any of the Finance Documents;
- (d) any claim against any Charging Company or any other Obligor flowing from the recovery by any Charging Company or any other Obligor of a payment or discharge in respect of any of those liabilities on grounds of preference or otherwise;
- (e) any amounts which would be included in any of the foregoing but for any discharge, non-provability, unenforceability or non-allowability of the same in any insolvency or other proceedings; and
- (f) all costs, charges and expenses incurred by the Security Trustee or any other Secured Party in connection with the protection, preservation or enforcement of its rights against any Charging Company or any other Obligor.

"Secured Parties" means the Security Trustee and the Noteholders or any of them as the context requires and **"Secured Party"** shall be construed accordingly.

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

"Shareholders' Agreement" means the shareholders' agreement dated 1 July 2011 between inter alia (1) Midco, (2) Topco, (3) Red Bidco Limited, (4) the Managers (as defined therein), (5) the Investors (as defined therein) and (6) Dunedin Capital Partners Limited (as amended from time to time).

"Shares" means the shares listed in Schedule 2 (*The Shares*) and all other shares held by or on behalf of a Charging Company in any member of the Group together with all rights, including dividends and other distributions, arising in relation thereto in any manner whatsoever.

"Specified Accounts" means any current, deposit or other account with any bank, lender, financial institution or similar third party that may at any time be designated in writing as a Specified Account by Topco and the Security Trustee.

"Specified Intellectual Property Rights" means the intellectual property rights in which a Charging Company has an interest as at the date of this Guarantee and Debenture and detailed in Schedule 4 (*The Specified Intellectual Property Rights*).

"Subsidiary" means in relation to any company, corporation or legal entity (a "holding company"), any company, corporation or legal entity:

- (a) which is controlled, directly or indirectly, by the holding company; or
- (b) more than half the issued share capital of which is beneficially owned, directly or indirectly, by the holding company; or
- (c) which is a subsidiary of another subsidiary of the holding company,

and, for these purposes, a company, corporation or legal entity shall be treated as being controlled by another if that other company, corporation or legal entity is able to direct its affairs and/or to control the composition of its board of directors or equivalent body.

"Supplemental Mortgage" means a legal mortgage or charge in respect of any other freehold or leasehold property at any time belonging to a Charging Company (other than the Legally Mortgaged Property) together with all present and future buildings and fixtures (including trade fixtures) and fixed plant machinery from time to time thereon and therein entered into pursuant to the provisions of Clause 7 (*Further Assurance*) in a form required by the Security Trustee.

"Topco" means Red Topco Limited, a company incorporated in England and Wales (registered number 07639139) whose registered office is at 5th Floor, 33 Gracechurch Street, London EC3V 0BT.

1.3. Interpretation

Save where the contrary is indicated, any reference in this Guarantee and Debenture to:

- 1.3.1. "assets" includes present and future properties, revenues and rights of every description;
- 1.3.2. "book debts" means all present and future book and other debts and monetary and other claims due or owing to a Charging Company and the benefit of all security, guarantees and other rights enjoyed or held by a Charging Company in relation to any of them;
- 1.3.3. a "company" includes any body corporate;

- 1.3.4. "guarantee" means any guarantee, letter of credit, bond, indemnity or similar assurance against loss, or any obligation, direct or indirect, actual or contingent, to purchase or assume any indebtedness of any person or to make an investment in or loan to any person or to purchase assets of any person where, in each case, such obligation is assumed in order to maintain or assist the ability of such person to meet its indebtedness;
- 1.3.5. "indebtedness" includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present of future, actual or contingent;
- 1.3.6. "intellectual property" shall be construed as a reference to the property described in Clause 4.2.5;
- 1.3.7. a "person" includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium or partnership (whether or not having separate legal personality);
- 1.3.8. a "regulation" includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency or department or of any regulatory, self-regulatory or other authority or organisation;
- 1.3.9. a provision of law is a reference to that provision as amended or re-enacted;
- 1.3.10. the singular shall include the plural and vice versa;
- 1.3.11. this Guarantee and Debenture and any provisions of this Guarantee and Debenture or to any other agreements, instrument or document are to be construed as references to this Guarantee and Debenture, those provisions or that agreement, instrument or document as amended, varied, supplemented, substituted, replaced or novated (however fundamentally) from time to time, including (without limiting the generality of the foregoing) (1) any variation, increase, extension or addition of or any variation of or to any facility or amount made available under any Finance Document or any variation of the purposes for which such facility or amount may be available from time to time and (2) in respect of this Guarantee and Debenture;
- 1.3.12. Clauses and Schedules are to be construed as references to the Clauses of, and Schedules to, this Guarantee and Debenture as amended or varied from time to time and references to sub-clauses shall unless otherwise specifically stated be construed as references to the sub-clauses of the Clause in which the reference appears; and
- 1.3.13. an Event of Default is "continuing" if it has not been waived.

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 Charging Company by its execution and delivery of this Guarantee and Debenture.

1.5. Law of Property (Miscellaneous Provisions) Act 1989

The terms of the agreements or documents under which the Secured Liabilities arise and of any side letters between one or more of the Charging Companies or other Obligors and/or the Secured Parties (or any of them) relating thereto are incorporated in this Guarantee and Debenture the extent required for any purported disposition of the Charged Property contained in this Guarantee and Debenture to be a valid disposition in accordance with Section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.

1.6. Successors and assignees

Any reference in this Guarantee and Debenture to the Security Trustee or a Secured Party shall include the successors, permitted assignees and permitted transferees of the Security Trustee or such Secured Party.

1.7. Rights of Third Parties

Unless expressly provided to the contrary in any of the Finance Documents, a third party (being any person other than a Charging Company or the Security Trustee or any Secured Party and their permitted successors and assignees) has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any term of this Guarantee and Debenture and no consent of any third party is required for any amendment, variation or termination of this Guarantee and Debenture.

1.8. Trust

The Security Trustee shall hold the benefit of the covenants, mortgages, charges and assignments given by each Charging Company under this Guarantee and Debenture upon trust for the other Secured Parties in accordance with the terms of the Shareholders' Agreement. The duty contained in Section 1 of the Trustee Act 2000 shall not apply to the Security Trustee in relation to the trust created by this Guarantee and Debenture.

1.9. Tacking

Each Secured Party must perform its obligations under the Finance Documents (including any obligation to make available further advances).

1.10. Supplemental Mortgage

If any of the provisions of this Guarantee and Debenture duplicate or contradict the provisions of any Supplemental Mortgage, the provisions of that Supplemental Mortgage shall prevail.

1.11. Intercreditor Agreement

This Guarantee and Debenture is subject to the terms of the Intercreditor Agreement and if there is any inconsistency between any provision of this Guarantee and Debenture and any provision of the Intercreditor Agreement, the provision of the Intercreditor Agreement shall prevail. In particular, this Guarantee and Debenture shall have the ranking set out in the Intercreditor Agreement.

2. COVENANT TO PAY

2.1. Covenant to Pay

Each Charging Company hereby, as principal debtor and not merely as surety, covenants with the Security Trustee for itself and on behalf of the other Secured Parties that it will pay or discharge the Secured Liabilities on the due date therefor in the manner provided in the relevant Finance Document or, where no such provision is made in the Finance Documents, on demand.

2.2. Interest

If a Charging Company fails to pay any sum on the due date for payment of that sum, such Charging Company shall pay interest on any such sum (before and after any judgment and to the extent interest at a default rate is not otherwise being paid on such sum) from the date of demand until the date of payment calculated on a daily basis at the Default Rate.

3. GUARANTEE AND INDEMNITY

Each Charging Company hereby irrevocably and unconditionally:-

- 3.1. guarantees to the Security Trustee and the Secured Parties the due and punctual payment, observance and performance of the Secured Liabilities owing by each other Charging Company and each other Obligor when and as the same shall become due;
- 3.2. as principal debtor undertakes to the Security Trustee on its own account and on behalf of the other Secured Parties that if and each time that another Charging Company or any other Obligor shall be in default in the payment or performance of any of the Secured Liabilities, it will on demand from the Security Trustee make good the default and pay all sums which may be payable in respect thereof as if it instead of such other Charging Company or other Obligor were the principal debtor in respect thereof, together with interest thereon at the rate per annum from time to time payable by such Charging Company or other Obligor on such sums from the date when such sums become payable by that Charging Company or other Obligor hereunder until payment of the Secured Liabilities in full; and
- 3.3. agrees as a primary obligation to indemnify the Security Trustee and each other Secured Party on demand by the Security Trustee from and against any loss incurred by the Security Trustee and each other Secured Party or any of

them in connection with the non-payment or non-performance of any of the Secured Liabilities owing by any other Charging Company or any other Obligor or as a result of any of the Secured Liabilities or any of the Finance Documents being or becoming void, voidable, unenforceable or ineffective as against any other Charging Company or any other Obligor for any reason whatsoever, whether or not known to the Security Trustee or the other Secured Parties or any of them or any other person, the amount of such loss being the amount which the person or persons suffering it would otherwise have been entitled to recover from such Charging Company or other Obligor.

4. CHARGING CLAUSE

4.1. Legal Mortgage

Each Charging Company hereby charges with full title guarantee in favour of the Security Trustee (as agent and security trustee for the Secured Parties) as security for the payment and discharge of all the Secured Liabilities, by way of first legal mortgage, all its estates and interests in the Legally Mortgaged Property.

4.2. Fixed Charges

Each Charging Company hereby charges with full title guarantee in favour of the Security Trustee (as agent and security trustee for the Secured Parties) as security for the payment and discharge of the Secured Liabilities, by way of first fixed charge:

- 4.2.1. all its estates and interests in the Property (other than the Legally Mortgaged Property);
- 4.2.2. all its Plant and Equipment;
- 4.2.3. the Shares;
- 4.2.4. all its Investment Interests;
- 4.2.5. all its Intellectual Property Rights;
- 4.2.6. all licences, consents and authorisations (statutory or otherwise) held or required in connection with the business of each Charging Company or the use of any Charged Property and all rights in connection with them;
- 4.2.7. all its beneficial interests, claims or entitlements in any pension fund;
- 4.2.8. all its goodwill and uncalled capital;
- 4.2.9. all the book debts and monetary claims due or owing to it in any manner whatsoever;
- 4.2.10. all balances standing to the credit of any of its current, deposit or other account with any banks, lenders, financial institutions or similar

third parties and the debt or debts represented thereby, other than any such balances to the extent effectively assigned to the Security Trustee under this Guarantee and Debenture; and

- 4.2.11. all its benefits in respect of all contracts and policies of insurance which are from time to time taken out by it or (to the extent of such interest) in which it has an interest, other than any such benefits to the extent effectively assigned to the Security Trustee under this Guarantee and Debenture.

4.3. Assignments in Security

- 4.3.1. Each Charging Company hereby assigns with full title guarantee absolutely to the Security Trustee (as agent and security trustee for the Secured Parties) as security for the payment and discharge of all the Secured Liabilities, all of its right, title and interest in and to:

- (a) the Insurance Policies; and
- (b) the Specified Accounts.

- 4.3.2. To the extent (if any) that such right, title and/or interest is not assignable, such assignment will operate as an assignment of all proceeds received by such Charging Company under the Insurance Policies or the Specified Accounts (as the case may be) as security for the Secured Liabilities.

4.4. Floating Charge

- 4.4.1. Each Charging Company hereby charges with full title guarantee in favour of the Security Trustee (as agent and security trustee for the Secured Parties) as security for the payment and discharge of all the Secured Liabilities, by way of first floating charge, its undertaking and all its property and assets both present and future (including, without limitation, any property or assets situated in Scotland or governed by Scots Law).

- 4.4.2. The floating charge created by this Guarantee and Debenture shall be deferred in point of priority to all fixed security validly and effectively created by a Charging Company under the Finance Documents in favour of the Security Trustee.

- 4.4.3. Paragraph 14 of Schedule B1 to the Insolvency Act 1986 applies to the floating charge created by this Guarantee and Debenture.

4.5. Conversion Of Floating Charge

4.5.1. Conversion by Notice

If, at any time:

- (a) an Event of Default occurs;

- (b) the Security Trustee reasonably believes that any assets of any Charging Company are in danger of being seized or sold under any form of distress, execution or similar process or are otherwise in jeopardy; or
- (c) the Security Trustee reasonably believes that it is desirable to protect the priority or enforceability of the Security created by this Guarantee and Debenture,

then, without prejudice to the provisions of Clause 4.5.2 (*Automatic Conversion*), the Security Trustee may, by notice in writing to that Charging Company, convert the floating charge created by that Charging Company under this Guarantee and Debenture into a fixed charge in relation to the assets specified in such notice.

4.5.2. Automatic Conversion

If:

- (a) any Charging Company charges, pledges or otherwise encumbers (whether by way of fixed or floating charge) any of the Charged Property or attempts to do so without the prior written consent of the Security Trustee;
- (b) any creditor or other person levies any distress, execution or other process against all or any of the Charged Property belonging to a Charging Company;
- (c) a resolution is passed or an order is made for the winding up, dissolution, administration or re-organisation of any Charging Company; or
- (d) an administrator is appointed to a Charging Company or any person entitled to do so gives notice of its intention to appoint an administrator to any Charging Company or files such a notice with the court,

then, in the absence of any notice or other action by the Security Trustee pursuant to Clause 4.5.1 (*Conversion by Notice*), the floating charge created by this Guarantee and Debenture by such Charging Company shall automatically operate as a fixed charge upon the property, assets or income belonging to that Charging Company which is subject to the floating charge created by this Guarantee and Debenture forthwith upon the occurrence of such event.

4.5.3. Scotland

The terms of Clause 4.5.1 (*Conversion by Notice*) and Clause 4.5.2 (*Automatic Conversion*) 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.

4.5.4. Assets Acquired After Any Floating Charge Crystallisation

Any asset acquired by a Charging Company after any crystallisation of the floating charge created under this Guarantee and Debenture by that Charging Company which, but for such crystallisation, would be subject to a floating charge shall (unless the Security Trustee confirms in writing to the contrary) be charged to the Security Trustee by way of first fixed charge.

4.5.5. Reconversion of Fixed Charge into Floating Charge

At any time following the conversion of the floating charge created under this Guarantee and Debenture by a Charging Company into a fixed charge in accordance with Clause 4.5.1 (*Conversion by Notice*) or Clause 4.5.2 (*Automatic Conversion*), the Security Trustee may reconvert such fixed charge into a floating charge by giving notice to the relevant Charging Company.

4.5.6. Small company moratorium

Notwithstanding any other provision of this Guarantee and Debenture, where a Charging Company is an eligible company in terms of section 1A and Schedule A1 of the Insolvency Act 1986, the obtaining of a moratorium or anything done with a view to obtaining a moratorium (including any preliminary decision or investigation) shall not cause the floating charge created by this Guarantee and Debenture to crystallise or cause restrictions that would not otherwise apply to be imposed on the disposal of property by a Charging Company.

5. NEGATIVE PLEDGE

5.1. Negative Pledge

Each Charging Company hereby covenants that (without the prior consent of the Security Trustee) it shall not:

- 5.1.1. create (or permit to subsist) any Security or Quasi-Security over all or any part of its present or future revenues or assets;
- 5.1.2. sell, assign, lease, transfer or otherwise dispose of or part with possession of (by one or more transactions or series of transactions whether related or not) the whole or any part of its property revenues, assets or rights (other than assets only subject to an uncrystallised floating charge in the ordinary course of business); or
- 5.1.3. dispose of the equity of redemption of all or any part of the Charged Property,

except as permitted under the Finance Documents.

6. PROTECTION OF SECURITY

6.1. Notice of Assignments

6.1.1. Each Charging Company undertakes to the Security Trustee:

- (a) to give promptly upon the request of the Security Trustee in the case of the Insurance Policies, a notice substantially in the form of Schedule 5 (*Form of Notice of Assignment of Insurance*);
- (b) to give promptly upon the designation at any time by Topco and the Security Trustee of any bank account as a Specified Account in the case of the Specified Accounts, a notice substantially in the form of Schedule 6 (*Form of Notice of Assignment of Specified Account*),

and/or such other form of notice of assignment (and any subsequent assignments hereunder) as the Security Trustee may from time to time require.

6.1.2. Each Charging Company undertakes to the Security Trustee to use all reasonable endeavours to procure that each notice specified in Clause 6.1.1 is acknowledged by the recipient thereof.

6.2. Notices of Charge

Each Charging Company undertakes to the Security Trustee that, if requested by the Security Trustee at any time, it will promptly deliver to the Security Trustee (or procure delivery of) notices of charge (in form and substance reasonably satisfactory to the Security Trustee) executed by, or on behalf of, the relevant Charging Company and shall use its reasonable endeavours to deliver to the Security Trustee acknowledgements of each of those notices from each of the banks, lender, financial institutions or similar third parties with which any of its bank accounts charged in terms of Clause 4.2.10 are opened or maintained.

6.3. Registration of Restriction

In respect of the properties specified in Schedule 3 (*The Legally Mortgaged Property*), the title to which is, or which is to be, registered at the Land Registry and in respect of any other registered title(s) in England and Wales against which this Guarantee and Debenture may be noted, each Charging Company shall notify the Security Trustee of the relevant title number(s) and shall apply forthwith to the Chief Land Registrar for a restriction completed in substantially the following terms to be entered on the Register of Title relating thereto:

"No disposition of the registered estate by the proprietor of the registered estate [or by the proprietor of any registered charge] is to be registered without a written consent signed by the proprietor for the time being of the

Guarantee and Debenture dated ● between Redco Midco Limited and others as Charging Companies and DCG Nominees Limited as security trustee for the Secured Parties (as defined therein) referred to in the charges register or, if appropriate, signed on such proprietor's behalf by its authorised signatory."

6.4. Registration of Title

No Charging Company shall, without the previous written consent of the Security Trustee, register any person or cause or permit any person to be registered under the Land Registration Act 2002 and any subsequent Land Registration Acts (and any regulations or orders made thereunder) as the proprietor of that Charging Company's interest in the Legally Mortgaged Property or any part thereof and the costs of entering a caution against such registration shall be deemed to be costs properly incurred by the Security Trustee under this Guarantee and Debenture.

6.5. Further Advances

The obligation on the part of the Secured Parties (or any of them) to make further advances is deemed to be incorporated in this Guarantee and Debenture and each Charging Company applies to the Chief Land Registrar for a note of such obligation to be entered on the Register of Title of all present and future registered freehold and leasehold property of that Charging Company.

6.6. Deposit of Title Deeds

Each Charging Company undertakes to the Security Trustee that it shall:

- 6.6.1. on the date of this Guarantee and Debenture, deposit with the Security Trustee (or procure the deposit of) all deeds and documents of title relating to (a) the Legally Mortgaged Property and (b) all other freehold and leasehold property in which a Charging Company has an interest on the date of this Guarantee and Debenture; and
- 6.6.2. promptly upon the acquisition of any interest in any freehold or leasehold property, deposit with the Security Trustee (or procure the deposit of) all deeds and documents of title relating to that property.

6.7. Deposit of Share Certificates

Each Charging Company undertakes to the Security Trustee that it shall:

- 6.7.1. on the date of this Guarantee and Debenture, deposit with the Security Trustee (or procure the deposit of) all certificates or other documents of title to the Shares and any Investment Interests held by or on behalf of a Charging Company as at the date of this Guarantee and Debenture together with stock transfer forms (executed in blank by or on behalf of the relevant Charging Company);

- 6.7.2. in the event that any of the Shares are consolidated and/or redesignated after the date of this Guarantee and Debenture, deposit with the Security Trustee (or procure the deposit of) stock transfer forms reflecting such consolidated/redesignated shares (executed in blank by or on behalf of the relevant Charging Company); and
- 6.7.3. promptly upon the acquisition of any Investment Interests or the accrual, offer or issue of any stocks, shares, warrants or other securities in respect of or derived from the Shares or the Investment Interest, notify the Security Trustee of that occurrence and deliver to the Security Trustee (i) all certificates or other documents of title and (ii) such stock transfer forms or other instruments of transfer (executed in blank by or on behalf of the relevant and Charging Companies) in respect thereof as the Security Trustee may request.

6.8. Registration of Intellectual Property Rights

Each Charging Company hereby agrees:

- 6.8.1. if requested by the Security Trustee, to register the interest of the Security Trustee in any of its Specified Intellectual Property Rights (in each registry where such Specified Intellectual Property Rights are registered) and shall, if requested by the Security Trustee, execute all such documents and do all acts that the Security Trustee may reasonably require to record the interest of the Security Trustee in any registers relating to any Specified Intellectual Property Rights; and
- 6.8.2. if requested by the Security Trustee, to register the interest of the Security Trustee in any Intellectual Property Rights (other than the Specified Intellectual Property Rights) in which that Charging Company has an interest (in each registry where such Intellectual Property Right is registered) and shall, if requested by the Security Trustee, execute all such documents and do all such acts that the Security Trustee may reasonably require to record the interest of the Security Trustee in any registers relating to any such Intellectual Property Right.

6.9. Notice of Charge of Plant and Equipment

Promptly upon a request by the Security Trustee, each Charging Company shall (at its own expense) place and maintain in a conspicuous place on each item of Plant and Equipment as the Security Trustee may specify a clearly legible plate, sign or label in such form as the Security Trustee may require giving notice of the charge created by this Guarantee and Debenture.

6.10. Consents

If valid Security under or pursuant to this Guarantee and Debenture cannot be created over the a Charging Company's rights under any document or agreement without the consent of any party thereto, that Charging Company shall promptly so notify the Security Trustee and (unless the Security Trustee otherwise requires) shall use all reasonable endeavours to obtain such party's

consent, and pending such consent this Deed shall exclude such document or agreement itself but shall secure by way of assignment or charge, as the case may be, all proceeds, claims, damages, compensation, profit, rent, rental and other sums of any description which that Charging Company has received or may receive or be entitled to under or in respect of such document or agreement.

7. FURTHER ASSURANCE

7.1. Further assurance

Each Charging Company shall:

- 7.1.1. at the request of the Security Trustee and at the cost of that Charging Company, execute in favour of the Security Trustee (or as it may direct) a Supplemental Mortgage over any freehold or leasehold property which it owns or leases;
- 7.1.2. at the request of the Security Trustee procure that any Subsidiary which is not a Charging Company grant security in favour of the Security Trustee on the same or substantially the same terms (having regard to the laws of any overseas jurisdiction) as the security conferred or intended to be conferred on the Security Trustee by a Charging Company under this Guarantee and Debenture; and
- 7.1.3. enter into such further or other legal assignments, transfers, mortgages, charges or other documents and do all such other things as in any such case the Security Trustee may require in respect of that Charging Company's estate or interest in any property or assets of whatsoever nature or tenure and wherever situated, for the purpose of more effectively perfecting or protecting the security intended to be provided hereby, for facilitating the enforcement of such security or to create in favour of the Security Trustee security no more onerous than the security intended to be created pursuant to this Guarantee and Debenture and any Supplemental Mortgage over any property or asset of a Charging Company located in a jurisdiction outside England and Wales.

7.2. Necessary Action

Each Charging Company shall take all such action as is available to it (including making all filings and registrations) as may be necessary for the purposes of the creation, perfection, protection or maintenance of any Security conferred or intended to be conferred on the Security Trustee or the Secured Parties by or pursuant to this Guarantee and Debenture.

8. UNDERTAKINGS

8.1. Undertakings

Each Charging Company hereby undertakes with the Security Trustee and the other Secured Parties that it will:

- 8.1.1. take all such action as is available to it (including making all filings and registrations) and as may be necessary to create, perfect, protect or maintain all or any of the security created or intended to be created in favour of the Security Trustee by or pursuant to this Guarantee and Debenture and any Supplemental Mortgage;
- 8.1.2. if requested to do so by the Security Trustee use all reasonable endeavours to obtain (in form and content reasonably satisfactory to the Security Trustee) as soon as possible any consents necessary to enable the assets of that Charging Company to be the subject of an effective fixed charge or assignment pursuant to Clause 4 (*Charging Clause*) and, immediately upon obtaining any such consent, the relevant asset shall become subject to such Security and that Charging Company shall deliver a copy of each consent to the Security Trustee;
- 8.1.3. notify the Security Trustee in writing of the acquisition or purchase by that Charging Company from time to time of any freehold or leasehold property (or the equivalent in any other jurisdiction) and, promptly upon such acquisition or purchase, enter into such documents (including mortgages and charges) in favour of the Security Trustee as the Security Trustee may require;
- 8.1.4. keep all buildings forming part of the Charged Property and all plant, machinery, works, fixtures, fittings, implements, tools and other effects thereon and therein in no worse state of repair and condition than as at the date hereof (fair wear and tear excepted) and not take, or omit to take, with regard to any freehold or leasehold property or any such buildings forming part of the Charged Property, any action which might have a material adverse effect on the value of such property;
- 8.1.5. perform and observe all covenants and stipulations restrictive or otherwise affecting the Charged Property and permit the Security Trustee or any person nominated by it free access at all reasonable times and upon reasonable notice to view the state and condition thereof;
- 8.1.6. not carry out any development within the meaning of the Planning Acts on or in respect of the Legally Mortgaged Property or any part thereof or sever or remove any of the fixtures forming part of the Legally Mortgaged Property or any of the plant and machinery on or in the Charged Property (except for the purpose of the replacement thereof or any necessary repairs) without the prior written consent of the Security Trustee;
- 8.1.7. pay the rents reserved by and perform and observe all the covenants, agreements and stipulations on the part of the lessee contained in any lease or leases of the Legally Mortgaged Property and not do or suffer to be done any act or thing whereby the said lease or leases may become liable to the forfeiture or otherwise be determined;

- 8.1.8. use the Legally Mortgaged Property only for such purpose or purposes as may from time to time be authorised as the permitted use thereof under or by virtue of the Planning Acts;
- 8.1.9. pay all taxes, rents, rates, duty, fees, charges, assessments, impositions and outgoings whatsoever (whether imposed by deed or statute or otherwise) which are properly payable in respect of the Charged Property or any part thereof by the owner or occupier thereof;
- 8.1.10. preserve, maintain and renew as and when necessary all copyrights, licences, patents, trademarks and other intellectual property rights required in connection with its business and not use or permit such intellectual property rights to be used in any manner which may have a material and adverse effect upon its value; and
- 8.1.11. upon request and following receipt of reasonable notice from the Security Trustee, permit the Security Trustee and its representatives, advisers and contractors, access at reasonable times to any of its freehold or leasehold properties or other premises to view the Charged Property.

8.2. Failure to comply

If a Charging Company fails to comply with any of the undertakings detailed in Clause 8.1 (*Undertakings*), the Security Trustee may do such things as in its reasonable opinion may be required to remedy such failure and all sums expended in so doing shall be reimbursed by that Charging Company to the Security Trustee on demand and shall carry interest from the date of payment by the Security Trustee until it is reimbursed at the Default Rate.

9. THE SHARES AND INVESTMENT INTERESTS

9.1. Shares: Prior to an Event of Default

Until the occurrence of an Event of Default which is continuing:

- 9.1.1. each Charging Company shall be entitled to receive and obtain all dividends paid in respect of the Shares; and
- 9.1.2. each Charging Company shall be entitled to exercise all voting and other rights and powers attached to the Shares provided that the Charging Company shall not exercise any voting rights or other powers in any way that restricts or limits the ability of the Security Trustee to sell or transfer the Shares to any third party, conflicts with any of the Finance Documents or is otherwise likely to have an adverse effect on the value of the Shares.

9.2. Shares and Investment Interests: Following an Event of Default

After the occurrence of an Event of Default which is continuing, the Security Trustee may at its discretion:

- 9.2.1. exercise (or refrain from exercising) any voting rights in respect of the Shares or the Investment Interests;
- 9.2.2. apply all dividends, interest and other monies arising from the Shares and the Investment Interests in accordance with Clause 16 (*Application of Monies*);
- 9.2.3. complete the stock transfer forms referred to in Clause 6.7 (*Deposit of Share Certificates*) and transfer the Shares or the Investment Interests into the name of the Security Trustee or its nominee(s); and
- 9.2.4. exercise (or refrain from exercising) all other powers and rights of the legal or beneficial owner of the Shares and the Investment Interests in each case in such manner and on such terms as the Security Trustee may think fit, and the proceeds of any such action shall form part of the Charged Property.

9.3. Shares: Nominations

- 9.3.1. Each Charging Company shall terminate with immediate effect all nominations it may have made under Sections 145 and 146 of the Companies Act 2006 in respect of the Shares and pending such termination procure that any person so nominated:
 - (a) does not exercise any rights in respect of the Shares without the prior written approval of the Security Trustee; and
 - (b) immediately upon receipt, forward to the Security Trustee all communications or other information received in respect of any Shares for which it has been so nominated.
- 9.3.2. No Charging Company shall exercise any rights under Section 145 and 146 of the Companies Act 2006 to nominate any person in respect of the Shares.

9.4. Shares: Information

The Charging Companies shall send to the Security Trustee copies of all notices, circulars, reports, accounts and other documents which are sent to holders of any Shares promptly following receipt.

9.5. Shares and Investment Interests: Calls and Payments

Subject to the terms of the Finance Documents, the Charging Companies shall promptly pay all calls or other payments which may be or become due and payable in respect of any of the Shares or any of the Investment Interests. If any Charging Company defaults in making such payment, the Security Trustee may make such payment on behalf of such Charging Company. Any sums paid by the Security Trustee shall be reimbursed by the relevant Charging Company to the Security Trustee on demand and shall carry interest from the date of payment by the Security Trustee until reimbursed at the Default Rate.

9.6. **Investment Interests: Exercise of Rights**

A Charging Company shall not exercise any of its rights and powers in relation to any of the Investment Interests in any manner that restricts or limits the ability of the Security Trustee to sell or transfer the Investment Interests to any third party, conflicts with any of the Finance Documents or is otherwise likely to have an adverse effect on the value of the Investment Interests.

10. **ACCOUNTS**

10.1. **Accounts: Notification and Variation**

The Charging Companies:

10.1.1. shall deliver to the Security Trustee on the date of this Guarantee and Debenture (and on the date of any change occurring thereafter) details of each current, deposit or other account maintained by it with any bank, lender, financial institution or similar third party; and

10.1.2. shall not, without the Security Trustee's prior written consent, permit or agree to any variation of the rights attaching to any current, deposit or other account or close any such account where, in the reasonable opinion of the Security Trustee, such variation or closure would prejudice the security created by this Guarantee and Debenture in any manner whatsoever.

10.2. **Accounts: Prior to an Event of Default**

Until the occurrence of an Event of Default which is continuing, each Charging Company shall be entitled to receive, withdraw or otherwise transfer any credit balance from time to time on any current, deposit or other such account (other than a Specified Account).

10.3. **Accounts: Following an Event of Default**

After the occurrence of an Event of Default, the Charging Companies shall not be entitled to receive, withdraw or otherwise transfer any credit balance from time to time on any current, deposit or other account without the prior consent of the Security Trustee.

10.4. **Specified Accounts**

10.4.1. Until the occurrence of an Event of Default which is continuing, each Charging Company shall not be entitled to receive, withdraw or otherwise transfer any credit balance from time to time on any Specified Account.

10.4.2. After the occurrence of an Event of Default which is continuing:

- (a) the Charging Companies shall not be entitled to receive, withdraw or otherwise transfer any credit balance from time to

time on any Specified Account without the prior consent of the Security Trustee;

- (b) the Security Trustee shall be entitled to exercise from time to time all rights, powers and remedies held by it as assignee of the Specified Accounts and to:
 - (i) demand and receive all and any monies due under or arising out of each Specified Account; and
 - (ii) exercise all such rights as the Charging Companies were then entitled to exercise in relation to such Specified Account or might, but for the terms of any of the Finance Documents, exercise.

10.5. **Accounts: Application of Monies**

Following the occurrence of an Event of Default which is continuing, the Security Trustee shall be entitled to apply, transfer or set-off all or any of the credit balances from time to time on any current, deposit or other account in or towards the payment or other satisfaction of all or part of the Secured Liabilities in accordance with the provisions of Clause 16 (*Application of Monies*).

11. **BOOK DEBTS**

11.1. **Collection**

No Charging Company will deal with its book debts other than by getting them in and realising them in the ordinary course of its business and by paying them into a current, deposit or other account. Each Charging Company shall, pending such payment, hold all amounts so received in trust for the Security Trustee.

11.2. **Book Debts: Prior to an Event of Default**

Until the occurrence of an Event of Default which is continuing, such amount will be credited to a current, deposit or other account will be subject to the terms of the floating charge created by Clause 4.4 (*Floating Charge*) but (subject thereto) the relevant Charging Company shall be free to deal with such amount in the ordinary course of its business.

11.3. **Book Debts: Following an Event of Default**

After the occurrence of an Event of Default which is continuing, the Charging Companies shall not, except with the prior written consent of the Security Trustee, be entitled to withdraw or otherwise deal in any way with any amount standing to the credit of any current, deposit or other account or any Specified Account.

12. INSURANCE

12.1. Insurance Undertakings

Each Charging Company shall:

- 12.1.1. keep the Charged Property insured (with reputable independent insurance companies or underwriters) against those risks and to the extent as is usual for companies carrying on the same or substantially similar business;
- 12.1.2. if required by the Security Trustee, ensure that each Insurance Policy relating to the Charged Property (other than any Insurance Policies in respect of which a notice of assignment has already been sent pursuant to the provisions of Clause 6.1 (*Notice of Assignments*)) is issued in the joint name of the Security Trustee and the relevant Charging Company under this Guarantee and Debenture noted thereon;
- 12.1.3. promptly pay all premiums and other moneys payable under its Insurance Policies and, promptly upon request by the Security Trustee, deliver to the Security Trustee a copy of each policy and evidence (in a form acceptable to the Security Trustee) of the payment of such sums;
- 12.1.4. perform all of its obligations under its Insurance Policies; and
- 12.1.5. if required by the Security Trustee, deposit all Insurance Policies with the Security Trustee.

12.2. Security Trustee's Powers

If at any time any Charging Company fails to comply with the terms of Clause 12.1 (*Insurance Undertakings*), the Security Trustee may effect or renew any such insurance on such terms, in such name and in such amount as it may consider appropriate and all sums expended in doing so shall be reimbursed by that Charging Company to the Security Trustee on demand and shall carry interest from the date of payment by the Security Trustee until it is reimbursed at the Default Rate.

12.3. Application of Insurance Proceeds

All moneys received under any insurance policies relating to the Charged Property shall (subject to the rights and claims of any person having prior rights thereto) prior to the occurrence of an Event of Default which is continuing be applied in reinstatement or replacement of the assets which were the subject of the relevant claim. After the occurrence of an Event of Default which is continuing, each Charging Company shall hold such monies upon trust for the Security Trustee pending payment to the Security Trustee in accordance with Clause 16.1 (*Application of Monies*) and that Charging Company waives any right it may have to require that such monies are applied in reinstatement of any part of the Charged Property.

13. POWERS OF SECURITY TRUSTEE

13.1. Exercise of Powers

At any time after the occurrence of an Event of Default and subject to the provisions of the Intercreditor Agreement, the security created by or pursuant to this Guarantee and Debenture is immediately enforceable and the Security Trustee may (without further notice and without any of the restrictions contained in Section 103 of the Act and whether or not it shall have appointed a Receiver):

- 13.1.1. exercise all the powers conferred on mortgagees by the Act (as varied or extended by this Guarantee and Debenture);
- 13.1.2. exercise all the powers and discretions conferred by this Guarantee and Debenture;
- 13.1.3. enforce all or any part of the security created by or pursuant to this Guarantee and Debenture; and
- 13.1.4. take possession of and retain or dispose of all or any part of the Charged Property.

The power of sale conferred upon the Security Trustee and on any Receiver by this Guarantee and Debenture shall operate as a variation and extension of the statutory power of sale under Section 101 of the Act and such power shall arise (and the Secured Liabilities shall be deemed due and payable for that purpose) on the execution of this Guarantee and Debenture.

13.2. Statutory Powers

- 13.2.1. The statutory powers of leasing, letting, entering into arrangements for leases or lettings and accepting and agreeing to accept the surrenders of leases conferred by Sections 99 and 100 of the Act shall not be exercisable by a Charging Company in relation to any part of the Charged Property without the prior written consent of the Security Trustee.
- 13.2.2. The Security Trustee shall have power after the occurrence of an Event of Default to lease or make agreements for leases at a premium or otherwise and accept surrenders of leases without any restriction on the kinds of leases and agreements for leases that the Security Trustee may make without the necessity for the Security Trustee to comply with the provisions of Sections 99 and 100 of the Act.
- 13.2.3. The Security Trustee may delegate the powers set out in Clauses 13.2.1 and 13.2.2 to any person and no such delegation shall preclude the subsequent exercise of such powers by the Security Trustee itself or preclude the Security Trustee from making a subsequent delegation thereof to some other person. Any such delegation may be revoked by the Security Trustee at any time.

13.3. Consolidation of mortgages

The restriction on the right of consolidating mortgage securities contained in Section 93 of the Act shall not apply to this Guarantee and Debenture or to any Supplemental Mortgage.

13.4. Mortgagee in possession

So far as permitted by law, neither the Security Trustee nor any Receiver shall, by reason of it or any Receiver entering into possession of any part of the Charged Property when entitled to do so, be liable to account as mortgagee in possession or be liable for any loss or realisation or for any default or omission for which a mortgagee in possession might be liable.

13.5. Prior Charges

The Security Trustee may at any time after the occurrence of an Event of Default which is continuing redeem any prior Security on or relating to the Charged Property or may procure the transfer of such Security to itself and settle and pass the accounts to which the Security relates. Any accounts so settled and passed shall be, in the absence of manifest error, conclusive and binding on each Charging Company. Each Charging Company shall reimburse the Security Trustee on demand all principal monies and interest and all losses incidental to such redemption or transfer.

13.6. Financial Collateral

The Security Trustee may, to the extent that any of the mortgaged property constitutes "financial collateral" (as defined in the Financial Collateral Regulations) and that this Guarantee and Debenture constitutes a "security financial collateral arrangement" (as defined in the Financial Collateral Regulations), appropriate such financial collateral in or towards the discharge of the Secured Liabilities.

13.7. Value of Financial Collateral

Each Charging Company and the Security Trustee agree for the purposes of Clause 13.6 (*Financial Collateral*) that the value of any such financial collateral so appropriated shall be:

13.7.1. in the case of any cash, the amount standing to the credit of the relevant account together with any accrued interest at the date of appropriation; and

13.7.2. in the case of the Shares or the Investment Interests (or any other shares or stock of any nature whatsoever in the capital of any company), the market value thereof as determined by the Security Trustee (acting reasonably) by reference to the information available to the Security Trustee.

In each case each Charging Company and the Security Trustee agree that the method of valuation referred to above shall constitute a commercially

reasonable method of valuing the relevant financial collateral for the purposes of the Financial Collateral Regulations.

14. APPOINTMENT OF RECEIVER

14.1. Appointment of Receiver

At any time after:

- 14.1.1. the occurrence of an Event of Default which is continuing and subject to the provisions of the Intercreditor Agreement;
- 14.1.2. a petition or application is presented or a resolution proposed for the winding up, reorganisation or administration of a Charging Company or any other Obligor;
- 14.1.3. a Charging Company or any other Obligor or any other person entitled to do so gives written notice of its intention to appoint an administrator or liquidator to a Charging Company or any other Obligor or the appointment of an administrator or liquidator to a Charging Company or any other Obligor; or
- 14.1.4. a written request has been made by a Charging Company or any other Obligor to the Security Trustee for the appointment of a Receiver or administrator,

the Security Trustee may appoint one or more persons to be a Receiver or Receivers of the Charged Property or any part thereof.

14.2. Removal of Receiver

Subject to Section 45 of the Insolvency Act 1986, the Security Trustee may remove any Receiver previously appointed under this Guarantee and Debenture and appoint another person or persons as Receiver or Receivers, either in the place of a Receiver so removed or who has otherwise ceased to act or to act jointly with the Receiver or Receivers previously appointed under this Guarantee and Debenture.

14.3. Joint and several appointment

If at any time and by virtue of any such appointments any two or more persons shall hold office as Receivers of the same assets or income, such Receivers may act jointly and/or severally so that each one of such Receivers shall be entitled (save to the extent that the contrary shall be stated in any of the deeds or other instruments appointing them) to exercise all the powers and discretions conferred by this Guarantee and Debenture on Receivers individually and to the exclusion of the other or others of them.

14.4. Appointment in writing under hand

Every such appointment or removal and every delegation, appointment or removal by the Security Trustee in the exercise of any rights to delegate its

powers or to remove delegates contained in this Guarantee and Debenture, may be made in writing under the hand of any officer of the Security Trustee.

14.5. General Powers of Receiver

Every Receiver shall have:

- 14.5.1. all the powers conferred by the Act on mortgagees in possession and receivers appointed under the Act;
- 14.5.2. all the powers specified in the Insolvency Act 1986 (whether or not such Receiver is an administrative receiver within the meaning of the Insolvency Act 1986);
- 14.5.3. all the powers of the Secured Parties under this Guarantee and Debenture;
- 14.5.4. all the powers and rights of an absolute owner to do or omit to do anything which a Charging Company itself could do or omit to do; and
- 14.5.5. the power to do all things which are in the opinion of the Receiver incidental or conducive to the powers vested in him by this Guarantee and Debenture or by law or are incidental or conducive to the gathering in by him of any assets which, when gathered in would be, Charged Property.

14.6. Further Powers of a Receiver

Every Receiver may:

- 14.6.1. collect in and take possession of the Charged Property or any part of it and make such demands and take such proceedings as may seem expedient for that purpose;
- 14.6.2. carry on the business of a Charging Company as he thinks fit;
- 14.6.3. provide services and employ, or engage such managers, contractors and other personnel on such terms as he thinks fit;
- 14.6.4. discharge any person appointed by a Charging Company;
- 14.6.5. raise and borrow money (either unsecured or secured on any Charged Property) on such terms as he shall think fit (including, if the Security Agent consents, terms under which such security ranks in priority to this Guarantee and Debenture);
- 14.6.6. undertake or complete any works of repair, building or development on any property of a Charging Company in respect of which he is appointed;
- 14.6.7. grant options and licences over all or any part of the Charged Property, sell, concur in selling, assign or concur in assigning, lease or

concur in leasing and accept or concur in accepting surrenders of leases of, all or any of the property of a Charging Company in respect of which he is appointed;

14.6.8. make any arrangement, settlement or compromise between a Charging Company and any other person which he may think expedient;

14.6.9. bring, prosecute, enforce, defend and abandon all actions and proceedings and submit to arbitration in the name of a Charging Company in relation to any Charged Property as he may think expedient;

14.6.10. make calls conditionally or unconditionally on the members of a Charging Company in respect of uncalled capital;

14.6.11. make such elections for value added tax purposes as he thinks fit;

14.6.12. manage, develop, reconstruct, amalgamate or diversify or concur in managing, developing, reconstructing, amalgamating or diversifying the business of a Charging Company;

14.6.13. redeem any prior Security on or relating to the Charged Property and settle and pass the accounts to which the Security relates so that any accounts so settled and passed shall be, in the absence of manifest error, conclusive and binding on each Charging Company and the monies so paid shall be deemed to be an expense properly incurred by him;

14.6.14. effect with any insurer any policy of insurance in relation to the Charged Property; and

14.6.15. promote or establish any new company (whether a Subsidiary of a Charging Company or not).

14.7. Consideration

In making any sale or the disposal of any of the Charged Property in the exercise of their respective powers, the Receiver or the Security Trustee may accept as, and by way of consideration for such sale or other disposal, cash, shares, loan capital or other obligations, including, without limitation, consideration fluctuating, according to or dependent on turnover and consideration the amount of which is to be determined by a third party. Any such consideration may be receivable in a lump sum or by way of instalments.

14.8. Receiver as agent of the Charging Company

Every Receiver shall be the agent of the Charging Company in respect of which he is appointed which shall be solely responsible for his acts and defaults and for the payment of his remuneration.

14.9. Remuneration

Each Receiver shall be entitled to remuneration for his services at a rate to be fixed by agreement between him and the Security Trustee (or, failing such agreement, to be conclusively fixed by the Security Trustee) commensurate with the work and responsibilities involved upon the basis of charging from time to time adopted in accordance with his current practice or the current practice of his firm and without being limited to the maximum rate specified in Section 109(6) of the Act.

15. APPOINTMENT OF ADMINISTRATOR

15.1. Appointment of an Administrator

At any time after:

15.1.1. the occurrence of an Event of Default which is continuing;

15.1.2. a petition or application is presented or resolution proposed for the winding up, reorganisation or administration of a Charging Company or any other Obligor;

15.1.3. a Charging Company or any other Obligor or any other person entitled to do so gives written notice of its intention to appoint an administrator or liquidator to a Charging Company or the appointment of an administrator or liquidator to a Charging Company or any other Obligor; or

15.1.4. a written request has been made by a Charging Company or any other Obligor to the Security Trustee for the appointment of a Receiver or administrator,

the Security Trustee may without further notice appoint in writing under its hand any person or persons to be an administrator of a Charging Company.

15.2. Joint and several appointment

If at any time and by virtue of any such appointments any two or more persons shall hold office as administrators, such administrators may act jointly and/or severally so that each one of such administrators shall be entitled (save to the extent that the contrary shall be stated in any of the deeds or other instruments appointing them) to exercise all the powers and discretions conferred by this Guarantee and Debenture and by law on administrators individually and to the exclusion of the other or others of them.

16. APPLICATION OF MONIES

16.1. Application of Monies

All moneys received by the Security Trustee or by any Receiver appointed under this Guarantee and Debenture shall (subject to the provisions of the Intercreditor Agreement) be applied in the following order:

- 16.1.1. in the payment of the costs, charges and expenses of and incidental to the appointment of any Receiver under this Guarantee and Debenture and the payment of his remuneration;
- 16.1.2. in the payment and discharge of any outgoings paid and liabilities incurred by any Receiver appointed under this Guarantee and Debenture in the exercise of any powers of such Receiver;
- 16.1.3. in providing for the matters (other than the remuneration of a Receiver) specified in the first three paragraphs of Section 109(8) of the Act;
- 16.1.4. in or towards payments of any debts or claims which are required by law to be paid in preference to the Secured Liabilities, but only to the extent to which such debts or claims have such preference;
- 16.1.5. in or towards the satisfaction of the Secured Liabilities in accordance with the terms of the Shareholders' Agreement; and
- 16.1.6. any surplus shall be paid to the Charging Companies or any other person entitled thereto.

16.2. Section 109 of the Act

The provisions of this Clause 16.2 and Clause 14.9 (*Remuneration*) shall take effect as and by way of variation and extension to the provisions of Section 109(8) of the Act, which provisions as so varied and extended shall be deemed to be incorporated in this Guarantee and Debenture.

17. REPRESENTATIONS AND WARRANTIES

17.1. Representations and Warranties

Each Charging Company represents and warrants to the Security Trustee and the other Secured Parties that:

- 17.1.1. it is a limited liability company duly incorporated and validly existing under the laws of England and Wales with power to own its assets and carry on its business as it is being conducted;
- 17.1.2. subject to the Legal Reservations, the obligations expressed to be assumed by it in each Finance Document to which it is a party are legal, valid, binding and enforceable obligations;
- 17.1.3. the entering into and performance by it of, and the transactions contemplated by, the Finance Documents do not and will not conflict with:

- (a) subject to the Legal Reservations, any law or regulation applicable to it;
- (b) its constitutional documents;
- (c) any agreement or instrument binding upon it or any of its assets or constitute a default or termination event (howsoever described) under any such agreement or instrument;

17.1.4. it has the necessary power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, the Finance Documents to which it is a party and the transactions contemplated by those Finance Documents;

17.1.5. all authorisations, approvals, consents, licences, exemptions, filings, registrations and other matters required by it in connection with the entry into by it of the Finance Documents to which it is a party and the exercise by it of its rights thereunder and the performance by it of its obligations thereunder and in connection with the validity and enforceability of such Finance Documents have been obtained or effected and are in full force and effect;

17.1.6. this Guarantee and Debenture validly creates any security interest which it purports to create and validly evidences any Security which it purports to evidence;

17.1.7. it is or has the right to be registered as the sole legal and beneficial owner of the Charged Property, free and clear of any Security or Quasi Security which is not permitted in terms of the Finance Documents;

17.1.8. the Shares and the Investment Interests comprise the whole of the Shares in any company legally or beneficially owned by the Charging Companies and the whole of the investments of any kind whatsoever in any company or other entity legally or beneficially owned by the Charging Companies;

17.1.9. subject to the Legal Reservations, this Guarantee and Debenture creates a valid charge over all the Charged Property securing the payment of the Secured Liabilities and, other than registration hereof pursuant to Section 860 of the Companies Act 2006 and, in the case of any property described in Schedule 3 (*The Legally Mortgaged Property*), registration hereof at the Land Registry, and, in the case of any Specified Intellectual Property Rights described in Schedule 4 (*The Specified Intellectual Property Rights*), registration hereof at the Intellectual Property Office, no authorisation, approval or other action by, and no notice to or filing with any person, governmental authority or regulatory body is required either for the grant by it of the charges granted hereby or for the execution, delivery or performance of this Guarantee and Debenture by it, or for the exercise by the Security Trustee of its rights and remedies hereunder; and

17.1.10.it has good, valid and marketable title to or valid leases of all of its assets including those necessary to carry on its business as presently conducted.

17.2. Repetition

Each of the representations and warranties made by the Charging Companies under Clause 17.1 (*Representations and Warranties*) are made on the date of this Guarantee and Debenture and on each Interest Payment Date.

18. POWER OF ATTORNEY

18.1. Power of Attorney

Each Charging Company hereby irrevocably appoints the Security Trustee and any Receiver appointed under this Guarantee and Debenture and for the time being holding office as such severally to be its attorney and on its behalf and in its name to sign, seal, execute, deliver, perfect and do all deeds, instruments and/or documents and to do all acts and things which may be required for:-

18.1.1. carrying out any obligation imposed on that Charging Company by or pursuant to this Guarantee and Debenture; and

18.1.2. enabling the Security Trustee and the Receiver to exercise the rights and powers conferred upon them by or pursuant to this Guarantee and Debenture or by law (including the right to sell, lease, convey, transfer or realise any of the Charged Property).

The Security Trustee shall have full power to delegate the power conferred on it by this Clause 18.1 and no such delegation shall preclude the subsequent exercise of such power by the Security Trustee itself or preclude the Security Trustee from making a subsequent delegation thereof to some other person and any such delegation may be revoked by the Security Trustee at any time.

18.2. Ratification

Each relevant Charging Company shall ratify and confirm all acts and things done and all deeds, instruments and/or documents signed, sealed, executed and/or perfected by any attorney in the exercise or purported exercise of all or any of his powers.

18.3. Powers of Attorney Act 1971

The power of attorney hereby granted is as regards the Security Trustee its delegates and any such Receiver (and each Charging Company hereby acknowledges) granted irrevocably and for value as part of the security constituted by this Guarantee and Debenture to secure proprietary interests in and the performance of obligations owed to the respective donees within the meaning of the Powers of Attorney Act 1971.

19. PROTECTION OF PURCHASERS

19.1. Consideration

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

19.2. Protection of Purchasers

No purchaser or other person dealing with the Security Trustee or its delegate or any Receiver appointed hereunder shall be bound to see or enquire whether the right of the Security Trustee or such Receiver to exercise any of its or his powers has arisen or become exercisable or be concerned with notice to the contrary or be concerned to see whether any such delegation by the Security Trustee shall have lapsed for any reason or be revoked.

20. PRESERVATION OF SECURITY

20.1. Continuing Security

The security created by or pursuant to this Guarantee and Debenture and by any Supplemental Mortgage shall remain in full force and effect as a continuing security for the Secured Liabilities unless and until discharged by the Security Trustee and shall not be considered satisfied by any intermediate payment or satisfaction of all or any of the Secured Liabilities or for any other reason.

20.2. Waiver of defences

Neither the obligations of each Charging Company under this Guarantee and Debenture nor the rights, powers and remedies conferred in respect of the Charging Companies upon the Security Trustee will be affected by any act, omission, matter or thing which, but for this Clause 20.2, would reduce, release or prejudice any of those obligations or those rights, powers and remedies (without limitation and whether or not known to it or any Secured Party) including:

- (a) any time, waiver or consent granted to, or composition with, any Obligor or other person;
- (b) the release of any other Obligor or any other person under the terms of any composition or arrangement with any creditor of any member of the Group;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any Obligor or other person or any non-presentation or non-observance of any formality or other requirement

in respect of any instrument or any failure to realise the full value of any security;

- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of an Obligor or any other person;
- (e) any amendment, novation, supplement, extension or restatement (however fundamental and whether or not more onerous) or replacement of a Finance Document or any other document or security including, without limitation, any change in the purpose of, any extension of or increase in any facility or the addition of any new facility under any Finance Document or other document or security;
- (f) any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document or any other document or security; or
- (g) any insolvency or similar proceedings.

20.3. Rights Cumulative

The obligations of each Charging Company contained in this Guarantee and Debenture and all rights, powers and remedies of the Security Trustee expressed in this Guarantee and Debenture are in addition to and independent of all other rights, powers and remedies possessed by the Security Trustee including, without limitation, those provided for in any Finance Document, by applicable law or in any other written instrument or agreement relating to that Charging Company's obligations or the Charged Property.

20.4. Remedies and Waivers

No failure to exercise, nor any delay in exercising, on the part of the Security Trustee or any Secured Party, any right or remedy under this Guarantee and Debenture shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy.

20.5. Partial Invalidity

If at any time any provision hereof is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions hereof nor the legality, validity or enforceability of such provision under the law of any other jurisdiction shall in any way be affected or impaired thereby.

20.6. Independent Security

The security constituted by or pursuant to this Guarantee and Debenture and any Supplemental Mortgage shall be in addition to and shall be independent of every mortgage, charge, pledge, guarantee or other security which the

Security Trustee or any other Secured Party may at any time hold in respect of any of the Secured Liabilities and it is hereby declared that no prior security held by the Security Trustee or any other Secured Party over the Charged Property or any part thereof shall merge in the security constituted by this Guarantee and Debenture or any Supplemental Mortgage.

21. PRESERVATION OF RIGHTS

Neither the Security Trustee nor the other Secured Parties nor any of them shall be obliged before exercising any of the rights, powers, discretions or remedies conferred upon them in respect of any Charging Company or any other Obligor by any of the Finance Documents or by law:

- 21.1. to make any demand of any of the Charging Companies or any other Obligor other than that required by the terms of the Finance Documents;
- 21.2. to take any action or obtain judgement in any court against any of the Charging Companies or any other Obligor;
- 21.3. to submit, make or file any claim or proof in a winding-up, liquidation, insolvency or dissolution of any of the Charging Companies or any other Obligor; or
- 21.4. to enforce or seek to enforce any other security taken in respect of any of the obligations of any of the Charging Companies or any other Obligor under the Finance Documents.

22. SUBSEQUENT SECURITY INTERESTS

If the Security Trustee (acting in its capacity as security trustee or otherwise) or any of the other Secured Parties receives or is deemed to have received notice of any subsequent Security affecting all or any part of the Charged Property which is prohibited by the terms of this Guarantee and Debenture, any Supplemental Mortgage or all or any of the Finance Documents, all payments thereafter by or on behalf of a Charging Company to the Security Trustee (whether in its capacity as security trustee or otherwise) or any of the other Secured Parties shall be treated as having been credited to a new account of the relevant Charging Company and not as having been applied in reduction of the Secured Liabilities as at the time when the Security Trustee received such notice.

23. SUSPENSE ACCOUNT

So that the Security Trustee and each other Secured Party may claim against any Charging Company or prove in any bankruptcy or liquidation of any Charging Company for the full amount of the Secured Liabilities then owing by it, the Security Trustee and each other Secured Party may, after the occurrence of an Event of Default and for so long as the same is continuing, hold in suspense account, until the Secured Liabilities have been irrevocably paid and discharged in full, any moneys received, recovered or realised from or on account of any of the Charging Companies without being under any intermediate obligation to apply the same or any part thereof in or towards

the discharge of the said amount. The Security Trustee and each other Secured Party may refrain from applying or enforcing any other security, money or rights held or received in respect of the Secured Liabilities or may apply the same in such manner and order as they see fit and no Charging Company shall be entitled to the benefit of the same until all the Secured Liabilities have been irrevocably paid and discharged in full.

24. SET-OFF

A Secured Party may set-off any matured obligation due from any Charging Company or any other Obligor under the Finance Documents (to the extent beneficially owned by that Secured Party) against any matured obligation owed by that Secured Party to any Charging Company or any other Obligor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Secured Party may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

25. RELEASE AND DISCHARGE

25.1. Release

Subject to Clause 25.2 (*Conditional Discharge*), each Charging Company shall be entitled, after the Secured Liabilities have been irrevocably and unconditionally discharged in full and none of the Secured Parties being under any actual or contingent obligations to make available any facilities of any kind whatsoever to any Charging Company under any of the Finance Documents, to require, at its cost and request, the release, re-assignment or retransfer of any of the Charged Property mortgaged, charged, assigned or transferred hereunder or otherwise in terms of this Guarantee and Debenture.

25.2. Conditional Discharge

Any settlement or discharge between the Charging Companies (or any of them) and the Security Trustee and the other Secured Parties or any of them shall be conditional upon no security or payment to the Security Trustee and the other Secured Parties or any of them by any Charging Company or any other person on behalf of a Charging Company being avoided or reduced by virtue of any provisions or enactments relating to bankruptcy, insolvency or liquidation for the time being in force and, if any such security or payment is so avoided or reduced, the Security Trustee and the other Secured Parties shall be entitled to recover the value or amount of such security or payment from each Charging Company subsequently as if such settlement or discharge had not occurred.

26. CHANGES IN SECURED LIABILITIES

Each Charging Company expressly agrees and acknowledges that the parties to the Finance Documents may from time to time agree to make amendments to the terms of those documents and may enter into such supplemental agreements as are required from time to time in order to give effect to such amendments.

27. ASSIGNMENT

27.1. Security Trustee

The Security Trustee may (without prejudice to its right to appoint any joint trustee) assign and/or transfer all or any of its rights and obligations under this Guarantee and Debenture or any Supplemental Mortgage to any person appointed as its replacement as Security Trustee (or any joint trustee) in accordance with the terms of the Shareholders' Agreement. The Security Trustee shall be entitled to disclose such information concerning the Charging Companies and this Guarantee and Debenture or any Supplemental Mortgage as the Security Trustee considers appropriate to any actual or proposed direct or indirect successor or to any person to whom information may be required to be disclosed by any applicable law.

27.2. Charging Companies

No Charging Company may assign or transfer any of its obligations under this Guarantee and Debenture or enter into any transaction which would result in any of those rights or obligations passing to another person.

28. INDEMNITY

28.1. Environmental Indemnity

The Charging Companies shall jointly and severally indemnify the Security Trustee against any and all costs, losses, liabilities or expenses incurred by the Security Trustee arising (directly or indirectly) out of, or in connection with:

28.1.1. any actual or alleged breach of any Environmental Law by any member of the Group or affecting any freehold or leasehold property now or at any time after the date of this Guarantee and Debenture owned or occupied by any member of the Group; or

28.1.2. any responsibility of the Security Trustee in respect of any clean-up, repair or other corrective action in relation to any actual or alleged breach or liability in respect of the business or any freehold or leasehold property now or at any time hereafter owned or occupied by any member of the Group.

28.2. Indemnity

Without prejudice to Clause 8.2 (*Failure to comply*) and Clause 12.2 (*Security Trustee's Powers*), the Charging Companies shall jointly and severally indemnify the Security Trustee and any Receiver against any cost, loss or liability incurred by either of them as a result of:

28.2.1. the taking, holding, protection or enforcement of this Guarantee and Debenture;

28.2.2. the exercise or purported exercise of any of the rights, powers, discretions and remedies vested in the Security Trustee and each Receiver by this Guarantee and Debenture or by law; or

28.2.3. any default by any Charging Company of any of the obligations expressed to be assumed by it in this Guarantee and Debenture

29. DISCRETION AND DELEGATION

29.1. Discretion

Any power or right which may be exercised by the Security Trustee or any Receiver under this Guarantee and Debenture may, subject to the terms and conditions of the Shareholders' Agreement, be exercised in the absolute and unfettered discretion of the Security Trustee or Receiver and without any obligation to give reasons.

29.2. Delegation

The Security Trustee and any Receiver may delegate (either generally or specifically) by power of attorney or any other manner to any person any right, power, authority or discretion conferred on it by this Guarantee and Debenture (including the power of attorney granted under Clause 18 (*Power of Attorney*)). The Security Trustee and any Receiver may make a delegation on the terms and conditions (including the power to sub-delegate) that it thinks fit. Any such delegation shall not preclude the subsequent exercise, any subsequent delegation or any revocation of such right, power, authority or discretion by the Security Trustee or the Receiver.

30. CALCULATIONS AND CERTIFICATES

30.1. Accounts

In any litigation or arbitration proceedings arising out of or in connection with this Guarantee and Debenture, the entries made in the accounts maintained by the Security Trustee or a Secured Party are prima facie evidence of the matters to which they relate.

30.2. Certificates and determinations

Any certificate or determination by the Security Trustee or a Secured Party of a rate or amount under this Guarantee and Debenture is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

31. PERPETUITY PERIOD

The perpetuity period applicable to the trusts contained in or arising from this Guarantee and Debenture shall be one hundred and twenty five years from the date hereof.

32. NOTICES

32.1. Communications in Writing

Any communication to be made under or in connection with this Guarantee and Debenture shall be made in writing and, unless otherwise stated, may be made by fax or letter.

32.2. Address

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 Guarantee and Debenture is that identified with its name below or any substitute address, fax number or department or officer as the party may notify to the other parties by not less than 5 Business Days' notice.

32.3. Delivery

32.3.1. Any communication or document made or delivered by one person to another under or in connection with this Guarantee and 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 5 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 32.2 (*Address*), if addressed to that department or officer.

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

32.4. English Language

32.4.1. Any notice given under or in connection with this Guarantee and Debenture must be in English.

32.4.2. All other documents provided under or in connection with this Guarantee and Debenture must be:

- (a) in English; or

- (b) if not in English, and if so required by the Security Trustee, 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.

33. COUNTERPARTS

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

34. GOVERNING LAW

This Guarantee and Debenture shall be governed by and construed in accordance with English law.

35. JURISDICTION

35.1. Jurisdiction of English Courts

The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Guarantee and Debenture (including a dispute regarding the existence, validity or termination of this Guarantee and Debenture) (a "Dispute").

35.2. Convenient Forum

The parties to this Guarantee and Debenture agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no party to this Guarantee and Debenture will argue to the contrary.

35.3. Concurrent Proceedings

This Clause 35 is for the benefit of the Secured Parties only. As a result, no Secured Party shall be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Secured Parties may take concurrent proceedings in any number of jurisdictions.

IN WITNESS whereof this Guarantee and Debenture has been executed by each Charging Company and the Security Trustee as its deed the day and year first above written.

SCHEDULE 1

THE CHARGING COMPANIES

Name	Registered Number
Red Topco Limited	07639139
Red Midco Limited	07551890
Red Bidco Limited	07551924
Rouge 1 Limited	05611337
Rouge 2 Limited	05611304
Red Commerce Limited	03914762

SCHEDULE 2

THE SHARES

None.

SCHEDULE 3
THE LEGALLY MORTGAGED PROPERTY

None.

SCHEDULE 4

THE SPECIFIED INTELLECTUAL PROPERTY RIGHTS

PART 1

**TRADE MARKS, SERVICE MARKS, DESIGNS, COPYRIGHTS AND
APPLICATIONS THEREFOR**

None

PART 2

PATENTS AND PATENT APPLICATIONS

None

PART 3

OTHER INTELLECTUAL PROPERTIES

None

SCHEDULE 5

FORM OF NOTICE OF ASSIGNMENT OF INSURANCE

To: [Insurer]

Date: []

Dear Sirs

We hereby give you notice that we have assigned to DCG Nominees Limited as security trustee (the "Security Trustee") pursuant to a composite guarantee and debenture entered into by, among others, us in favour of the Security Trustee dated ● all of our right, title and interest in and to the proceeds of [insert details of relevant insurance policy] (the "Insurance Policy").

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

- (i) note the interest of the Security Trustee on the Insurance Policy; and
- (ii) disclose to the Security Trustee, without further approval from us, such information regarding the Insurance Policy as the Security Trustee may from time to time request and to send to it copies of all notices issued by you under the Insurance Policy.

With effect from the receipt by you of this notice, all rights, interests and benefits whatsoever accruing to or for the benefit of ourselves arising from the Insurance Policy belong to and are exercisable by the Security Trustee.

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

Yours faithfully

For and on behalf of
● Limited

To: [●]

We acknowledge receipt of the notice in the terms set out above and confirm that we have not received any notice of any previous assignment or charge of or over any of the rights, title and interest and/or benefits referred to in such notice and that we will comply with the terms of that notice.

We further confirm that no amendment or termination of the Insurance Policy will be effective unless we have given 30 days written notice thereof to the Security Trustee.

For and on behalf of ●

By:

Dated:

SCHEDULE 6

FORM OF NOTICE OF ASSIGNMENT OF SPECIFIED ACCOUNT

To: [Account Bank]

Date: []

Dear Sirs

We hereby give you notice that we have assigned and charged to DCG Nominees Limited as security trustee (the "Security Trustee") pursuant to a composite guarantee and debenture entered into by, among others, us in favour of the Security Trustee dated ● all of our right, title and interest in and to account number ●, account name ●, sort code ● (including any renewal or redesignation thereof) and all monies standing to the credit of that account from time to time (the "Account").

With effect from the date of your receipt of this notice any existing payment instructions in relation to the Account are terminated.

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

Yours faithfully

For and on behalf of
● Limited

To: [●]

We acknowledge receipt of the notice of assignment and charge in the terms set out above in respect of the Account (as described in those terms) and confirm that:

- (a) the balance standing to the Account at today's date is ●, no fees or periodic charges are payable in respect of the Account and there are no restrictions on (i) the payment of the credit balance on the Account [(except, in the case of a time deposit, the expiry of the relevant period)] or (ii) the assignment of the Account to the Security Trustee or any third party;
- (b) we have not received notice of any previous assignments of, charges over or trusts in respect of, the Account and we will not, without the Security Trustee's consent (a) exercise any right of combination, consolidation or set-off which we may have in respect of the Account or (b) amend or vary any rights attaching to the Account; and
- (c) all existing payment instructions in relation to the Account are terminated and all payments and communications in respect of the Account shall be made to the Security Trustee and we will not, without the Security Trustee's consent amend or vary any rights attaching to the Account.

For and on behalf of ●

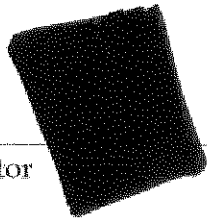
By:

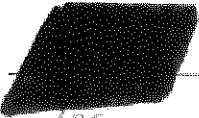
Dated:

SIGNATORIES

EXECUTED and DELIVERED as its deed by
RED TOPCO LIMITED

acting by *Andrew McKee*, a director,
in the presence of:



Director

Witness*Joanna Inne*

Full Name

Address

Head of Legal

Occupation

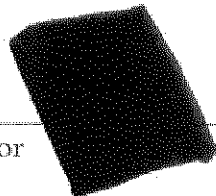
Address for Notice: *5th Floor, 33 Abchurch Lane, London, EC3V 0BT*

Fax: *144 2071077601*

Attention: *John Sealy*

EXECUTED and DELIVERED as its deed by
RED MIDCO LIMITED

acting by *Andrew McKee*, a director,
in the presence of:



Director

Witness*Joanna Inne*

Full Name

Address

Head of Legal

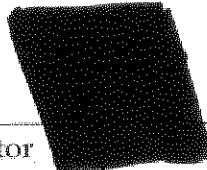
Occupation

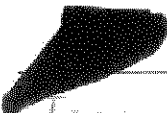
Address for Notice: *5th Floor, 33 Abchurch Lane, London, EC3V 0BT*

Fax: *144 207107701*

Attention: *John Sealy*

EXECUTED and DELIVERED as its deed by
RED BIDCO LIMITED
acting by *Andrew McNeil*, a director,
in the presence of:



Director

Witness*Joanna Imrie*

Full Name

Address

Head of Legal

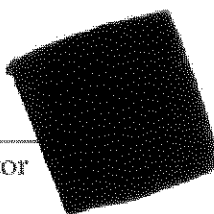
Occupation

Address for Notice: *5th Floor, 33 Chancery Street, London, EC3N 0BS*

Fax: *144 2071077601*

Attention: *John Sealy*

EXECUTED and DELIVERED as its deed by
ROUGE 1 LIMITED
acting by *Andrew McNeil*, a director,
in the presence of:



Director

Witness*Joanna Imrie*

Full Name

Address

Head of Legal

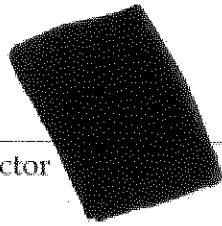
Occupation

Address for Notice: *5th Floor, 33 Chancery Street, London EC3N 0BS*

Fax: *144 2071077601*

Attention: *John Sealy*

EXECUTED and DELIVERED as its deed by
ROUGE 2 LIMITED
acting by *Andrew McKee*, a director,
in the presence of:



Director

Witness*Joanna Inne*

Full Name

Address

Head of Legal

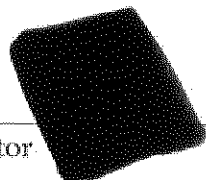
Occupation

Address for Notice: *5th floor, 33 Chancery Lane, London EC3V 0BT*

Fax: *144 20 7107 7601*

Attention: *John Sealy*

EXECUTED and DELIVERED as its deed by
RED COMMERCE LIMITED
acting by *Andrew McKee*, a director,
in the presence of:



Director

Witness*Joanna Inne*

Full Name

Address

Head of Legal

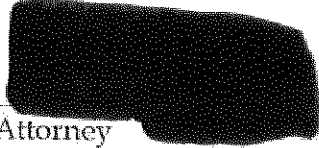
Occupation

Address for Notice: *5th floor, 33 Chancery Lane, London, EC3V 0BT*

Fax: *+44 20 7107 7601*

Attention: *John Sealy*

SIGNED and DELIVERED as a deed by
DCG NOMINEES LIMITED
as SECURITY TRUSTEE acting by
ROSS MARSHALL, as Attorney,
in the presence of:


Attorney


Witness

ANDREW ALEXANDER NICOLSON Full Name


Address


SOLICITOR Occupation

Address for Notice: 112 JEREMY STREET, LONDON, SW12 6LZ

Attention: ~~Richard Smith~~ ROSS MARSHALL