Companies House

MR01(ef)

Registration of a Charge

Company name: **ZIP WORLD FFOREST LTD**

Company number: **05888387**

Received for Electronic Filing: **14/04/2021**

XA2FB241

Details of Charge

Date of creation: **09/04/2021**

Charge code: **0588 8387 0006**

Persons entitled: **THE COUNTY COUNCIL OF THE CITY AND COUNTY OF CARDIFF**

Brief description:

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: **PINSENT MASONS LLP**

CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 5888387

Charge code: 0588 8387 0006

The Registrar of Companies for England and Wales hereby certifies that a charge dated 9th April 2021 and created by ZIP WORLD FFOREST LTD was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 14th April 2021 .

Given at Companies House, Cardiff on 15th April 2021

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

Companies House

THE OFFICIAL SEAL OF THE REGISTRAR OF COMPANIES

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EXECUTION VERSION

DATED 9 APRIL **2021**

(1) ZWPV LIMITED
(AS CHARGOR)

(2) THE COUNTY COUNCIL OF THE CITY AND COUNTY OF CARDIFF
(AS LENDER)

DEBENTURE

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

Pinsent Masons

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THIS DEBENTURE is made on 9 APRIL 2021

BETWEEN:-

(1) **ZWPV LIMITED** registered with company number 11639745 and whose registered office is at Zip World Base Camp, Denbigh Street, Llanrwst, Wales LL26 0LL;

(2) **ZIP WORLD GROUP HOLDINGS LIMITED** (No 11105554) whose registered office is at Zip World Base Camp, Denbigh Street, Llanrwst, Wales LL26 0LL;

(3) **ZIP.WORLD LIMITED** (No 07777872) whose registered office is at Zip World Base Camp, Denbigh Street, Llanrwst, Wales LL26 0LL;

(4) **ZIP WORLD FFOREST LIMITED** (No 05888387) whose registered office is at Zip World Base Camp, Denbigh Street, Llanrwst, Wales LL26 0LL.; and

(each a "**Chargor**" and together the "**Chargors**")) and

(5) **THE COUNTY COUNCIL OF THE CITY AND COUNTY OF CARDIFF** (the "**Lender**").

THIS DEED WITNESSES as follows:-

1. **INTERPRETATION**

1.1 **Definitions**

In this Debenture:-

"**Account**"	means any account opened or maintained by the Chargors at any bank or financial institution
"Assigned Contracts"	means:- (a) the purchase, delivery and installation contract between (1) Joseph Wiegand BmbH & Co. KG and (2) Zip World Ltd dated 11 September 2020 (the "**Purchase, Delivery and Installation Contract**"); and (b) NEC3 Engineering and Construction contract between (1) Zip World Ltd and (2) Walters UK Limited dated 14 October 2020 (the "**Zip World Tower Contract**").
"**Charged Property**"	means all the assets and undertaking of the Chargors which from time to time are, or purport to be, the subject of the security created in favour of the Lender by or pursuant to this Debenture
"**Enforcement Action**"	means:- (a) the acceleration of any Secured Liabilities or any declaration that any Secured Liabilities are prematurely due and payable or payable on demand (b) the taking of any steps to enforce or require the enforcement of this Debenture (including the crystallisation of any floating charge) (c) the making of any demand against the Chargor in relation to any guarantee, indemnity or other

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assurance against loss in respect of any Secured Liabilities

(d) the exercise of any right of set-off against a Chargor in respect of any Secured Liabilities excluding any right of set off under a netting arrangement with a Chargor's clearing bank

(e) the suing for, commencing or joining of any legal or arbitration proceedings against a Chargor to recover any Secured Liabilities or

(f) the petitioning, applying or voting for, or the taking of any steps which may lead to any administration, winding-up, insolvency or dissolution of or in relation to a Chargor

"**Enforcement Date**"	means the date on which the Lender first takes Enforcement Action
"Facility Agreement"	means the facility agreement entered on the date of this Deed between the Chargors and the Lender
"**Finance Documents**"	shall have the meaning given to that term in the Facility Agreement
"**Fixed Plant and Equipment**"	means all plant, machinery or equipment of the Chargors of any kind which does not for any reason constitute a Fixture, but is now or at any time directly or indirectly attached by any means and for any purpose to any land or building, whether or not it is removable or intended to form part of the land or building
"**Fixtures**"	means all things of any kind now or at any time affixed to the Land for any purpose, including, without limitation, trade and tenants fixtures
"**Group**"	means the Chargors and each of their subsidiaries
"**Insurances**"	means any policy of insurance or assurance in which a Chargor has an interest and all claims and rebates of premium under any such policy
"**Intellectual Property**"	means any of the following in which a Chargor has an interest:-

(a) any registered intellectual property right in any territory or jurisdiction, including, without limitation, patents, trade marks, service marks, registered designs, and any similar right in any territory or jurisdiction and any applications or right to apply for any of the above

(b) any invention, copyright, design right or performance right

(c) any trade secrets, know-how and confidential information and

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(d) the benefit of any agreement or licence for the use of any such right

"Intercreditor Deed"	means the intercreditor deed dated on or around the date of this Deed between, amongst others, HSBC Bank plc as Senior Agent, the companies listed therein as debtors and intra-group lenders, the institutions and persons listed therein as subordinated creditors, LDC (Managers) Limited as Loan Note Security Trustee and the Lender
"**Land**"	means any estate, right or interest in or over land, whether legal or equitable, and wherever the land is situated including, without limitation, any buildings and Fixtures on the Land, and the benefit of any covenants or rights owed to any person or enforceable by him by virtue of the ownership possession or occupation of land but for these purposes "**Land**" excludes heritable property situated in Scotland
"**Loose Plant and Equipment**"	means, in relation to the Chargors, all plant, machinery, equipment and motor vehicles now or at any time owned by the Chargors as a capital asset which is not Fixed Plant and Equipment
"**LPA**"	means the Law of Property Act 1925
"**Monetary Claims**"	means all book and other debts and monetary claims now or in the future owing to the Chargors (whether alone or jointly with any other person), whenever payable and whether liquidated or unliquidated, certain or contingent including, without limitation, credit balances on any Account, and together with all cheques, bills of exchange, negotiable instruments, credits and securities at any time given in relation to, or to secure payment of, any such debt
"**Notice of Charge**"	means a notice of charge in such form as may be specified by the Lender
"**Receiver**"	means any receiver, receiver and manager or administrative receiver of the whole or any part of the Charged Property
"**Related Rights**"	means in relation to any Charged Property

(a) the proceeds of sale of any part of that Charged Property

(b) all rights under any licence, agreement for sale or agreement for lease in respect of that Charged Property

(c) all rights, benefits, claims, contracts, warranties, remedies, security, indemnities or covenants for title in respect of that Charged Property and

(d) any moneys and proceeds paid or payable in

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respect of that Charged Property

"**Secured Liabilities**"	means all present and future obligations and liabilities expressed to be due, owing or payable by the Chargors to the Lender under the Finance Documents (whether present or future, actual or contingent and whether incurred solely or jointly (or jointly and severally) with any other person) including without limitation interest, commission, costs, charges and expenses charged by the Lender at rates agreed between it and the Chargors
"**Securities**"	means all the right, title and interest of the Chargors, now or in the future, in any:-
	(a) stocks, shares, bonds, debentures, loan stocks, or other securities issued by any person
	(b) warrants, options or other rights to subscribe, purchase or otherwise acquire any stocks, shares, bonds, debentures, loan stocks or other securities or investments issued by any person and
	(c) units or other interests in any unit trust or collective investment scheme
"**Security**"	means a mortgage, charge, pledge, lien or any other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect
"Senior Discharge Date"	has the meaning given to that term in the Intercreditor Deed

1.2 **Incorporation of terms**

Unless the context otherwise requires or unless defined in this Debenture, all words and expressions defined or whose interpretation is provided for in the Facility Agreement shall have the same meanings in this Debenture.

1.3 **Interpretation**

In this Debenture, unless the context otherwise requires:-

1.3.1 words importing the singular shall include the plural and vice versa and reference to any gender includes the other gender;

1.3.2 the term "**assets**" includes all property, rights and revenues whatsoever, and wheresoever, present and future;

1.3.3 references to a "**guarantee**" include an indemnity or any other form of surety;

1.3.4 a Default or an Event of Default is "**continuing**" if it has not been waived;

1.3.5 all references to documents include all variations and replacements of such documents and supplements to such documents;

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1.3.6 all references to a party include references to its personal representatives, permitted assigns and transferees and its successors in title;

1.3.7 references to persons include bodies corporate, unincorporated associations and partnerships; and

1.3.8 words and phrases defined in the Companies Act 2006 have the same meanings in this Debenture but the word "**company**" includes any body corporate.

1.4 **Statutes and headings**

In this Debenture:-

1.4.1 any reference to any statute or statutory instrument includes any enactment replacing or amending it or any instrument, order or regulation made under it and also includes any past statutory provisions (as from time to time modified or re-enacted) which such provision has directly or indirectly replaced; and

1.4.2 headings are for reference purposes only and shall not affect the construction of anything in this Debenture.

1.5 **Clauses and Schedules**

In this Debenture references to "**Clauses**" are to the clauses or sub-clauses of this Debenture and references to the "**Schedule**" are to the schedule to this Debenture. The Schedule shall be treated as an integral part of this Debenture and references to this Debenture shall include the Schedule.

1.6 **Intercreditor Deed**

This Debenture is subject to the terms of the Intercreditor Deed. To the extent that the terms of this Debenture conflict with the terms of the Intercreditor Deed, the Intercreditor Deed shall prevail.

1.7 **Effect as a deed**

This Deed shall take effect as a deed even if it is executed under hand on behalf of the Lender.

2. **COVENANT TO PAY**

2.1 **Secured Liabilities**

Each Chargor covenants that it will on demand of the Lender pay and discharge any or all of the Secured Liabilities when due for payment and discharge in accordance with the terms of the Finance Documents.

2.2 **Interest**

Each Chargor covenants to pay interest to the Lender upon any sum demanded in accordance with Clause 2.1 (*Secured Liabilities*) until payment (both before and after any judgment) at two per cent. above the rate applicable to that sum immediately before demand.

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3. CHARGES

3.1 Mortgages and Fixed Charges

As a continuing security for payment of the Secured Liabilities, each Chargor with full title guarantee charges to the Lender all its right, title and interest from time to time in each of the following assets:-

3.1.1 by way of first legal mortgage all Land which is described in Schedule 1 (if any) and all other Land now vested in any Chargor;

3.1.2 by way of first fixed charge all other Land now vested in any Chargor (to the extent not effectively charged by Clause 3.1.1) and all Land acquired by any Chargor after the date of this Debenture;

3.1.3 by way of first fixed charge:-

(a) the Securities;

(b) the Intellectual Property;

(c) the Monetary Claims;

(d) the Fixed Plant and Equipment;

(e) the Loose Plant and Equipment;

(f) the Accounts;

(g) the Insurances;

(h) the Related Rights under or in connection with the Securities, the Accounts, the Insurances, the Intellectual Property, the Monetary Claims, the Fixed Plant and Equipment and the Loose Plant and Equipment; and

(i) its present and future goodwill and uncalled capital.

3.2 Assignment

Each Chargor assigns absolutely, subject to a proviso for reassignment on the irrevocable discharge in full of the Secured Liabilities, all its right, title and interest from time to time in:

3.2.1 the Assigned Contracts to which it is a party; and

3.2.2 all Related Rights under or in connection with the Assigned Contracts to which it is a party.

3.3 Floating Charge

As continuing security for payment of the Secured Liabilities, each Chargor with full title guarantee charges by way of first floating charge the whole of it's undertaking and assets, present and future and wherever situated, which are not for any reason effectively charged (whether in law or equity) by way of fixed security by this Debenture, including, without limitation, any heritable property situated in Scotland.

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3.4 **Trust**

If or to the extent that for any reason the assignment or charging of any Charged Property is prohibited, the relevant Chargor shall hold it on trust for the Lender.

3.5 **Qualifying floating charge**

Paragraph 14 of Schedule B1 to the Insolvency Act 1986 will apply to any floating charge created by this Debenture.

4. **CRYSTALLISATION OF FLOATING CHARGE**

4.1 **Crystallisation: By Notice**

The Lender may at any time by notice in writing to any Chargor convert the floating charge created by Clause 3.3 (*Floating Charge*) with immediate effect into a fixed charge as regards any property or assets specified in the notice if:-

4.1.1 the Enforcement Date has occurred;

4.1.2 the Lender considers that any of the Charged Property may be in jeopardy or in danger of being seized or sold pursuant to any form of legal process; or

4.1.3 the Lender considers that it is necessary in order to protect the priority of the Security created by or pursuant to this Debenture.

4.2 **Crystallisation: Automatic**

The floating charge created by Clause 3.3 (*Floating Charge*) will automatically be converted (without notice) with immediate effect into a fixed charge as regards all of the undertaking and assets of that Chargor subject to the floating charge if:-

4.2.1 if that Chargor creates or attempts to create any Security (other than as permitted pursuant to the terms of the Finance Documents) over any of the Charged Property; or

4.2.2 any person levies or attempts to levy any distress, execution or other process against any of the Charged Property; or

4.2.3 any step is taken (including the presentation of a petition, the passing of a resolution or the making of an application) to appoint a liquidator, provisional liquidator, administrator or Receiver in respect of that Chargor, over all or any part of its assets, or if such person is appointed.

4.3 **Crystallisation: Moratorium where directors propose voluntary arrangement**

The floating charge created by Clause 3.3 (*Floating Charge*) may not be converted into a fixed charge solely by reason of:-

4.3.1 the obtaining of a moratorium; or

4.3.2 anything done with a view to obtaining a moratorium,

under Schedule A1 to the Insolvency Act 1986.

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5. PERFECTION OF SECURITY

5.1 Notices of Charge

The Chargors shall deliver to the Lender (or procure delivery of) Notices of Charge duly executed by, or on behalf of, the relevant Chargor:-

5.1.1 in respect of the Assigned Contracts, on the date of this Debenture;

5.1.2 in respect of the Insurances, on request by the Lender and thereafter promptly upon purchasing any further Insurance after the date of this Debenture;

5.1.3 in respect of each Account, on request by the Lender and thereafter promptly upon the opening of any further Account after the date of this Debenture; and

5.1.4 in respect of any other asset which is the subject of a charge pursuant to Clause 3.1.3, promptly upon the request of the Lender from time to time,

and in each case it is acknowledged that the Notices of Charge will be held by the Lender unless and until an Event of Default occurs and is continuing, at which time the Lender shall be authorised to serve the Notices of Charge on the relevant third party.

5.2 Delivery of Documents of Title

The Chargors shall, as soon as reasonably practicable following the Senior Discharge Date, upon the execution of this Debenture (or, if later, upon receipt or entitlement thereof), deposit with the Lender and the Lender, following the Senior Discharge Date and during the continuance of this security shall be entitled to hold all deeds, certificates and other documents of title relating to Land, the Securities and the Insurances. In the case of the Securities, the Chargors shall also deliver such stock transfer forms or other instruments of transfer (stamped and executed in blank by the relevant Chargor) as the Lender may request.

5.3 Application to the Land Registry

Each Chargor and the Lender apply to the Land Registry for the following to be entered into on the register of the title to any Land now or in the future owned by it:-

5.3.1 a restriction in the following terms:-

"No disposition of the registered estate by the proprietor of the registered estate [or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction,] is to be registered without a written consent signed by the proprietor for the time being of the charge dated [*insert date of charge*] in favour of [*insert name of Lender*] referred to in the charges register (Form P)".

5.3.2 a notice that the Lender is under an obligation to make further advances on the terms and subject to the conditions of the Finance Documents and the security created by the charge dated [*insert date*] in favour of [*insert name of Lender*] has been created for the purpose of securing such further advances.

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6. FURTHER ASSURANCE

6.1 General

Each Chargor shall, at its own expense, at any time when required by the Lender, execute and deliver to the Lender:-

6.1.1 a valid legal mortgage of any Land now or in the future owned by it;

6.1.2 a fixed charge over any interest, not capable of being charged by way of legal mortgage, in any Land now or in the future belonging to it;

6.1.3 a legal assignment or other fixed Security over all or any of the Charged Property;

6.1.4 where any of its assets are situated outside England and Wales, such fixed security (or such security in that jurisdiction most closely akin to fixed security) under the law of the place where the asset is situated as the Lender may require; and

6.1.5 a notice to any third party of any of the charges or assignments created by or pursuant to this Debenture,

in each case, in the Lender's standard form or such other form as the Lender may require.

6.2 Other acts

Without prejudice to Clause 6.1 (*General*), each Chargor shall, at its own expense, at any time when required by the Lender, do and concur in all acts or things as the Lender may deem necessary or desirable for the purpose of the creation, perfection, protection or maintenance of any of the Security intended to be created by this Debenture over all or any of the Charged Property or to facilitate the enforcement of that Security, or the exercise of any powers or discretions intended to be vested in the Lender or any Receiver by this Debenture.

7. RESTRICTIONS ON DEALING

7.1 Negative Pledge

Each Chargor undertakes that it shall not, at any time during the subsistence of this Debenture, create or permit to subsist any Security over all or any part of the Charged Property, except as expressly permitted under the terms of the Finance Documents.

7.2 Disposals

Each Chargor undertakes that it shall not (and shall not agree to) at any time during the subsistence of this Debenture, except as expressly permitted under the terms of the Finance Documents, sell, transfer, assign, lease or hire out, factor, discount, licence, lend, part with its interest in or otherwise dispose of any of the Charged Property or permit the same to occur, or agree to do any of the foregoing, provided that, until:-

7.2.1 the floating charge created by Clause 3.3 (*Floating Charge*) is converted into a fixed charge; or

7.2.2 the occurrence of the Enforcement Date,

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the Chargors may hold, enjoy and deal with, in accordance with the Finance Documents, the Charged Property which is not at the relevant time expressed to be subject to a fixed charge or mortgage.

8. SECURITIES

8.1 Securities: Before Enforcement Date

Prior to the occurrence of the Enforcement Date, the Chargors shall:-

8.1.1 pay all dividends, interest and other monies arising from the Securities into an Account; and

8.1.2 exercise all voting rights in relation to the Securities for any purpose not inconsistent with the terms of the Finance Documents.

8.2 Securities: After Enforcement Date

After the occurrence of the Enforcement Date, the Lender may at its discretion (in the name of any Chargor or otherwise and without any further consent or authority from any Chargor):-

8.2.1 exercise (or refrain from exercising) any voting rights in respect of the Securities;

8.2.2 apply all dividends, interest and other monies arising from the Securities in accordance with Clause 16 (*Application of Moneys*);

8.2.3 transfer the Securities into the name of such nominee(s) of the Lender as it shall require; and

8.2.4 exercise (or refrain from exercising) the powers and rights conferred on or exercisable by the legal or beneficial owner of the Securities,

in each case, in such manner and on such terms as the Lender may think fit and the proceeds of any such action shall form part of the Charged Property.

8.3 Securities: Payment of Calls

The Chargors shall pay when due all calls or other payments which may be or become due in respect of any of the Securities which are not fully paid (unless reasonably contested), and in any case of default by any Chargor in such payment, the Lender may, if it thinks fit, make such payment on behalf of the Chargor in which case any sums paid by the Lender shall be reimbursed by the Chargor to the Lender on demand and shall carry interest from the date of payment by the Lender until reimbursed at the rate notified to the Chargor by the Lender.

8.4 Securities: Exercise of Rights

The Chargor shall not exercise any of its respective rights and powers in relation to any of the Securities in any manner which, in the opinion of the Lender, would prejudice the effectiveness of, or the ability of the Lender to realise, the security created by or pursuant to this Debenture.

9. ACCOUNTS

9.1 Accounts: Notification and Variation

Each Chargor, during the subsistence of this Debenture:-

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9.1.1 shall promptly deliver to the Lender on the date of this Debenture (and, if any change occurs after the date of this Debenture, on that date), details of each Account maintained by it with any bank or financial institution; and

9.1.2 shall not, without the Lender's prior written consent, permit or agree to any variation of the rights attaching to any Account or close any Account unless such account closure is notified in advance to the Lender.

9.2 **Accounts: Operation Before Enforcement Date**

The Chargors shall, prior to the occurrence of the Enforcement Date, be entitled to receive, withdraw or otherwise transfer any credit balance from time to time on any Account.

9.3 **Accounts: Operation After Enforcement Date**

After the occurrence of the Enforcement Date, the Chargors shall not be entitled to receive, withdraw or otherwise transfer any credit balance from time to time on any Account except with the prior consent of the Lender.

9.4 **Accounts: Application of Moneys**

The Lender shall, upon the occurrence of the Enforcement Date, be entitled without notice to apply, transfer or set-off any or all of the credit balances from time to time on any Account in or towards the payment or other satisfaction of all or part of the Secured Liabilities in accordance with Clause 16 (*Application of Moneys*).

10. **MONETARY CLAIMS**

10.1 **No dealing with Monetary Claims**

The Chargors shall not at any time during the subsistence of this Debenture, without the prior written consent of the Lender or as permitted pursuant to the terms of the Finance Documents, sell, factor, discount, transfer, assign, lend or otherwise dispose of any of the Monetary Claims or enter into any agreement to do any of the foregoing.

10.2 **Proceeds of Monetary Claims**

The Chargors shall get in and realise the Monetary Claims in the ordinary course of business and pay the proceeds of those Monetary Claims into an Account.

11. **INSURANCES**

11.1 **Insurances: Undertakings**

The Chargors shall at all times during the subsistence of this Debenture:-

11.1.1 keep the Charged Property insured with those insurances normally maintained by prudent companies carrying on a similar business and with reputable insurance offices or underwriters and otherwise in accordance with the terms of the Finance Documents;

11.1.2 if required by the Lender, cause each Insurance relating to the Charged Property to contain (in form and substance satisfactory to the Lender) an endorsement naming the Lender as sole loss payee in respect of all claims;

11.1.3 pay all premiums and other moneys payable under all its Insurances when due for payment or procure that such is done and, as soon as reasonably practicable upon request, produce to the Lender a copy of each policy and evidence (acceptable to the Lender) of the payment of such sums (or

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procure that such is done) and not do or omit to do or permit or suffer to be done or omitted to be done, anything which might render any Insurance required by this clause void, voidable or unenforceable; and

11.1.4 if required by the Lender, provide a copy of all Insurances relating to the Charged Property to the Lender.

11.2 **Insurance: Default**

If any Chargor defaults in complying with Clause 11.1 (*Insurance: Undertakings*), the Lender may effect or renew any such Insurance on such terms, in such name(s) and in such amount(s) as it considers appropriate, and all moneys expended by the Lender in doing so shall be reimbursed by the Chargor to the Lender on demand and shall carry interest from the date of payment by the Lender until reimbursed at the rate specified in Clause 2 (*Covenant to Pay*).

11.3 **Application of Insurance Proceeds**

All moneys received under any Insurances relating to the Charged Property shall, prior to the occurrence of the Enforcement Date, be applied in accordance with the terms of the Finance Documents. After the occurrence of the Enforcement Date, the Chargors shall hold such moneys upon trust for the Lender pending payment to the Lender for application in accordance with Clause 16 (*Application of Moneys*) and each Chargor waives any right it may have to require that any such moneys are applied in reinstatement of any part of the Charged Property.

12. **LAND**

Each Chargor shall (with the intent that this Clause 12 (*Land*) shall apply in relation to all Land now vested in a Chargor or acquired by any Chargor after the date of this Debenture):-

12.1 **Repair and Alterations**

12.1.1 keep or cause to be kept all buildings and Fixtures from time to time on or in any of its Land and all other plant, machinery and equipment belonging to it in good and substantial repair and good working order;

12.1.2 not, without the prior written consent of the Lender, make or permit the making of any alteration or addition to any of its Land (other than internal non-structural alterations) or commit or permit any person to commit any waste upon or injure or in any manner or by any means lessen the value of its Land or sever or permit to be severed from any of its Land any Fixtures except for the purpose of replacing them as soon as practicable with others of equal or greater value; and

12.1.3 permit any authorised representative of the Lender at any time to enter any of its Land for any purpose without becoming liable to account as a mortgagee in possession and to inspect and test any work being carried out and, where any breach of covenant, defect, disrepair or unauthorised alteration, improvement or addition shall be found, remedy all such breaches and execute all such repairs or removals as the Lender may require within 28 days after notice (or immediately, in case of emergency);

12.2 **Statutes**

12.2.1 comply with the provisions of all statutes and the requirement of any competent authority affecting any of its Land or the use of any of its Land or anything done on any Land; and

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12.2.2 ensure that all consents and approvals under all statutes and the regulations and codes of practice of any competent authority affecting any of its Land have been obtained and are complied with, and produce on demand such evidence as the Lender may require to satisfy itself that such consents and approvals have been obtained and are complied with;

12.3 **Leases**

12.3.1 pay the rents and observe and perform all covenants, conditions, agreements or obligations on its part to be observed and performed contained in any lease under which any of its Land is held by any Chargor and any licence, consent or approval given under any lease, and use its best endeavours to enforce observance and performance of the lessor's covenants in any lease;

12.3.2 not accelerate or defer payment of any moneys payable under any such lease and where any lease contains a provision for the review of rent notify the Lender as soon as reasonably practicable after receiving notice from the lessor to implement a review but not agree the reviewed rent or appoint or agree to the appointment of a third party to determine a rent review without the prior written consent of the Lender;

12.3.3 not to apply for any licence, consent or approval under any such lease or any superior lease without the prior written consent of the Lender; and

12.3.4 promptly give notice to the Lender if any Chargor receives notice under section 146 of the LPA or any proceedings are commenced for forfeiture of any such lease or any superior lease or the lessor or any superior lessor re-enters or attempts to re-enter thereunder and at the request of the Lender but at the cost of the Chargor take such steps as the Lender may require in relation thereto;

12.4 **Power of Leasing**

not, without the prior written consent of the Lender, exercise any of the powers of leasing or agreeing to lease vested in or conferred on mortgagors by common law or by statute or create or suffer to be created a tenancy of any description of any of its Land or confer or permit to be conferred upon any person any contractual licence, right or interest to occupy or use or grant any licence or permission to assign, underlet or part with possession of the whole or any part of its Land or agree to do any of the foregoing, and sections 99 and 100 of the LPA shall not apply to this Debenture;

12.5 **Compulsory Acquisition**

not without the prior written consent of the Lender enter into any negotiations with any competent authority with regard to the compulsory acquisition of any of its Land or consent to the compulsory acquisition of any of its Land, and, if so requested by the Lender, permit the Lender or its authorised representatives to conduct such negotiations or to give such consent on the Chargor's behalf;

12.6 **Outgoings**

pay as and when the same become due all rates, taxes, duties, charges, assessments and other outgoings payable in respect of its Land; and

12.7 **Encumbrances**

comply with:-

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12.7.1 all obligations, covenants, exceptions, reservations, licences, approvals, consents, stipulations, restrictions and conditions to which it is subject including, but without limitation, those relating to any of its Land or the use or enjoyment of any of its Land or imposed upon the Chargor as owner, occupier or user, as the case may be, of any of its Land; and

12.7.2 its obligations under any Security having priority to the Security created by or pursuant to this Debenture.

13. DEMAND AND ENFORCEMENT

13.1 Enforcement

This Debenture shall become enforceable:-

13.1.1 upon the occurrence of an Event of Default which is continuing;

13.1.2 upon any request being made by a Chargor to the Lender for the appointment of a Receiver or for the Lender to exercise any other power or right available to it;

13.1.3 upon the occurrence of any event causing, or purporting to cause, the floating charge created by this Debenture to become fixed in relation to any Charged Property; or

13.1.4 upon the passing of any resolution, or the presentation of a petition, for winding up of any Chargor or the making of an application for an administration order in relation to any Chargor or the taking of any steps in relation to the appointment of an administrator of any Chargor.

13.2 Demand for payment

Any demand for payment, and any other notice to be given by the Lender under this Debenture, shall be in writing and may be signed by any authorised signatory on behalf of the Lender, and may be made or given to any Chargor at any place of business of the Chargor, or the registered office of the Chargor:-

13.2.1 by delivering it to any such place; or

13.2.2 by sending it by first class post to any such place (in which case it shall be deemed received at 10.00am on the next Business Day after posting, and proof of posting shall be proof of delivery); or

13.2.3 by sending it by fax to any fax number of the Chargor (in which case it shall be deemed received when sent, and proof of sending shall be proof of receipt).

13.3 Powers on enforcement

At any time after this Debenture has become enforceable, the Lender may (without prejudice to any other rights and remedies and without notice to the Chargors) do all or any of the following:-

13.3.1 exercise the power of sale under section 101 of the LPA together with all other powers and rights conferred on mortgagees by the LPA, as varied and extended by this Debenture, without the restrictions contained in sections 103 or 109(1) of the LPA; and

13.3.2 exercise the power of leasing, letting, entering into agreements for leases or lettings or accepting or agreeing to accept surrenders of leases in relation to

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any Charged Property, without the restrictions imposed by sections 99 and 100 of the LPA.

14. RECEIVERS

14.1 Appointment

At any time after this Debenture has become enforceable in respect of and against any Chargor, the Lender may appoint any person or persons to be a Receiver or Receivers of all or any part of the Charged Property of the Chargors charged under this Debenture or an administrator of the Chargors. An appointment over part only of such Charged Property shall not preclude the Lender from making any subsequent appointment over any other part of such Charged Property.

14.2 Appointment in writing

The appointment of a Receiver shall be in writing, and may be signed by any authorised signatory on behalf of the Lender. Where more than one person is acting at any time as Receiver, they shall have power to act severally as well as jointly.

14.3 Remuneration

The Lender may from time to time determine the remuneration of the Receiver (which shall not be subject to the limit in section 109(6) of the LPA) and may (subject to the application of section 45 of the Insolvency Act 1986) remove any person from office in relation to all or any part of the Charged Property of which he is the Receiver and at any time appoint a further or other Receiver or Receivers over all or any part of such Charged Property.

14.4 Powers

The Receiver shall be the agent of the relevant Chargor (which shall be solely liable for his acts, defaults and remuneration) unless and until that Chargor goes into liquidation from which time he shall act as principal and shall not become the agent of the Lender, and the Receiver shall have and be entitled to exercise in relation to the Charged Property all the powers:-

14.4.1 conferred by the LPA on mortgagees in possession and on receivers appointed under the LPA;

14.4.2 of an administrative receiver set out in Schedule 1 to the Insolvency Act 1986, whether or not the Receiver is an administrative receiver;

14.4.3 and rights that an absolute owner would have in relation to any Charged Property; and

14.4.4 to do all things incidental or conducive to any functions, powers, authorities or discretions conferred or vested in the Receiver.

15. POWER OF ATTORNEY

15.1 Appointment

Each Chargor hereby irrevocably and by way of security appoints:-

15.1.1 the Lender (whether or not a Receiver has been appointed); and also

15.1.2 (as a separate appointment) each Receiver,

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severally as each such Chargor's attorney and attorneys with power to do any act, and execute and deliver any deed or other document, on behalf of and in the name of such Chargor, which such Chargor could be required to do or execute under any provision of this Debenture, or which the Lender in its sole opinion may consider necessary or desirable for perfecting the Lender's title to any of the Charged Property or enabling the Lender or the Receiver to exercise any of its or his rights or powers under this Debenture.

15.2 **Ratification**

Each Chargor ratifies and confirms and agrees to ratify and confirm whatever any such attorney as is mentioned in Clause 15.1 (*Appointment*) shall do or purport to do in the exercise or purported exercise of all or any of the powers, acts or other matters referred to in Clause 15.1 (*Appointment*).

15.3 **Exercise**

It is expressly agreed that the power of attorney conferred by Clause 15.1 shall only be exercisable following the occurrence of an Event of Default which is continuing,

16. APPLICATION OF MONEYS

16.1 **Application of moneys**

All sums received by virtue of this Debenture by the Lender or the Receiver shall, subject to the payment of any claim having priority to this Debenture, be paid or applied in the following order of priority:-

16.1.1 first, in or towards satisfaction of all costs, charges and expenses incurred and payments made by the Lender, or the Receiver (including, without limitation, legal expenses) and of the remuneration of the Receiver;

16.1.2 secondly, in or towards payment of the Secured Liabilities in such order as the Lender may at its discretion require; and

16.1.3 thirdly, as to the surplus (if any), to the person or persons entitled to such surplus,

and section 109(8) of the LPA shall not apply.

17. PROTECTION OF THIRD PARTIES

17.1 **Statutory powers**

In favour of any purchaser, the statutory powers of sale and of appointing a Receiver which are conferred upon the Lender, as varied and extended by this Debenture, and all other powers of the Lender, shall be deemed to arise (and the Secured Liabilities shall be deemed due and payable for that purpose) immediately after the execution of this Debenture.

17.2 **Purchasers**

No purchaser from or other person dealing with the Lender, any person to whom it has delegated any of its powers, or the Receiver shall be concerned to enquire whether any of the powers which they have exercised has arisen or become exercisable, or whether the Secured Liabilities remain outstanding or whether any event has happened to authorise the Receiver to act or as to the propriety or validity of the exercise of any such power, and the title and position of a purchaser or such person shall not be impeachable by reference to any of those matters.

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17.3 **Receipts**

The receipt of the Lender or the Receiver shall be an absolute and conclusive discharge to a purchaser or any other person dealing with the Lender.

18. **PROTECTION OF THE LENDER AND ANY RECEIVER**

18.1 **No liability**

The Lender and any Receiver shall not be liable in respect of any loss or damage which arises out of the exercise, or attempted or purported exercise of, or the failure to exercise any of their respective powers under this Debenture.

18.2 **Not mortgagee in possession**

Without prejudice to any other provision of this Debenture, entry into possession of any Charged Property shall not render the Lender or the Receiver liable:-

18.2.1 to account as mortgagee in possession;

18.2.2 for any loss on realisation; or

18.2.3 for any default or omission for which a mortgagee in possession might be liable,

and if and whenever the Lender or the Receiver enters into possession of any Charged Property it shall be entitled at any time it or he thinks fit to go out of such possession.

18.3 **Indemnity**

Each Chargor shall indemnify and keep indemnified the Lender, every Receiver, and any person who acts as the servant, agent, delegate or attorney of any of them, against all claims, costs, expenses and liabilities which they may suffer or incur arising in any way out of the taking or holding of this Debenture, the exercise or purported exercise of any right, power, authority or discretion given by it, or any other act or omission in relation to this Debenture or the Charged Property.

18.4 **Currency protection**

If any amount due to be paid to the Lender is, for any reason, paid in a currency (the "**currency of payment**") other than the currency in which it was expressed to be payable (the "**contractual currency**"), the Lender may wherever it thinks fit apply the amount of the currency of payment received by it in the purchase, in accordance with its normal practice, of the contractual currency, and if this results in any shortfall below the amount due in the contractual currency, after deducting all taxes, costs and commissions payable in connection with that purchase, the Chargors shall indemnify the Lender against the amount of the shortfall.

18.5 **Continuing protection**

The provisions of this Clause 18 shall continue in full force and effect notwithstanding any release or discharge of this Debenture, or the discharge of any Receiver from office.

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19. PROVISIONS RELATING TO THE LENDER

19.1 Powers and discretions

The rights, powers and discretions given to the Lender in this Debenture:-

19.1.1 may be exercised as often as, and in such manner as, the Lender thinks fit;

19.1.2 are cumulative, and are not exclusive of any of its rights under the general law; and

19.1.3 may only be waived in writing and specifically, and any delay in exercising, or non-exercise of, any right, is not a waiver of it.

19.2 Certificates

A certificate by an authorised officer of the Lender as to any sums payable to the Lender under this Debenture shall (save in the case of manifest error) be conclusive and binding upon the Chargors for all purposes.

19.3 Assignment

The Lender may assign this Debenture to any successor in title to any of the Secured Liabilities and the Lender may disclose any information in its possession relating to the Chargors, their affairs or the Secured Liabilities to any actual or prospective assignee.

19.4 Delegation

The Lender may at any time and from time to time delegate by power of attorney or in any other manner to any person or persons all or any of the rights, powers and discretions which are for the time being exercisable by it under this Debenture.

20. PRESERVATION OF SECURITY

20.1 Continuing Security

This Debenture shall be a continuing security to the Lender and shall remain in force until expressly discharged in writing by the Lender notwithstanding any intermediate settlement of account or other matter or thing whatsoever and shall be without prejudice and in addition to any other right, remedy or Security of any kind which the Lender may have now or at any time in the future for or in respect of any of the Secured Liabilities.

20.2 No Merger

This Debenture is in addition to, without prejudice to, and shall not merge with, any other right, remedy, guarantee or Security which the Lender may at any time hold for any other Secured Liabilities.

20.3 Waiver of Defences

Neither the Security created by this Debenture nor the obligations of the Chargors under this Debenture will be affected by an act, omission, matter or thing which, but for this Clause, would reduce, release or prejudice that Security or any of those obligations (whether or not known to it or the Lender) including:-

20.3.1 any time, waiver or consent granted to, or composition with, any Chargor or other person;

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20.3.2 the release of any Chargor or any other person under the terms of any composition or arrangement with any person;

20.3.3 the taking, variation, compromise, exchange, renewal, enforcement or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or Security over, assets of any Chargor 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;

20.3.4 any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any Chargor or any other person;

20.3.5 any amendment (however fundamental), replacement, variation, novation, assignment or the avoidance or termination of a Finance Document or any other document or Security;

20.3.6 any unenforceability, illegality or invalidity of any obligation of, or any Security created by, any person under any Finance Document or any other document; or

20.3.7 an insolvency, liquidation, administration or similar procedure.

20.4 **Order of Recourse**

This Debenture may be enforced against any Chargor without the Lender first having recourse to any other right, remedy, guarantee or Security held by or available to any of them.

20.5 **Suspense Accounts**

The Lender may, without prejudice to any other rights it may have, at any time and from time to time place (and keep for such time as it may think prudent) any moneys received, recovered or realised under or by virtue of this Debenture on a separate or suspense account to the credit either of any of the Chargors or, at the sole discretion of the Lender if an Event of Default has occurred and is continuing, of the Lender as the Lender shall think fit without any intermediate obligation on the Lender's part to apply the same or any part of it in or towards the discharge of the Secured Liabilities.

20.6 **New Accounts**

If the Lender receives notice of any subsequent charge or other security interest affecting any of the Charged Property, the Lender shall be entitled to close the Chargors' then current account or accounts and to open a new account or accounts for the Chargors. If the Lender does not open a new account or accounts immediately on receipt of such notice it shall nevertheless be treated as if it had done so at the time when it received such notice, and as from that time all payments made for the credit of the Chargors shall be credited or be treated as having been credited to such new account or accounts and shall not operate to reduce the amount due from the Chargors to the Lender at the time when it received such notice.

20.7 **Tacking**

For the purposes of section 94(1) of the LPA and section 49(3) of the Land Registration Act 2002 the Lender confirms that it shall make further advances to the Chargors on the terms and subject to the conditions of the Finance Documents.

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20.8 **Reinstatement**

If any payment by any Chargor or discharge given by the Lender (whether in respect of the obligations of any Chargor or any Security for those obligations or otherwise) is avoided or reduced as a result of insolvency, liquidation, administration or any similar event:-

20.8.1 the liability of the Chargors and the Security created by this Debenture shall continue as if the payment, discharge, avoidance or reduction had not occurred; and

20.8.2 the Lender shall be entitled to recover the value or amount of that Security or payment from the relevant Chargor, as if the payment, discharge, avoidance or reduction had not occurred.

21. **RELEASE**

21.1 Upon the irrevocable and unconditional payment and discharge in full of the Secured Liabilities, the Lender shall, or shall procure that its appointees will, at the request and cost of the Chargors:-

21.1.1 release the Charged Property from this Debenture; and

21.1.2 re-assign the Charged Property that has been assigned to the Lender under this Debenture.

21.2 Section 93 of the LPA dealing with the consolidation of mortgages shall not apply to this Debenture.

22. **MISCELLANEOUS PROVISIONS**

22.1 **Severability**

If any provision of this Debenture is illegal, invalid or unenforceable in any jurisdiction, that shall not affect:-

22.1.1 the validity or enforceability of any other provision, in any jurisdiction; or

22.1.2 the validity or enforceability of that particular provision, in any other jurisdiction.

22.2 **Costs, charges and expenses**

All costs, charges and expenses incurred or paid by the Lender or by the Receiver in the exercise of any power or right given by this Debenture or in relation to any consent requested by any Chargor, or in perfecting or otherwise in connection with this Debenture, the other Finance Documents or the Charged Property, all sums recoverable under Clause 18 (*Protection of the Lender and any Receiver*) and all costs of the Lender (on an indemnity basis) of all proceedings for the enforcement of this Debenture or for obtaining payment of moneys by this Debenture secured, shall be recoverable from the Chargors as debts, may be debited by the Lender at any time to any account of the Chargors and shall bear interest until payment at a rate which is equivalent to two per cent. above the interest rate which is ordinarily payable in accordance with the terms of the Facility Agreement.

22.3 **Contracts (Rights of Third Parties Act 1999**

The Lender, any Receiver and their respective officers, employees and agents may enforce any term of this Debenture which purports to confer a benefit on that person, but no other person who is not a party to this Debenture has any right under the

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Contracts (Rights of Third Parties) Act 1999 (the "**Third Parties Act**") to enforce or to enjoy the benefit of any term of this Debenture.

22.4 **Counterparts**

This 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 Debenture.

23. **NOTICES**

Each communication to be made under or in connection with this Debenture shall be made and given in accordance with the terms of clause 24 (*Communications*) of the Facility Agreement.

24. **GOVERNING LAW**

This Debenture and any non-contractual obligations arising out of or in connection with it are governed by English law.

EXECUTED AND DELIVERED AS A DEED by the Chargors and executed by the Lender on the date set out at the beginning of this Debenture.

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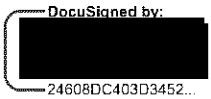
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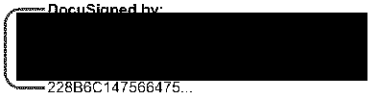
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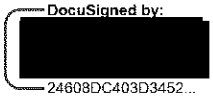
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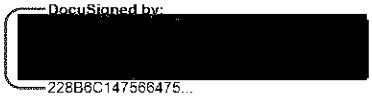
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Director 

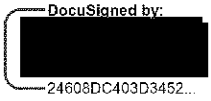
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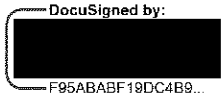
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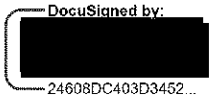
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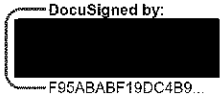
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SIGNED)
for and on behalf of **THE COUNTY COUNCIL OF**)
THE CITY AND COUNTY OF CARDIFF)
by:-

DocuSigned by:
[redacted]
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Authorised Signatory