

# M

## COMPANIES FORM No. 395

### Particulars of a mortgage or charge

# 395

A fee of £13 is payable to Companies House in respect of each register entry for a mortgage or charge.

CHFP025

Please do not write in this margin

Please complete legibly, preferably in black type, or bold block lettering

\*insert full name of Company

Pursuant to section 395 of the Companies Act 1985

504955/1104

To the Registrar of Companies  
(Address overleaf - Note 6)

For official use

Company number

[1][1][3]

05869370

Name of company

\* Gaucho Acquisitions Limited (the "**Company**")

Date of creation of the charge

17 December 2007

Description of the instrument (if any) creating or evidencing the charge (note 2)

A debenture (the "**Debenture**") between the Company, Gaucho Holdings Limited, Gaucho Group Limited, Gaucho Grill Holdings Limited, Inhoco 4065 Limited, Pan European Restaurants Limited, Gaucho Grill Limited and Gioma (UK) Limited (together the "**Originalchargors**") and Lloyds TSB Bank plc (the "**Security Trustee**")

Amount secured by the mortgage or charge

The liabilities of the Obligors to the Finance Parties under or pursuant to the Finance Documents except for any liabilities which, if secured by this Debenture, would result in a contravention by a Chargor of section 151 of the Companies Act 1985 (the "**Secured Liabilities**")

Names and addresses of the mortgagees or persons entitled to the charge

Lloyds TSB Bank plc, Gresham Street, London

Postcode EC2V 7AE

Presentor's name address and reference (if any)

Herbert Smith LLP  
Exchange House  
Primrose Street  
London  
EC2A 2HS

For official Use (06/2005)  
Mortgage Section

Post room

WEDNESDAY



LD3

"LUP67VMY"  
19/12/2007  
COMPANIES HOUSE

75

Time critical reference

30883222 - EM

Short particulars of all the property mortgaged or charged

Please see attached sheet

Please do not  
write in  
this margin

**Please complete  
legibly, preferably  
in black type, or  
bold block  
lettering**

Particulars as to commission allowance or discount (note 3)

Nil

Signed Herbert R. L. L. L.

Date 19 December 2007

On behalf of ~~XXXXXXXXXXXXXXXXXXXX~~ [chargee] †

**A fee is payable  
to Companies  
House in  
respect of each  
register entry  
for a mortgage  
or charge  
(See Note 5)**

† delete as  
appropriate

Notes

- 1 The original instrument (if any) creating or evidencing the charge, together with these prescribed particulars correctly completed must be delivered to the Registrar of Companies within 21 days after the date of creation of the charge (section 395) If the property is situated and the charge was created outside the United Kingdom delivery to the Registrar must be effected within 21 days after the date on which the instrument could in due course of post, and if dispatched with due diligence, have been received in the United Kingdom (section 398) A copy of the instrument creating the charge will be accepted where the property charged is situated and the charge was created outside the United Kingdom (section 398) and in such cases the copy must be verified to be a correct copy either by the company or by the person who has delivered or sent the copy to the Registrar The verification must be signed by or on behalf of the person giving the verification and where this is given by a body corporate it must be signed by an officer of that body A verified copy will also be accepted where section 398(4) applies (property situate in Scotland or Northern Ireland) and Form No 398 is submitted
- 2 A description of the instrument, eg "Trust Deed", "Debenture", "Mortgage", or "Legal charge", etc, as the case may be, should be given
- 3 In this section there should be inserted the amount or rate per cent of the commission, allowance or discount (if any) paid or made either directly or indirectly by the company to any person in consideration of his,
  - (a) subscribing or agreeing to subscribe, whether absolutely or conditionally, or
  - (b) procuring or agreeing to procure subscriptions, whether absolute or conditional,for any of the debentures included in this return The rate of interest payable under the terms of the debentures should not be entered
- 4 If any of the spaces in this form provide insufficient space the particulars must be entered on the prescribed continuation sheet
- 5 A fee of £13 is payable to Companies House in respect of each register entry for a mortgage or charge Cheques and Postal Orders must be made payable to **Companies House**.
- 6 The address of the Registrar of Companies is Companies House, Crown Way, Cardiff CF14 3UZ

**SHORT PARTICULARS OF ALL  
THE PROPERTY MORTGAGED OR CHARGED**

**1. CREATION OF SECURITY**

**1 1 Land**

Subject to Clause 3 16 (*Excluded Assets*) of the Debenture, each Chargor charged

1 1 1 by way of legal mortgage its interest in the Land referred to opposite its name in Schedule 1 (*Land charged by way of legal mortgage*) of the Debenture, and

1 1 2 by way of fixed charge any right, title or interest which it has now or may subsequently acquire to or in any other Land

**1 2 Shares**

Each Chargor charged by way of fixed charge

1 2 1 all Shares, and

1 2 2 all related Distribution Rights

**1 3 Investments**

Each Chargor charged by way of fixed charge all Investments and all related Distribution Rights, including those held for it by any nominee

**1 4 Plant and Machinery**

Each Chargor charged by way of fixed charge all Plant and Machinery in so far as it is not charged by way of legal mortgage under Clause 3 1 (*Land*) of the Debenture

**1 5 Book Debts**

Each Chargor charged by way of fixed charge

1 5 1 all Book Debts, and

1 5 2 all benefits, rights and Security held in respect of, or to secure the payment of, the Book Debts

**1 6 Non Trading Debts**

Each Chargor charged by way of fixed charge

1 6 1 all Non Trading Debts, and

1 6 2 all benefits, rights and Security held in respect of, or to secure the payment of, the Non Trading Debts

**1 7 Accounts**

Each Chargor charged by way of fixed charge all amounts standing to the credit of

1 7 1 each Account, and

1 7 2 any other bank account in its name or to which it is beneficially entitled or in which it has an interest

**1 8 Intellectual Property Rights**

Each Chargor charged by way of fixed charge all Intellectual Property Rights

1 9 **Goodwill**

Each Chargor charged by way of fixed charge its goodwill

1 10 **Uncalled capital**

Each Chargor charged by way of fixed charge its uncalled capital

1 11 **Authorisations**

Each Chargor charged by way of fixed charge the benefit of all Authorisations held by it in relation to any Security Asset

1 12 **Assigned Agreements**

1 12 1 Each Chargor assigned absolutely all its rights and interests under the Assigned Agreements to which it is party to the extent that it is not prohibited from doing so under the terms of such Assigned Agreements

1 12 2 Until an Event of Default occurred, but subject to Clause 14 (*Assigned Agreements and Insurances*) of the Debenture, the relevant Chargor may continue to deal with the counterparties to the relevant Assigned Agreements

1 13 **Insurances**

1 13 1 Each Chargor assigned absolutely all its rights and interests in the Insurances

1 13 2 Until an Event of Default/ occurs, but subject to Clause 14 (*Assigned Agreements and Insurances*) of the Debenture, the Chargors may continue to deal with the counterparties to the Insurances

1 14 **Contractual rights**

Subject to Clause 3 16 (*Excluded Assets*) of the Debenture, each Chargor charged by way of fixed charge all its rights under any agreement to which it is a party other than the Assigned Agreements to the extent they are effectively assigned by Clause 3 12 (*Assigned Agreements*) of the Debenture

1 15 **Other assets**

1 15 1 Each Chargor charged by way of first floating charge with full title guarantee all its rights to and title and interest from time to time in the whole of its business, undertaking and assets, whatsoever and wheresoever, present and future, other than any business, undertaking and assets validly and effectively charged by way of fixed charge or assigned (whether at law or in equity) under this clause

1 15 2 The floating charge created was a qualifying floating charge for the purpose of paragraph 14 of Schedule B1 to the Insolvency Act 1986

1 15 3 Without prejudice to Clause 3 15 2 of the Debenture the Security Trustee reserved its rights to appoint an administrative receiver on and following an Enforcement Event in accordance with sections 72B to H (inclusive) of the Insolvency Act 1986

1 16 **Excluded Assets**

Notwithstanding the provisions of Clauses 3 1 (*Land*) to 3 15 (*Other assets*) of the Debenture but subject to the provisions of Clause 3 17 (*Trust*) of the Debenture, Security should only be created under this Debenture over or in respect of

1 16 1 any interest of a Chargor in any Land under a lease (or a contract for a lease) to the extent such lease (or contract for a lease) prohibits or restricts either absolutely or subject to any condition (including the consent of any third party)

the relevant Chargor from creating any Security over its interest in such Land (the "**Excluded Land**"), or

- 1 16 2 any right of a Chargor under any agreement which prohibits or restricts either absolutely or subject to any conditions (including the consent of any third party) the relevant Chargor from charging such right (the "**Excluded Agreement**"),

to the extent such Security was not prohibited or restricted under the relevant lease or agreement,, (each such interest, right or asset being an "**Excluded Asset**") until such interest, right or asset is mortgaged, charged or assigned (as appropriate) in accordance with Clause 3 17 4 (*Trust*) of the Debenture at which time it shall no longer be an Excluded Asset

1 17 **Trust**

- 1 17 1 Notwithstanding the provisions of Clause 3 16 (*Excluded Assets*) of the Debenture, and subject to Clause 3 17 2 of the Debenture, if or to the extent that for any reason the assignment or charging of any Security Asset (other than any right under an Assigned Agreement which is effectively subject to a fixed charge pursuant to Clause 3 14 (*Contractual rights*) of the Debenture) was prohibited, the relevant Chargor shall hold it on trust for the Security Trustee

- 1 17 2 If

- (A) the reason referred to in Clause 3 17 1 of the Debenture, or  
(B) the reason that an Assigned Agreement was not effectively assigned pursuant to Clause 3 12 (*Assigned Agreements*) of the Debenture,

was that (i) a consent or waiver must be obtained, and/or (ii) one or more conditions must be satisfied, then the relevant Chargor undertook

- (1) within 5 Business Days of the date of this Debenture or, if the Security Asset is acquired after the date of this Debenture, within 5 Business Days of the date of acquisition, subject to Clause 3 17 3 of the Debenture  
(a) to apply for the consent or waiver, and/or  
(b) to use all reasonable endeavours to satisfy the relevant conditions or obtain a waiver of the same, and  
(2) to keep the Security Trustee informed of its progress in obtaining such consent or waiver or fulfilling such condition (as the case may be), and  
(3) forthwith upon receipt of such consent or waiver, to provide the Security Trustee with a copy

- 1 17 3 Where the consent or waiver was not to be unreasonably withheld, the Chargor should use all reasonable endeavours to obtain it as soon as possible

- 1 17 4 On the waiver or consent being obtained, or the condition being satisfied, the Security Asset should be mortgaged, charged or assigned (as appropriate) under Clause 3 of the Debenture and the trust in respect of that Security Asset referred to in Clause 3 17 1 of the Debenture should terminate. If required by the Security Trustee at any time following receipt of that waiver or consent or the fulfilment of the condition, and without prejudice to Clause 22 2 (*Further Action*) of the Debenture, the relevant Chargor would execute a document granting and/or

perfecting Security over that Security Asset in such form as the Security Trustee shall require

## 2. **NEGATIVE COVENANTS**

The covenants in this Clause 2 remained in force from the date of this Debenture until the expiry of the Security Period

### 2.1 **Disposals**

Save as expressly permitted by the Facilities Agreement, no Chargor may enter into a single transaction or a series of transactions (whether related or not), whether voluntary or involuntary and whether at the same time or over a period of time, to sell, lease, transfer, loan (and, in the case of the Book Debts, factor or discount them), nor otherwise dispose of any Security Asset, nor enter into an agreement to make any such disposal

### 2.2 **Negative pledge**

Save as expressly permitted by the Facilities Agreement, no Chargor may create or permit to subsist any Security over any Security Asset except for Permitted Security

## 3. **DEFINITIONS**

**"Affiliate"** has the same meaning as defined in the Facilities Agreement

**"Account"** means a Cash Collateral Account, a Current Account, a Holding Account or a Mandatory Prepayment Account and each other account of a Chargor

**"Acquisition Agreement"** means the agreement dated on or about the date of this Agreement relating to the sale and purchase of the Target Shares in the agreed form and made between the Parent and the Vendors

**"Acquisition Documents"** means the Acquisition Agreement and the Disclosure Letter, and any other document designated as an Acquisition Document by the Agent and the Parent

**"Act"** means the Law of Property Act 1925

**"Additional Borrower"** means a company which becomes a Borrower in accordance with Clause 29 (*Changes to the Obligors*) of the Facilities Agreement

**"Additional Facility"** means any ancillary facility made available by an Additional Lender in accordance with Clause 8 (*Ancillary Facilities and Additional Facilities*) of the Facilities Agreement

**"Additional Guarantor"** means a company which becomes a Guarantor in accordance with Clause 29 (*Changes to the Obligors*) of the Facilities Agreement

**"Additional Lender"** means each Lender (or Affiliate of a Lender) which makes available an Additional Facility in accordance with Clause 8 (*Ancillary Facilities and Additional Facilities*) of the Facilities Agreement

**"Agent"** means Lloyds TSB Bank plc

**"Ancillary Facility"** means any ancillary facility made available by an Ancillary Lender in accordance with Clause 8 (*Ancillary and Additional Facilities*) of the Facilities Agreement

**"Ancillary Lender"** means each Lender (or Affiliate of a Lender) which makes available an Ancillary Facility in accordance with Clause 8 (*Ancillary and Additional Facilities*) of the Facilities Agreement

**"Assigned Agreements"** means the Acquisition Documents, the Reliance Rights, the Hedging Agreements and the Intra-Group Loan Agreements

**"Authorisation"** means an authorisation, consent, permission, approval, resolution, licence, exemption, filing, notarisation or registration

**"Book Debts"** means, in relation to a Chargor, all its book debts arising in the ordinary course of trading

**"Business Day"** means a day (other than a Saturday or Sunday) on which banks are open for general business in London and

(A) (in relation to any date for payment or purchase of a currency other than euro) the principal financial centre of the country of that currency, or

(B) (in relation to any date for payment or purchase of euro) any TARGET Day

**"Cash Collateral Account"** means an interest-bearing blocked deposit account (bearing interest at normal commercial rates for deposit accounts for corporate customers), opened in the name of any relevant Obligor with the Agent (or such other Secured Party as the relevant provisions of any Finance Document so provide) on terms that it (and amounts credited to it) is subject to first-ranking Security in favour of the Security Trustee

**"Company"** means Gaucha Acquisitions Limited (company number 05869370)

**"Company Intra-Group Loan Agreement"** means the loan agreement in the agreed form between the Company and certain other Group Companies pursuant to which those Group Companies have or will make available a facility to the Company up to a maximum aggregate principal amount equal to the aggregate principal amount of (plus interest on) the Facilities or such other amount as is approved by the Agent

**"Chargor"** means each Original Chargor and each company which grants Security over its assets in favour of the Security Trustee by executing a Security Accession Deed in accordance with Clause 27 (*Additional Chargors*) of the Debenture

**"Current Account"** means each account of the Chargors which is identified by the Chargors to the Security Trustee from time to time

**"Default"** means an Event of Default or any event or circumstance specified in Clause 27 (*Events of Default*) of the Facilities Agreement which would (with the expiry of a grace period, the giving of notice, the making of any determination or the satisfaction of any condition under the Finance Documents or any combination of any of the foregoing) be an Event of Default of the Facilities Agreement

**"Disclosure Letter"** has the meaning given to that term in the Acquisition Agreement

**"Distribution Rights"** means all allotments, accretions, offers, options, rights, bonuses, benefits and advantages, whether by way of conversion, redemption, preference, option or otherwise which at any time accrue to or are offered or arise in respect of any Investments or Shares, and includes all dividends, interest and other distributions paid or payable on or in respect of them

**"Dutchco"** means Lundi Finance BV

**"Event of Default"** means any event or circumstance specified as such in Clause 27 (*Events of Default*) of the Facilities Agreement

**"Facilities Agreement"** means the Facilities Agreement dated 14 December 2007 between, among others, the Parent, the Security Trustee and the other Finance Parties (as defined in that agreement)

**"Facility"** means a Term Facility or the Revolving Facility

**"Facility A"** has the same meaning as defined in the Facilities Agreement

**"Facility B"** has the same meaning as defined in the Facilities Agreement

**"Facility C"** has the same meaning as defined in the Facilities Agreement

**"Facility D"** has the same meaning as defined in the Facilities Agreement

**"Finance Documents"** means each of the documents and agreements described as "Finance Documents" under the terms of the Facilities Agreement

**"Finance Parties"** means each of the parties described as "Finance Parties" under the terms of the Facilities Agreement.

**"Financial Indebtedness"** has the same meaning as defined in the Facilities Agreement

**"Group"** means the Parent, Target and each of their respective Subsidiaries for the time being and Group Company means any one of them

**"Guarantor"** means the Parent or an Additional Guarantor, unless it has ceased to be a Guarantor in accordance with Clause 29 (*Changes to the Obligors*) of the Facilities Agreement

**"Hedge Counterparty"** means a Lender or an Affiliate of a Lender which has become a party to the Intercreditor Agreement as a Hedge Counterparty in accordance with the provisions of the Intercreditor Agreement

**"Hedging Agreement"** means any master agreement, confirmation, schedule or other agreement entered into or to be entered into by the Company and a Hedge Counterparty for the purpose of hedging interest rate liabilities and/or any exchange rate fluctuations in relation to the Term Facilities in accordance with the Hedging Letter delivered to the Agent under Clause 4.1 (*Initial conditions precedent*) of the Facilities Agreement

**"Holding Account"** means an account

- (A) held in England by a Group Company with the Agent or Security Trustee,
- (B) identified in a letter between the Parent and the Agent as a Holding Account, and
- (C) subject to Security in favour of the Security Trustee which Security is in form and substance satisfactory to the Security Trustee,

(as the same may be redesignated, substituted or replaced from time to time)

**"Insurance"** means, in relation to a Chargor, each contract or policy of insurance to which that Chargor is a party or in which it has an interest, other than any policy which is taken out in respect of third party liabilities

**"Intercreditor Agreement"** means the intercreditor agreement dated 14 December 2007 and made between, among others, the Parent, the Company, the Investors and the Security Trustee

**"Intellectual Property Rights"** means

- (A) any patents, petty patents, trade marks, service marks, trade names, domain names, rights in designs, software rights, utility models, database rights, copyrights, rights in the nature of copyright, and all other forms of intellectual or industrial property,



(B) any rights in or to inventions, formulae, confidential or secret processes and information, know-how and similar rights, goodwill and any other rights and assets of a similar nature, and

(C) any other right to use, or application to register or protect, any of the items listed in paragraphs (A) or (B) above,

arising or subsisting in any jurisdiction and whether registered or not

**"Intra-Group Loan Agreement"** means an agreement under which a Group Company has or will make available a credit facility or a loan available to another Group Company (and includes the Company Intra-Group Loan Agreement)

**"Investments"** means all or any stocks, shares (other than any Shares), bonds and securities of any kind (marketable or otherwise), negotiable instruments and warrants and any other financial instruments (as defined in the Regulations)

**"Land"** has the same meaning as it has in section 205(1) of the Act

**"Lender"** means

(A) any Original Lender, and

(B) any bank, financial institution, trust, fund or other entity which has become a Party in accordance with Clause 28 (*Changes to the Lenders*) of the Facilities Agreement,

which in each case has not ceased to be a Party in accordance with the terms of the Facilities Agreement

**"Letter of Credit"** has the same meaning as defined in the Facilities Agreement

**"Loan"** has the same meaning as defined in the Facilities Agreement

**"Loan Note Documents"** has the same meaning as defined in the Facilities Agreement

**"Mandatory Prepayment Account"** means an interest-bearing account

(A) held in England by any Additional Borrower with the Agent or Security Trustee,

(B) identified in a letter between the Parent and the Agent as a Mandatory Prepayment Account,

(C) subject to Security in favour of the Security Trustee which Security is in form and substance satisfactory to the Agent and Security Trustee, and

(D) from which no withdrawals may be made by any Group Companies except as contemplated by the Facilities Agreement,

(as the same may be redesignated, substituted or replaced from time to time)

**"Non Trading Debts"** means all debts and monies due or payable to a Chargor except for Book Debts and those referred to in Clause 37 (*Accounts held with Finance Parties*) of the Debenture

**"Obligor"** means any Additional Borrower or a Guarantor

**"Original Lender"** means The Royal Bank of Scotland plc and Lloyds TSB Bank plc

**"Parent"** means **Gaucha Holdings Limited**, (company registered number 06451551)

**"Party"** has the same meaning as defined in the Facilities Agreement

**"Permitted Disposal"** means any sale, lease, licence, transfer, loan or other disposal which, except in the case of paragraph (B), is on arm's length terms

- (A) of trading stock or cash made by any Group Company in the ordinary course of the day-to-day trading activities of the disposing entity,
- (B) of any asset by a Group Company (the "**Disposing Company**") to another Group Company (the "**Acquiring Company**"), but if
  - (1) the Disposing Company is an Obligor, the Acquiring Company must also be an Obligor, other than Dutchco,
  - (2) the Disposing Company had given Security over the asset, the Acquiring Company must give equivalent Security over that asset, and
  - (3) the Disposing Company is a Guarantor, the Acquiring Company must be a Guarantor guaranteeing at all times an amount no less than that guaranteed by the Disposing Company,
- (C) provided that no Default is continuing, of assets (other than shares, businesses, Real Property or Intellectual Property Rights, which are the subject of a fixed charge under the Transaction Security Documents,) in exchange for other assets comparable or superior as to type, value or quality,
- (D) of obsolete or redundant vehicles, plant and equipment for cash,
- (E) provided that no Default is continuing, constituted by a licence of Intellectual Property Rights permitted by Clause **Error! Reference source not found.** (*Intellectual Property*) of the Facilities Agreement,
- (F) arising as a result of any Permitted Security,
- (G) of assets (other than shares) for cash where the higher of the book value and net consideration receivable (when aggregated with the higher of the book value and net consideration receivable for any other sale, lease, licence, transfer or other disposal not allowed under the preceding paragraphs) does not exceed £100,000 (or its equivalent in other currencies) in total during the term of the Facilities Agreement

**"Permitted Financial Indebtedness"** means Financial Indebtedness

- (A) arising under any of the Shareholders' Agreement, the Loan Note Documents and the Company Intra-Group Loan Agreement, in each case as in force on the date of the Facilities Agreement and subject always to the terms of the Facilities Agreement and the Intercreditor Agreement,
- (B) to the extent covered by a Letter of Credit or other letter of credit, guarantee or indemnity issued under an Ancillary Facility or an Additional Facility,
- (C) arising under a foreign exchange transaction for spot or forward delivery entered into in connection with protection against fluctuation in currency rates where that foreign exchange exposure arises in the ordinary course of day-to-day trading activities or in respect of Utilisations made in euro, but not a foreign exchange transaction for investment or speculative purposes,
- (D) arising under a Permitted Loan or a Permitted Guarantee,
- (E) under finance or capital leases of vehicles, plant, equipment or computers, provided that the aggregate capital value of all such items so leased under outstanding leases by Group Companies does not exceed £500,000 (or its equivalent in other currencies) at any time,
- (F) under any arrangement pursuant to which any asset sold or otherwise disposed of by any Group Company is or may be leased to or re-acquired by any Group

Company where such arrangement was entered into in the ordinary course of day-to-day trading activities, and

- (G) not permitted by the preceding paragraphs and the outstanding principal amount of which does not exceed £100,000 (or its equivalent in other currencies) in aggregate for the Group at any time

**"Permitted Guarantee" means**

- (A) the endorsement of negotiable instruments in the ordinary course of day-to-day trading activities,
- (B) any performance or similar bond guaranteeing performance by a Group Company under any contract entered into in the ordinary course of day-to-day trading activities,
- (C) any guarantee which constitutes Permitted Financial Indebtedness,
- (D) any guarantee given in respect of the netting or set-off arrangements permitted pursuant to paragraph (B) of the definition of "Permitted Security",
- (E) any guarantee which is entered into in the ordinary course of business, and
- (F) the guarantee granted by The Royal Bank of Scotland plc in respect of the property at Richmond, in an amount of £150,000

**"Permitted Loan" has the same meaning as defined in the Facilities Agreement**

**"Permitted Security" means**

- (A) any lien arising by operation of law and in the ordinary course of its day-to-day trading activities, and not as a result of any default or omission by any Group Company, in respect of any obligation which is less than 90 days overdue or which is being contested in good faith and by appropriate means,
- (B) any netting or set-off arrangement entered into by any Group Company with an Ancillary Lender or an Additional Lender or in the ordinary course of its banking arrangements for the purpose of netting debit and credit balances of Group Companies (including an Ancillary Facility or an Additional Facility which is an overdraft comprising more than one account) but only so long as (a) such arrangement does not permit credit balances of Obligors to be netted or set off against debit balances of Group Companies which are not Obligors and (b) such arrangement does not give rise to other Security over the assets of Obligors in support of liabilities of Group Companies which are not Obligors,
- (C) any Security arising under any retention of title, hire purchase or conditional sale arrangement or arrangements having similar effect in respect of goods supplied to a Group Company in the ordinary course of its day-to-day trading activities and on the supplier's standard or usual terms and not arising as a result of any default or omission by any Group Company,
- (D) any Quasi-Security arising as a result of a disposal which is a Permitted Disposal,
- (E) any Security or Quasi-Security arising as a consequence of any finance lease permitted pursuant to paragraph (F) of the definition of "Permitted Financial Indebtedness",
- (F) any Security entered into pursuant to any Finance Document,

- (G) any Security granted over cash balances at the date of this Agreement in favour of The Royal Bank of Scotland plc in respect of the guarantee, details of which are set out in paragraph (F) of the definition of "Permitted Guarantee",
- (H) any Security granted by Dutchco in respect of any bank account held in The Netherlands, in favour of the relevant bank with which the account is held, and which arises in the ordinary course of its banking arrangements and under the standard terms of the bank with which that account is held, and
- (I) any Security securing indebtedness the outstanding principal amount of which (when aggregated with the outstanding principal amount of any other indebtedness which has the benefit of Security given by any Group Company other than any permitted under paragraphs (A) to (H) above) does not exceed £50,000 (or its equivalent in other currencies)

**"Plant and Machinery"** means, in relation to a Chargor, all its fixed and moveable plant, machinery, tools, vehicles, computers and office and other equipment and the benefit of all related Authorisations, agreements and warranties

**"Quasi-Security"** means any transaction described in Clause 26 15 2 (*Negative pledge*) of the Facilities Agreement

**"Real Property"** means

- (A) any freehold, leasehold or immovable property, and
- (B) any buildings, fixtures, fittings, fixed plant or machinery from time to time situated on or forming part of that freehold, leasehold or immovable property

**"Regulations"** means the Financial Collateral Arrangements (No 2) Regulations 2003 (S I 2003/3226) or equivalent legislation in any applicable jurisdiction bringing into effect Directive 2002/47/EC on financial collateral arrangements, and **"Regulation"** means any of them

**"Reliance Rights"** means, in respect of a Chargor, the rights of that Chargor as against the provider of a Report (pursuant to any letter of engagement, any letter of reliance or any other arrangement between the provider of the Report and the relevant Chargor) in respect of that Report

**"Report"** has the same meaning as defined in the Facilities Agreement

**"Revolving Facility"** means the revolving credit facility described in Clause 2 1 1(E) (*The Facilities*) of the Facilities Agreement

**"Secured Party"** has the same meaning as defined in the Facilities Agreement

**"Security"** means a mortgage, charge, pledge, lien, assignment by way of security, retention of title provision, trust or flawed asset arrangement (for the purpose of, or which has the effect of, granting security) or other security interest securing any obligation of any person or any other agreement or arrangement in any jurisdiction having a similar effect

**"Security Accession Deed"** means a deed executed by a Group Company substantially in the form set out in Schedule 9 (*Form of Security Accession Deed*) of the Debenture, with those amendments which the Security Trustee may approve or reasonably require

**"Security Assets"** means, in relation to a Chargor, all of its assets and rights which are the subject of any Security created or intended to be created by this Debenture (including, for the avoidance of any doubt and without limitation, each Excluded Asset)

**"Security Period"** means the period starting on the date of the Facilities Agreement and ending on the date on which the Agent is satisfied that all of the liabilities of the Obligor

under each Finance Document are irrevocably discharged in full and no Finance Party has any commitment or liability, whether present or future, actual or contingent, in relation to the Facilities

**"Shares"** means all shares held by a Chargor in its Subsidiaries, including (without limitation) those shares listed in Schedule 3 (*Shares*) of the Debenture

**"Shareholders' Agreement"** has the same meaning as defined in the Facilities Agreement

**"TARGET"** means Trans-European Automated Real-time Gross Settlement Express Transfer payment, system

**"TARGET Day"** means any day on which TARGET is open for the settlement of payments in euro

**"Target Shares"** has the same meaning as defined in the Facilities Agreement

**"Term Facility"** means Facility A, Facility B, Facility C or Facility D

**"Transaction Security Documents"** has the same meaning as defined in the Facilities Agreement

**"Utilisation"** means a Loan or a Letter of Credit and, where appropriate, any other utilisation of an Ancillary Facility or an Additional Facility

**"Vendor"** means the persons whose names and addresses are set out in Schedule 1 (*The Original Parties*) of the Acquisition Agreement

FILE COPY



## CERTIFICATE OF THE REGISTRATION OF A MORTGAGE OR CHARGE

Pursuant to section 401(2) of the Companies Act 1985

COMPANY No 05869370

THE REGISTRAR OF COMPANIES FOR ENGLAND AND WALES HEREBY CERTIFIES THAT A DEBENTURE DATED THE 17th DECEMBER 2007 AND CREATED BY GAUCHO ACQUISITIONS LIMITED FOR SECURING ALL MONIES DUE OR TO BECOME DUE FROM THE OBLIGORS TO THE FINANCE PARTIES UNDER THE TERMS OF THE AFOREMENTIONED INSTRUMENT CREATING OR EVIDENCING THE CHARGE WAS REGISTERED PURSUANT TO CHAPTER 1 PART XII OF THE COMPANIES ACT 1985 ON THE 19th DECEMBER 2007

GIVEN AT COMPANIES HOUSE, CARDIFF THE 27th DECEMBER 2007

A handwritten signature in black ink, appearing to be 'R. J. Jones'.



*Companies House*

— for the record —



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES