



Registration of a Charge

Company name: **BYHIRAS (EUROPE) LIMITED**

Company number: **07646016**



X8DWLS8W

Received for Electronic Filing: **13/09/2019**

Details of Charge

Date of creation: **04/09/2019**

Charge code: **0764 6016 0001**

Persons entitled: **COMPETROL ESTABLISHMENT**

Brief description:

Contains fixed charge(s).

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: **ANTHONY WARNER**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 7646016

Charge code: 0764 6016 0001

The Registrar of Companies for England and Wales hereby certifies that a charge dated 4th September 2019 and created by BYHIRAS (EUROPE) LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 13th September 2019 .

Given at Companies House, Cardiff on 16th September 2019

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



Companies House



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES

DEBENTURE

dated

4. SEPTEMBER 2019

by

BYHIRAS (EUROPE) LIMITED
as Chargor

and

COMPETROL ESTABLISHMENT
as Chargee

**Baker
McKenzie.**

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DEBENTURE

This Debenture is dated ⁴ September 2019

Between

- (1) **BYHIRAS (EUROPE) LIMITED**, a company incorporated in England and Wales with registered number 07646016 (the "**Chargor**"); and
- (2) **COMPETROL ESTABLISHMENT**, acting in its capacity as security trustee for each of the Secured Parties on the terms set out in the Loan Note Instrument (the "**Chargee**").

RECITALS

- A. The Chargor is entering into this Debenture in connection with the Finance Documents.
- B. The Chargor has agreed to provide Security to the Chargee to secure the payment and discharge of the Secured Liabilities.

It is agreed as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

Unless defined in this Debenture, or the context otherwise requires, terms defined in the Loan Note Instrument have the same meanings in this Debenture. In addition, in this Debenture:

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

"**Charged Property**" means all the assets of the Chargor which from time to time are, or are expressed to be, the subject of any Security created or expressed to be created in favour of the Chargee under this Debenture.

"**Declared Default**" means the giving of notice by the Chargee to the Issuer (as defined in the Loan Note Instrument) pursuant to clause 8.2 (*Default*) of the Loan Note Instrument.

"**Default Event**" has the meaning given to that term in the Loan Note Instrument.

"**Default Rate**" means the rate which is 3 per cent per annum.

"**Delegate**" means any delegate, agent, nominee, attorney or co-trustee appointed by the Chargee.

"**Finance Documents**" means this Debenture, the Loan Note Instrument and any other document or instrument designated as such from time to time by the Chargor and the Chargee.

"**Financial Collateral**" has the meaning given to that term by the Regulations.

"**HMRC Receivables**" means all of the Chargor's right title and interest from time to time in and to all book and other debts and monetary claims of any nature and all other rights to receive money (including but not limited to, any such right, title or interest in any indemnity claim against the Chargor or any other person) arising in respect of Chargor's research and development tax relief claim for the financial year ended 31 March 2019.

"**IA**" means the Insolvency Act 1986.

"**Loan Note Instrument**" means the loan note instrument dated on or about the date hereof between Byhiras (Europe) Limited and the persons listed therein as noteholders.

"LPA" means the Law of Property Act 1925.

"Noteholder" has the meaning given to that term in the Loan Note Instrument.

"Receiver" means a receiver or receiver and manager (whether appointed alone or jointly) of the whole or any part of the Charged 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.

"Related Rights" means, in respect of the Charged Property or any part of it:

- (a) any proceeds of sale, transfer or other disposal, lease, licence, sub-licence, or agreement for sale, transfer or other disposal, lease, licence or sub-licence, of the Charged Property;
- (b) any moneys or proceeds paid or payable deriving from, or in relation to, the Charged Property;
- (c) any rights, benefits, claims, guarantees, indemnities, contracts, remedies, Security or covenants for title in relation to the Charged Property;
- (d) all rights of the Chargor against the Chargee falling within paragraph (b) of Clause 14.5 (*Deferral of Chargor's rights*);
- (e) any awards, or judgments in favour of the Chargor in relation to the Charged Property; and
- (f) any other assets deriving from, or relating to, the Charged Property.

"Relevant Jurisdiction" means, in relation to the Chargor:

- (a) the jurisdiction under whose laws the Chargor is incorporated as at the date of this Debenture;
- (b) any jurisdiction where any asset subject to or intended to be subject to the the Security created or expressed to be created in favour of the Chargee pursuant to this Debenture is situated;
- (c) any jurisdiction where it conducts its business; and
- (d) the jurisdiction whose laws govern the perfection of any of this Debenture.

"Secured Liabilities" means all of the present and future liabilities and obligations at any time due, owing, payable or incurred by the Chargor to any Secured Party under or pursuant to each of the Finance Documents, both actual and contingent (and whether incurred solely or jointly or as principal or surety or in any other capacity) together with any of the following matters relating to or arising in respect of those liabilities and obligations:

- (a) any refinancing, novation, deferral or extension and any liability in respect of further advances under the Finance Documents;
- (b) any claim for breach of representation, warranty or undertaking or on an event of default or under any indemnity given under or in connection with any document or agreement evidencing or constituting any other liability or obligation falling within this definition;
- (c) any claim for damages or restitution;

- (d) any claim as a result of any recovery by the Chargor or the Chargee of a payment, prepayment, repayment, redemption, defeasance or discharge of those liabilities or obligations on the grounds of preference or otherwise,

and any amounts which would be included in any of the above but for any discharge non-provability, unenforceability or non-allowance of those amounts in any insolvency or other proceedings except for any liabilities that, if secured under this Debenture, would result in a contravention by the Chargor of any applicable law.

"Secured Party" means:

- (a) each Noteholder from time to time party to the Loan Note Instrument; and
- (b) any Receiver or Delegate.

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

"Security Period" means the period beginning on the date of this Debenture and ending on the date on which:

- (a) all the Secured Liabilities have been irrevocably and unconditionally paid and discharged in full; and
- (b) neither the Chargee nor any other Secured Party has any further commitment, obligation, or liability under or pursuant to any of the Finance Documents.

"Tax" means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same).

"VAT" means:

- (a) any tax imposed in compliance with the Council Directive of 28 November 2006 on the common system of value added tax (EC Directive 2006/112); and
- (b) any other tax of a similar nature, whether imposed in a member state of the European Union in substitution for, or levied in addition to, such tax referred to in paragraph (a) above, or imposed elsewhere.

1.2 Construction

- (a) The principles of construction set out in clause 1.3 (*Meaning of references*) of the Loan Note Instrument shall apply to this Debenture or in any notice given under or in connection with this Debenture, as they apply to the Loan Note Instrument. To the extent that any term so incorporated conflicts with any term of this Debenture, the term as defined in this Debenture shall prevail. In addition:
 - (i) a reference to the **"Chargee"**, the **"Chargor"**, the **"Secured Parties"** or any other person includes its successors in title, permitted assigns and permitted transferees to, or of, its rights and/or obligations under the Finance Documents and, in the case of the Chargee, any person for the time being appointed as "security agent" or "security trustee" in accordance with the Finance Documents;
 - (ii) any reference to any **"Secured Parties"**, the **"Chargor"** and the **"Chargee"** is to that person in its capacity as such;

- (iii) **"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;
- (iv) **"assets"** includes present and future properties, revenues and rights of every description;
- (v) the **"enforcement"** of any Security includes the appointment of an administrator or other insolvency official in respect of the person who has granted that Security;
- (vi) **"include(s)"**, **"including"** and **"in particular"** shall be construed as being by way of illustration or emphasis only and shall not be construed as, nor shall they take effect as, limiting the generality of any preceding or following words;
- (vii) **"indebtedness"** includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
- (viii) **"liability"** and **"liabilities"** is to all liabilities and obligations of any person at any time whether as principal or as surety, whether or not in respect of indebtedness, whether present or future, actual or contingent and whether owed jointly or severally or in any other capacity;
- (ix) any reference in this Debenture to any **"Finance Document"**, **"this Debenture"**, the **"Loan Note Instrument"** or to any agreement or document (under whatever name), where applicable shall be deemed a reference to such agreement or document as the same may have been, or at any time may be, extended, prolonged, amended, restated, supplemented, renewed or novated as persons may accede thereto as a party or withdraw therefrom as a party in part or in whole or be released thereunder in part or in whole, and/or as facilities and/or financial services are or at any time may be granted, extended, prolonged, increased, reduced, cancelled, withdrawn, amended, restated, supplemented, renewed or novated thereunder including, without limitation,
 - (A) any increase or reduction in any amount available thereunder (whether such increase or reduction is made pursuant to the existing terms of such Finance Document or is affected by way of amendment to such Finance Document) or any alteration of or addition to the purpose for which any such amount, or increased or reduced amount may be used;
 - (B) any facility provided in substitution of or in addition to the facilities originally made available thereunder;
 - (C) any rescheduling of the indebtedness incurred thereunder whether in isolation or in connection with any of the foregoing; and
 - (D) any combination of the foregoing;
- (x) **"other"** and **"otherwise"** shall not be construed *ejusdem generis* with any preceding words where a wider construction is possible;

- (xi) a "**person**" includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium, partnership or other entity (whether or not having separate legal personality);
 - (xii) 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, department or of any regulatory, self-regulatory or other authority or organisation;
 - (xiii) liabilities, rights (including rights in respect of property), interests, powers, benefits, authorities or claims "**under**" any deed (including this Debenture) or other document or law or regulation includes a reference to liabilities, rights and other such matters arising pursuant to or in consequence of that deed, document, law or regulation;
 - (xiv) "**Secured Liabilities**" includes obligations and liabilities which would be treated as such but for the liquidation or dissolution of or similar event affecting the Chargor;
 - (xv) a provision of law includes any provision which amends, extends, consolidates, re-enacts or replaces it, or which has been amended, extended, consolidated, re-enacted or replaced by it, including, without limitation, in connection with the United Kingdom ceasing to be a member of the European Union and includes any orders, regulations, instruments or other subordinate legislation made under it; and
 - (xvi) a time of day is a reference to London time.
- (b) Clause and Schedule headings are for ease of reference only.
 - (c) Each undertaking of the Chargor (other than a payment obligation) contained in this Debenture must be complied with at all times during the Security Period and is given by the Chargor for the benefit of all of the Secured Parties.
 - (d) Clause 4.1 (*HMRC Receivables*) shall be construed as creating a separate and distinct mortgage, fixed charge or assignment over each relevant asset within any particular class of assets described in this Debenture and any failure to create an effective mortgage, fixed charge or assignment (whether arising out of this Debenture or any act or omission by any party) over any one asset shall not affect the nature or validity of the mortgage, fixed charge or assignment imposed on any other asset whether within that same class of assets or not.

1.3 Third party rights

- (a) Unless expressly provided to the contrary in this Debenture, a person who is not a party to it has no right under the Contracts (Rights of Third Parties) Act 1999 (the "**Third Parties Act**") to enforce or to enjoy the benefit of any term of this Debenture.
- (b) Any Secured Party, Receiver or Delegate, and any officer, employee, appointee or agent of any of the Secured Parties may, subject to this Clause 1.3 and the Third Parties Act, rely on any Clause of this Debenture which expressly confers rights on that person.
- (c) Notwithstanding any term of this Debenture, the consent of any person who is not a party to this Debenture is not required to rescind or vary it at any time.

1.4 Effect as a deed

This Debenture shall take effect as a deed even if it is signed under hand on behalf of the Chargee.

2. COVENANT TO PAY

2.1 Covenant to pay

- (a) The Chargor hereby covenants in favour of the Chargee (as trustee for itself and the other Secured Parties) that it will pay and discharge on demand the Secured Liabilities on the date(s) on which such Secured Liabilities are expressed to become due and in the manner provided for in the relevant Finance Document.
- (b) The Chargor acknowledges to the Chargee that the amount secured by this Debenture and in respect of which this Debenture and the security hereby created is enforceable is the full amount of the Secured Liabilities.

2.2 Default interest

- (a) Any amount which is not paid under this Debenture when due shall bear interest (both before and after judgment and payable on demand) from the due date until the date on which such amount is unconditionally and irrevocably paid and discharged in full at the Default Rate from time to time.
- (b) Default interest will accrue from day to day and will be compounded at such intervals as the Chargee (acting on the instructions of the relevant Secured Party) determines in accordance with the Loan Note Instrument.

3. PROVISIONS APPLICABLE TO ALL SECURITY CREATED

3.1 Nature of the Security

The Security created under this Debenture is created:

- (a) in favour of the Chargee;
- (b) over all present and (except in the case of assets that are the subject of a legal mortgage under this Debenture) future assets of the kind described that are from time to time owned by the Chargor or, to the extent that it does not own them, over any right, title or interest it may have in or in respect of them;
- (c) as a continuing security for the payment and discharge of the Secured Liabilities that will extend to the ultimate balance of the Secured Liabilities, regardless of any intermediate payment or discharge in whole or in part; and
- (d) with full title guarantee.

3.2 Implied Covenants for Title

- (a) The covenants set out in sections 3(1), 3(2) and 6(2) of the Law of Property (Miscellaneous Provisions) Act 1994 will not extend to Clause 4.1 (*HMRC Receivables*).
- (b) It shall be implied in respect of Clause 4.1 (*HMRC Receivables*) that the Chargor is disposing of the Charged Property free from all charges and encumbrances (whether monetary or not) and from all other rights exercisable by third parties (including liabilities imposed and rights conferred by or under any enactment).

3.3 Excluded Charged Property

- (a) No fixed Security is created under this Debenture pursuant to Clause 4.1 (*HMRC Receivables*) over any assets in respect of which a consent or waiver is required from a third party for the creation of such Security, until that consent or waiver is obtained.
- (b) Except insofar as the Chargee shall otherwise require, in relation to each such asset the Chargor shall:
 - (i) apply for the relevant consent or waiver within five Business Days of the date of this Debenture, and use all reasonable endeavours to obtain it as soon as possible;
 - (ii) keep the Chargee informed in writing of its progress in obtaining that consent or waiver; and
 - (iii) immediately on receipt of the consent or waiver, provide the Chargee with a copy of it, duly certified by an officer of the Chargor as being a true copy.
- (c) Immediately on receipt by the Chargor of the relevant consent or waiver, the asset in respect of which it was required shall become the subject of Security under the relevant sub-clause of Clause 4 (*Creation of Security*).

4. CREATION OF SECURITY

4.1 HMRC Receivables

The Chargor charges by way of first fixed charge all HMRC Receivables and all Related Rights.

4.2 Trust arrangements

- (a) Nothing in this Debenture constitutes the Chargee as an agent, trustee or fiduciary of the Chargor.
- (b) If or to the extent that the mortgage, assignment or charge of any of the Charged Property is prohibited by law or contract, the Chargor shall hold that Charged Property on trust for the Chargee (insofar as not so prohibited) and the validity of any other mortgage, assignment or charge of any of the Charged Property shall not be affected.

5. THE CHARGOR'S UNDERTAKINGS

5.1 Time and manner of performance

- (a) The provisions of this Clause 5.1 (*Time and manner of performance*) to Clause 5.6 (*Compliance with laws, contracts, Authorisations and other requirements*) (inclusive) shall remain in force during the Security Period.
- (b) Unless otherwise specified in this Debenture, the Chargor shall perform each of its obligations under those provisions promptly and at its own expense.

5.2 Documents of title etc.

If the Chargee so requires, the Chargor shall promptly (and in any event within one Business Day) deposit with the Chargee or its Delegate (at the risk of the Chargor) all deeds, certificates and other documents of or evidencing title to the Charged Property.

5.3 Negative pledge

The Chargor shall not create or permit to subsist any Security over any Charged Property save for Permitted Security.

5.4 No Security

The Chargor shall not take any Security in connection with its liabilities under this Debenture from any guarantor of, or provider of Security for, any of the Secured Liabilities.

5.5 Disposals

Except as expressly permitted by the Loan Note Instrument, the Chargor shall not enter into or agree to enter into a single transaction or a series of transactions (whether related or not) and whether voluntary or involuntary in relation to any of the Charged Property or any interest in it to:

- (a) sell, assign, lease, transfer or part with possession or occupation of it or enter into any agreement to do so;
- (b) create any legal or equitable estate or other interest in, or over, or otherwise relating to, all or any part of the Charged Property;
- (c) confer or permit to be conferred any licence, rights (whether of pre-emption or otherwise) or interest in respect of or over it;
- (d) do, or omit to do, any other act or thing which could be reasonably expected to adversely affect the ability of the Chargee to exercise any of the rights, powers and remedies of the Chargee provided by or pursuant to this Debenture or by law; or
- (e) otherwise dispose of or surrender all or any part of it.

5.6 Compliance with laws, contracts, Authorisations and other requirements

The Chargor shall, in relation to the Charged Property and each part of it:

- (a) obtain, maintain, renew and comply with any Authorisations that may be required for its use and enjoyment;
- (b) comply with and perform all covenants, undertakings, contracts, laws and regulations from time to time under or affecting it or its use and enjoyment, and with any notices or orders issued or made by any public body in respect of it;
- (c) enforce the due observance and performance by all third parties of all their obligations under or in relation to it; and
- (d) pay all tax, rents, rates, duties, royalties, fees, charges, assessments, impositions, calls, instalments, premiums and other payments and outgoings that are properly payable at any time in respect of it or by the owner or occupier of it, and produce evidence of such payment to the Chargee or its Delegate on demand.

6. PERFECTION

6.1 Removal of restrictions

The Chargor shall use its reasonable endeavours to ensure that the Charged Property is at all times free from any restriction that would or might prevent the Chargee from perfecting the Security created under this Debenture.

6.2 Service of notices

The Chargor shall, at the request of the Chargee and in form and substance satisfactory to the Chargee, promptly upon such request (and in any event within three Business Days thereof) serve notices as directed by the Chargee in respect of any asset that is expressed to be mortgaged, assigned or charged by way of fixed charge or assigned under this Debenture.

6.3 Acknowledgement of notices

The Chargor shall use reasonable endeavours to procure that each notice issued pursuant to Clause 6.2 (*Service of notices*) or Clause 6.4 (*Future Charged Property*) is acknowledged by the addressee in form and substance satisfactory to the Chargee, within ten Business Days of the date of the notice.

6.4 Future Charged Property

Unless the Chargee agrees otherwise, the Chargor shall, in respect of each item of Charged Property it acquires after the date of this Debenture, and in such form and manner as the Chargee may reasonably require, register the Security created under this Debenture over that item within the applicable time period in the relevant register (if any).

7. REPRESENTATIONS AND WARRANTIES

The Chargor makes the representations and warranties set out in this Clause 7 to the Chargee on the date of this Debenture and otherwise as contemplated by Clause 7.21 (*Repetition*).

7.1 Status

- (a) It is a limited liability corporation, duly incorporated and validly existing under the law of its jurisdiction of incorporation.
- (b) It has the power to own its assets and carry on its business as it is being conducted.

7.2 Binding obligations

The obligations expressed to be assumed by it in this Debenture are legal, valid, binding and enforceable obligations.

7.3 Creation of Security

- (a) This Debenture creates the security which it purports to create over the Charged Property and those security interests are valid and effective and such security has the ranking and priority it is expressed to have and is not liable to be avoided or otherwise set aside on its liquidation or administration or otherwise.
- (b) Other than as disclosed to the Chargee prior to the date of this Debenture, it is not prohibited or restricted by the terms of any instrument, document, agreement or arrangement from creating in favour of the Chargee the security expressed to be created by it by or pursuant to this Debenture.

7.4 Non-conflict with other obligations

The entry into and performance by it of, and the transactions contemplated by this Debenture and the granting of the Security under hereunder or thereunder do not and will not conflict with:

- (a) any law or regulation applicable to it; or
- (b) its constitutional documents; or

- (c) any agreement or instrument binding upon it or any of its assets or constitute a default or termination event (however described) under any such agreement or instrument.

7.5 Power and authority

- (a) It has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, this Debenture and the transactions contemplated by this Debenture.
- (b) No limit on its powers will be exceeded as a result of the granting of the security contemplated by this Debenture.

7.6 Validity and admissibility in evidence

All Authorisations required:

- (a) to enable it lawfully to enter into, exercise its rights and comply with its obligations in this Debenture; and
 - (b) to make this Debenture admissible in evidence in its Relevant Jurisdictions,
- have been obtained or effected and are in full force and effect.

7.7 Governing law and enforcement

- (a) The choice of governing law of this Debenture will be recognised and enforced in its Relevant Jurisdictions.
- (b) Any judgment obtained in relation to this Debenture in England and Wales will be recognised and enforced in its Relevant Jurisdictions.

7.8 Insolvency

- (a) It is not and has not been deemed to be unable to pay its debts as they fall due.
- (b) It is not in negotiations with one or more of its creditors with a view to scheduling any of its indebtedness as a result of actual or anticipated financial difficulties.
- (c) The value of its assets is not less than its liabilities (after taking into account contingent and prospective liabilities).
- (d) A moratorium has not been declared in respect of any of its indebtedness.

7.9 Insolvency proceedings

No corporate action, legal proceeding or other step has been taken in relation to:

- (a) the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) in relation to it;
- (b) a composition, compromise, assignment or arrangement with any of its creditors;
- (c) the appointment of a liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of it or any of its assets; or
- (d) the enforcement of any security over any of its assets,

and no analogous procedure or step has been taken in any jurisdiction.

7.10 Creditors' process

No action in relation to expropriation attachment, sequestration, distress or execution affecting any of its assets is currently ongoing or threatened.

7.11 No filing and stamp taxes

Under the laws of its Relevant Jurisdictions, it is not necessary that this Debenture be filed, recorded or enrolled with any court or other authority or that any stamp, registration, notarial or similar Taxes or fees be paid on or in relation to it or the transactions contemplated by it except registration of particulars of this Debenture at the Companies Registration Office in England and Wales under section 859A of the Companies Act 2006 and payment of associated fees, which registration will be made and paid promptly after the date of this Debenture.

7.12 No default

No event or circumstance is outstanding which constitutes (or, with the expiry of a grace period, the giving of notice, the making of any determination or any combination of any of the foregoing, would constitute) a default or termination event (however described) under any agreement or instrument which is binding on it or to which its assets are subject which has or is reasonably likely to have a material adverse effect.

7.13 No proceedings

- (a) No litigation, arbitration or administrative proceedings or investigations of, or before, any court, arbitral body or agency which, if adversely determined, are reasonably likely to have a material adverse effect have (to the best of its knowledge and belief (having made due and careful enquiry)) been started or threatened against it.
- (b) No judgment or order of a court, arbitral tribunal or other tribunal or any order or sanction of any governmental or other regulatory body which is reasonably likely to have a material adverse effect has (to the best of its knowledge and belief (having made due and careful enquiry)) been made against it.

7.14 No breach of laws

It has not breached any law or regulation which breach has or is reasonably likely to have a material adverse effect.

7.15 Anti-corruption law

It has conducted its businesses in compliance with applicable anti-corruption laws and has instituted and maintained policies and procedures designed to promote and achieve compliance with such laws.

7.16 Security

No Security exists over all or any part of the Charged Property other than as permitted by the Loan Note Instrument.

7.17 Ranking

The Security created by this Debenture has or will have the ranking in priority which it is expressed to have in this Debenture and it is not subject to any prior ranking or *pari passu* ranking Security.

7.18 Good title to assets

It has a good, valid and marketable title to, or valid leases or licences of, and all appropriate Authorisations to use, the assets necessary to carry on its business as presently conducted.

7.19 Legal and beneficial ownership

It is the sole legal and beneficial owner of the assets over which it purports to create Security under this Debenture.

7.20 No adverse consequences

- (a) It is not necessary under the laws of its Relevant Jurisdictions:
- (i) in order to enable any Secured Party to enforce its rights under this Debenture; or
 - (ii) by reason of the execution of this Debenture or the performance by it of its obligations under the Debenture,
- that any Secured Party should be licensed, qualified or otherwise entitled to carry on business in any of its Relevant Jurisdictions.
- (b) No Secured Party is or will be deemed to be resident, domiciled or carrying on business in its Relevant Jurisdictions by reason only of the execution, performance and/or enforcement of this Debenture.

7.21 Repetition

The representations and warranties set out in this Clause 7 are deemed to be repeated by the Chargor by reference to the facts and circumstances then existing on each date during the Security Period.

8. PAYMENT MECHANICS

8.1 Payments to the Chargee

- (a) On each date on which the Chargor is required to make a payment under this Debenture the Chargor shall make the same available to the Chargee for value on the due date at the time and in such funds specified by the Chargee as being customary at the time for settlement of transactions in the relevant currency in the place of payment.
- (b) Payment shall be made to such account in the principal financial centre of the country of that currency and with such bank as the Chargee, in each case, specified.

8.2 Distributions by the Chargee

Each payment received by the Chargee under the Debenture for a Secured Party shall, subject to Clause 8.3 (*Clawback*) be made available by the Chargee as soon as practicable after receipt to the relevant Secured Party entitled to receive payment in accordance with this Debenture to such account as that Secured Party may notify to the Chargee by not less than five Business Days' notice with a bank specified by that Secured Party in the principal financial centre of the country of that currency.

8.3 Clawback

- (a) Where a sum is to be paid to the Chargee under this Debenture for a Secured Party, the Chargee is not obliged to pay that sum to that Secured Party (or to enter into or perform any related exchange contract) until it has been able to establish to its satisfaction that it has actually received that sum.

- (b) If the Chargee pays an amount to another Secured Party and it proves to be the case that the Chargee had not actually received that amount, then the Secured Party to whom that amount (or the proceeds of any related exchange contract) was paid by the Chargee shall on demand refund the same to the Chargee together with interest on that amount from the date of payment to the date of receipt by the Chargee, calculated by the Chargee to reflect its cost of funds.

8.4 Set-off by Chargor

All payments to be made by the Chargor under this Debenture shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim.

8.5 Business Days

- (a) Any payment under this Debenture which is due to be made on a day that is not a Business Day shall be made on the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).
- (b) During any extension of the due date for payment of any sum due and payable but unpaid by the Chargor under this Debenture interest is payable on such unpaid sum at the rate payable on the original due date.

8.6 Currency of account

Each payment in respect of costs, expenses or Taxes shall be made in the currency in which the costs, expenses or Taxes are incurred.

9. ENFORCEMENT OF SECURITY

9.1 When the Security becomes enforceable

The Security created under this Debenture shall become enforceable if a Declared Default has occurred or, at the sole and absolute discretion of the Chargee only, following a written request from the Chargor.

9.2 Rights and powers of the Chargee on enforcement

- (a) The power of sale and the other powers conferred by section 101 of the LPA (as varied or extended by this Debenture) shall arise on the date of this Debenture, but the Chargee shall not exercise those powers until the Security created under this Debenture has become enforceable under Clause 9.1 (*When the Security becomes enforceable*).
- (b) Upon, and at any time after, the date the Security created under this Debenture has become enforceable the Chargee may (without prejudice to any of its other rights and remedies, and (unless required by law) without notice to the Chargor) enforce all or any of that Security, and may (or may appoint one or more Delegates to) exercise all or any of the other rights and powers conferred on it under the Finance Documents.

9.3 Set-off

Upon, and at any time after, the date the Security created under this Debenture has become enforceable, the Chargee or any Secured Party may set off all or any of the Secured Liabilities, insofar as they have matured and to the extent beneficially owned by the Chargee or such Secured Party, against any amount matured obligation owed by the Chargee or that Secured Party to the Chargor by applying such amount in or towards payment of all or any of the Secured Liabilities, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Chargee or relevant Secured Party

may convert either of them at a market rate of exchange in its usual course of business for the purpose of the set-off.

9.4 Right of appropriation

- (a) This Clause applies to the extent that:
 - (i) the Charged Property referred to in it constitutes Financial Collateral; and
 - (ii) this Debenture and the obligations of the Chargor under it constitute a Security Financial Collateral Arrangement (as defined in the Regulations).
- (b) The Chargee or any Receiver or Delegate may, by giving written notice to the Chargor upon, and at any time after, the date the Security created under this Debenture has become enforceable, appropriate all or any Charged Property in or towards payment or discharge of the Secured Liabilities, subject always to Regulation 18 of the Regulations.
- (c) The value of any Charged Property appropriated in accordance with this Clause shall be determined by the Chargee as being a fair market value having regard to the prevailing market conditions (but without any obligation on a seller in such a market to postpone (or request the postponement of) any sale of that Charged Property in order to achieve a higher value).
- (d) The Chargor agrees that the method of valuation provided for in this Clause is commercially reasonable for the purposes of the Regulations.

9.5 No liability

- (a) Neither the Chargee, any of the Secured Parties nor any Receiver shall be liable:
 - (i) in respect of all or any part of the Charged Property; or
 - (ii) for any loss or damage which arises out of the exercise or the attempted or purported exercise of, or the failure to exercise any of, its or his respective powers under this Debenture or any applicable law (unless such loss or damage is caused by its or his gross negligence or wilful misconduct).
- (b) Without prejudice to the generality of paragraph (a) above, neither the Chargee, any of the Secured Parties nor any Receiver shall be liable, by reason of entering into possession of all or part of the Charged Property, to account as mortgagee in possession or for any loss on realisation or for any default or omission for which a mortgagee in possession might be liable.

10. APPOINTMENT AND REMOVAL OF RECEIVERS AND ADMINISTRATORS

10.1 Power of appointment and removal

Upon and at any time after the date the Security created under this Debenture has become enforceable, the Chargee may by deed or otherwise in writing (acting through an authorised officer or manager):

- (a) appoint one or more persons to be a Receiver or Receivers (jointly and severally) of all or any part of the Charged Property;
- (b) remove any Receiver;
- (c) appoint one or more persons as additional or replacement Receivers; or

- (d) appoint one or more persons to be an administrator or administrators of the Chargor under Schedule B1 of the Insolvency Act 1986.

10.2 Powers additional

The power to appoint a Receiver under this Clause shall be in addition to all statutory and other powers of appointment the Chargee may have under the LPA (as varied and extended under this Debenture) and may be exercised from time to time by the Chargee in respect of all or any part of the Charged Property.

10.3 Limitation on appointments

Regardless of any other provision of this Debenture, the Chargee may not appoint a Receiver solely by reason of a moratorium being obtained, or anything being done with a view to a moratorium being obtained, under section 1A of the IA.

10.4 Receiver's remuneration

Every Receiver shall be entitled to remuneration at a rate to be fixed by agreement between the Receiver and the Chargee, and the maximum rate specified in section 109(6) of the LPA shall not apply.

11. POWERS AND STATUS OF RECEIVER

11.1 Powers and rights

Every Receiver shall have all the powers and rights:

- (a) conferred by the LPA on mortgagees in possession and on receivers appointed under the LPA;
- (b) specified in Schedule 1 of the IA in relation to, and to the extent applicable to, the Charged Property or any of it (whether or not the Receiver is an administrative receiver within the meaning of that Act);
- (c) of the Chargee under this Debenture;
- (d) of an absolute legal and beneficial owner of the Charged Property;
- (e) which are conferred by any other law conferring power on receivers; and
- (f) that seem to the Receiver to be incidental or conducive to the exercise of any of the other powers and rights conferred on or vested in the Receiver.

11.2 Joint or several

If two or more persons are appointed as Receivers of the same assets, they may act jointly and severally so that (unless any instrument appointing them specifies to the contrary) each of them may exercise individually all the powers and discretions conferred on Receivers under this Debenture.

11.3 Receiver as agent

Every Receiver shall be the agent of the Chargor for all purposes, and the Chargor shall be solely responsible for the Receiver's:

- (a) acts, omissions and defaults; and
- (b) remuneration, costs and expenses.

12. APPLICATION OF PROCEEDS

- (a) The Chargee or any Receiver or Delegate shall apply all moneys received, retained or recovered by it, and all receipts and recoveries under this Debenture (cash or otherwise):
- (i) firstly, in or towards the payment or discharge of, or provision for, all costs, charges, and expenses incurred, and payments made by the Chargee, any Receiver or any Delegate and the payment of the remuneration of any Receiver or Delegate and the discharge of any liabilities incurred by the Receiver or any Delegate in, or incidental to, the exercise of any of his powers;
 - (ii) secondly, in or towards payment or discharge of, or provision for, the Secured Liabilities in such order and manner that the Chargee determines; and
 - (iii) thirdly, in payment of the surplus (if any) to the Chargor or other persons entitled to it,

and section 109(8) of the LPA shall not apply to the application of moneys received by a Receiver.

- (b) Clause (a) above shall override any appropriation made by the Chargor.

13. PROTECTION OF PURCHASERS

13.1 No obligation to make enquiries

No purchaser or other person dealing with the Chargee or any Receiver or Delegate shall be bound or concerned:

- (a) to enquire whether the Secured Liabilities have become payable;
- (b) to enquire whether the right of the Chargee or any Receiver or Delegate to exercise any of the powers conferred on them under this Debenture has arisen or not;
- (c) with the propriety of the exercise or purported exercise of those powers;
- (d) to enquire as to whether any monies remain due or payable under the Loan Note Instrument or any other Finance Document; or
- (e) with the application of any consideration (whether cash or non-cash) paid to the Chargee, any Receiver or Delegate or to any other person.

13.2 Conclusive discharge

The receipt of the Chargee or any Receiver or Delegate shall be a conclusive discharge to a purchaser and, in making any sale or other disposal of any of the Charged Property or in making any acquisition in the exercise of their respective powers, the Chargee and any Receiver or Delegate may do so for any consideration, in any manner and on any terms that it or he thinks fit.

14. PRESERVATION OF SECURITY

14.1 Waiver of defences

Neither the Security created by this Debenture nor the obligations of the Chargor 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 (without limitation and whether or not known to the Chargor or the Secured Parties) including:

- (a) any time, waiver or consent granted to, or composition with, the Chargor or other person;
- (b) the release of the Chargor or any other person under the terms of any composition or arrangement with any creditor of any person;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take or enforce, any rights against, or Security over assets of the Chargor or any 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, the Chargor or any other person;
- (e) any amendment, novation, supplement, extension (whether of maturity or otherwise), restatement (in each case however fundamental and whether or not more onerous) or replacement, assignment, avoidance or termination of any Finance Document or any other document or Security or of the Secured Liabilities, including 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 (or expressed to be of) or any Security created by (or expressed to be created by) any person under any Finance Document or any other document;
- (g) any insolvency, liquidation, administration or similar procedure;
- (h) any change in the constitution of the Chargor that is a partnership; or
- (i) this Debenture or any other Finance Document not being executed by or binding on any other party to it.

14.2 Chargor intent

Without prejudice to the generality of Clause 14.1 (*Waiver of defences*), the Chargor expressly confirms that it intends that the Security created under this Debenture shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any of the Finance Documents and/or any facility or amount made available under any of the Finance Documents for the purposes of or in connection with any of the following:

- (a) business acquisitions of any nature;
- (b) increasing working capital;
- (c) enabling investor distributions to be made;
- (d) carrying out restructurings;
- (e) refinancing existing facilities;
- (f) refinancing any other indebtedness;
- (g) making facilities available to new borrowers;
- (h) any other variation or extension of the purposes for which any such facility or amount might be made available from time to time; and
- (i) any fees, costs and/or expenses associated with any of the foregoing.

14.3 Immediate recourse

The Chargor waives any right it may have of first requiring any Secured Party (or any trustee or agent thereof) to proceed against or enforce any other rights or Security or claim payment from any person before claiming from the Chargor under this Debenture. This waiver applies irrespective of any law or any provision of a Finance Document to the contrary.

14.4 Appropriations

During the Security Period each of the Secured Parties may:

- (a) refrain from applying or enforcing any other moneys, Security or rights held or received by it (or any trustee or agent on its behalf) in respect of the Secured Liabilities or, subject to Clause 12 (*Application of Proceeds*), apply and enforce them in such manner and order as it sees fit (whether against the Secured Liabilities or otherwise) and the Chargor shall not be entitled to the benefit of them; and
- (b) hold in an interest-bearing suspense account any moneys received from the Chargor or on account of any of the Secured Liabilities.

14.5 Deferral of Chargor's rights

- (a) During the Security Period and unless the Chargee otherwise directs, the Chargor shall not exercise or benefit from any rights referred to in paragraph (b) below by reason of:
 - (i) the performance of its obligations under this Debenture or any other Finance Document;
 - (ii) any amount being payable, or liability arising, under any such document; or
 - (iii) the enforcement of the Security created by this Debenture.
- (b) The rights referred to in paragraph (a) above are the rights:
 - (i) to receive or claim payment from or be indemnified by Chargor;
 - (ii) to claim any contribution from any guarantor of, or provider of Security in respect of, the Chargor's obligations under any Finance Document; or
 - (iii) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of any of the Secured Parties under any Finance Document or of any other guarantee or Security taken pursuant to, under, or in connection with, any Finance Document by any Secured Party.
- (c) If the Chargor receives any benefit, payment or distribution in relation to any such rights it shall:
 - (i) hold it on trust for the Chargee to the extent necessary to enable all amounts that may be or become payable to any of the Secured Parties by the Chargor under or in connection with this Debenture or any other Finance Document to be repaid in full; and
 - (ii) promptly pay or transfer it to the Chargee or as the Chargee may direct for application in accordance with Clause 12 (*Application of Proceeds*).

14.6 Additional Security

The Security and other rights created under this Debenture are in addition to and are not in any way prejudiced by and shall not merge with any guarantee or Security now or in the future held by any of the Secured Parties.

14.7 Tacking

Each Secured Party shall comply with its obligations under the Loan Note Instrument (including any obligation to make further advances).

14.8 Notice of subsequent Security

- (a) If any of the Secured Parties, acting in any capacity, receives (or is deemed to have received) notice of any subsequent Security or other interest over or affecting any of the Charged Property, such Secured Party may open a new account of the Chargor.
- (b) If the relevant Secured Party does not open a new account, it will nevertheless be treated as if it had done so at the time it received (or was deemed to have received) that notice.
- (c) As from the time the relevant Secured Party opened or was treated as having opened the new account, all payments received or recovered by that Secured Party, acting in any capacity, under this Debenture:
 - (i) will be credited, or treated as having been credited, to the new account; and
 - (ii) will not be applied, or treated as having been applied, in reduction of the Secured Liabilities.

15. FURTHER ASSURANCE

15.1 Requirements

The Chargor shall promptly, at its own expense, enter into, execute and do all such acts or execute all such documents (including assignments, transfers, mortgages, charges, notarisations, the payment of any stamp duties or fees, serving notices, making filings, registrations and applications for relief against forfeiture) as the Chargee or any Receiver or Delegate may reasonably specify (and in such form as the Chargee, Receiver or Delegate may reasonably require) for the purpose of all or any of the following:

- (a) giving effect to the requirements of this Debenture;
- (b) creating, protecting, preserving and perfecting the Security intended to be created under this Debenture and the ranking of that Security or for the exercise of the Related Rights;
- (c) enabling any of the Charged Property to be transferred into the name of a purchaser on enforcement of the Security created under this Debenture or (in the case of Financial Collateral) the Chargee or its Delegate;
- (d) entering into, executing and completing, in favour of the Chargee or any Receiver or Delegate, mortgages or equivalent Security in overseas jurisdictions over any assets expressed to be mortgaged, assigned or charged by way of fixed charge under this Debenture and entering into, executing and completing in favour of any person nominated by the Chargee or any Receiver or Delegate a power of attorney in order to enter into such a document;

- (e) recording the interest of the Secured Parties in the Charged Property in any relevant registers in the United Kingdom and elsewhere; and
- (f) facilitating the realisation of all or any of the Charged Property or the exercise of any rights, powers and discretions conferred on any of the Secured Parties or any administrator,

including executing any transfer, conveyance, mortgage, charge, assignment or assurance of the Charged Property (whether to the Chargee or its nominee or otherwise), in a manner which is consistent with the provisions of this Debenture.

15.2 Form of documents

Any deeds and other documents that the Chargee or any Receiver or Delegate requires the Chargor to sign or execute under this Clause shall contain clauses corresponding to and which are on terms no more onerous than the provisions of this Debenture and shall otherwise be in such form and addressed to such persons as the Chargee, Receiver or Delegate (as the case may be) shall reasonably require, and may disapply section 93 of the LPA.

16. CONSEQUENCES OF THE CHARGOR'S FAILURE TO ACT

If the Chargor fails to comply in any material respect with the requirements of this Debenture, the Chargee or any Receiver or Delegate may (but shall not be obliged to) take such action as they consider necessary or desirable to remedy that failure, without prejudice to their other rights and remedies under this Debenture.

17. POWER OF ATTORNEY

17.1 Power of attorney

Promptly following the occurrence of a Declared Default, or in the event that the Chargor has failed to comply with its obligations as set out in this Debenture to perfect the Security created under this Debenture or to comply with its obligations under Clause 15 (*Further assurance*) within two Business Days of becoming aware of such failure, the Chargor irrevocably and by way of security appoints the Chargee and each Receiver and Delegate severally to be its attorney, in its name, on its behalf, as its act and deed and in such manner as the attorney thinks fit:

- (a) to carry out any obligation imposed on the Chargor by any Finance Document or other agreement binding on the Chargor and to which the Chargee or any Receiver or Delegate is a party; and
- (b) to exercise, or delegate the exercise of, any of the rights, powers, authorities and discretions conferred on the Chargee, any Receiver or any Delegate under this Debenture or by law.

17.2 Ratification

The Chargor shall:

- (a) ratify and confirm all things done and all documents executed by any attorney appointed under Clause 17.1 (*Power of attorney*) in the exercise or purported exercise of all or any of the attorney's powers; and
- (b) indemnify all such attorneys against all losses, costs, damages and expenses they may incur in doing those things and executing those documents.

18. RELEASE OF SECURITY

18.1 Release

Upon the expiry of the Security Period and provided that no party then has any subrogation rights in respect of the security created under this Debenture the Chargee shall, at the request and the cost of the Chargor, release or discharge, or procure the release or discharge of, the Security constituted by this Debenture and, where appropriate, procure the reassignment to the Chargor of the Charged Property assigned to the Chargee pursuant to this Debenture.

18.2 Consolidation

The right of the Chargee to consolidate mortgages shall be unrestricted and section 93 of the LPA shall not apply to this Debenture or to the exercise by the Chargee of its right to consolidate all or any of the Security created by or pursuant to this Debenture with any other Security in existence at any time.

18.3 Continuation of Security

If the Chargee considers that any amount paid to it under a Finance Document or otherwise in payment or discharge of all or part of the Secured Liabilities is capable of being avoided or restored or otherwise set aside in insolvency, liquidation, administration or otherwise (or is so avoided, restored or otherwise set aside), that amount shall not be considered to have been irrevocably paid, the Secured Liabilities will not be considered to have been irrevocably and unconditionally paid or discharged in full and the liability of the Chargor under this Debenture, and the Security constituted by them, will continue.

19. ASSIGNMENTS AND TRANSFERS

19.1 Assignments and Transfers by the Chargor

The Chargor may not assign any of its rights or transfer any of its obligations under this Debenture.

19.2 Assignments and Transfers by the Chargee

The Chargee may assign and transfer all or any of its rights and obligations under this Debenture.

20. POWERS OF DELEGATION AND DISCRETION

20.1 Appointment of Delegates

The Chargee may appoint (and remove) any person:

- (a) to act as a Delegate (including as custodian or nominee) on any terms (including powers to sub-delegate); and
- (b) to act as a separate trustee or as a co-trustee jointly with the Chargee.

20.2 Delegation by the Chargee, Receivers and Delegates

Each of the Chargee, any Receiver and any Delegate may delegate, to any person for any period, all or any right, power, authority or discretion vested in it in its capacity as such.

20.3 Terms of appointment

- (a) Any person appointed under this Clause shall have the rights, powers, authorities and discretions (not exceeding those given to the Chargee under or in connection with the

Finance Documents), and the duties, obligations and responsibilities, that are given or imposed by the instrument of appointment.

- (b) Any appointment or delegation under this Clause shall be on such terms (including the power to sub-delegate) as the appointor sees fit, and the appointor:
 - (i) shall not be bound to supervise, or be responsible for any damages, costs, losses or liabilities incurred by reason of any misconduct, omission or default on the part of the appointee; and
 - (ii) may pay remuneration to the appointee which shall, together with any costs and expenses (and any applicable VAT) incurred by the appointee in performing its functions, be treated as costs and expenses incurred by the Chargee or any Receiver or Delegate.

20.4 Discretion

Any liberty or power which may be exercised or any determination which may be made under this Debenture by the Chargee or any Receiver may, subject to the terms of Loan Note Instrument, be exercised or made in its absolute and unfettered discretion without any obligation to give reasons.

21. PROTECTION OF THE SECURED PARTIES

None of the Secured Parties, nor any of their respective officers, employees or agents, shall be liable:

- (a) to account as a mortgagee in possession; or
- (b) except in the case of gross negligence or wilful misconduct on the part of that Secured Party or its officers, employees or agents, for any liability, damages, costs or losses arising from:
 - (i) taking or not taking any action in relation to any of the Charged Property or any documents of or evidencing title to them including:
 - (A) the selection of periods for any time deposit or the termination of any such period before its due date of maturity; and
 - (B) taking possession of, appropriating or realising the Charged Property as permitted under this Debenture; or
 - (ii) the loss or destruction of, or damage to, any of the Charged Property or any documents of or evidencing title to them.

22. COSTS AND EXPENSES

22.1 Transaction expenses

The Chargor shall, within three Business Days of demand, pay the Chargee and any Receiver or Delegate the amount of all costs and expenses (including legal, accountancy and other professional fees and together with any applicable VAT) reasonably incurred by any of them in connection with the negotiation, preparation, printing and execution of this Debenture or any Finance Document and the perfection of the Security created or expressed to be created under them.

22.2 Amendment costs

If the Chargor requests an amendment, waiver or consent in relation to this Debenture or any Finance Document it shall, within three Business Days of demand, reimburse the Chargee and any Receiver or Delegate for the amount of all costs and expenses (including legal, accountancy and other professional fees and together with any applicable VAT) incurred by them in responding to, evaluating, negotiating or complying with that request or requirement.

22.3 Enforcement and preservation costs

The Chargor shall, promptly on demand, pay to the Chargee and any Receiver or Delegate the amount of all costs and expenses (including legal fees and together with any applicable VAT) incurred by them in connection with the enforcement of or the exercise or preservation of any rights under this Debenture or any Finance Document and any proceedings instituted by or against them as a consequence of taking or holding the Security created or expressed to be created under this Debenture or of enforcing those rights.

22.4 Stamp Taxes

The Chargor shall:

- (a) promptly pay all stamp, documentary and similar Taxes, and all registration, notarial and other fees to which this Debenture, any document referred to therein, the Security created or expressed to be created under it or any such document, and any judgment given in connection with it or any such document is or at any time may be subject; and
- (b) indemnify the Chargee on demand against any liabilities, costs, claims and expenses resulting from any failure to pay, or any delay in paying, any such Tax.

23. OTHER INDEMNITIES

23.1 Indemnity to the Chargee

- (a) The Chargor shall promptly indemnify the Chargee and every Receiver and Delegate against any cost, loss or liability incurred by any of them as a result of:
 - (i) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised;
 - (ii) the taking, holding, protection or enforcement of the Security created under this Debenture;
 - (iii) the exercise of any of the rights, powers, discretions, authorities and remedies vested in the Chargee and each Receiver and Delegate by this Debenture or by law;
 - (iv) any default by the Chargor in the performance of any of the obligations expressed to be assumed by it in this Debenture; or
 - (v) acting as Chargee, Receiver or Delegate under this Debenture or which otherwise relates to any of the Charged Property (otherwise, in each case, than by reason of the relevant Chargee's, Receiver's or Delegate's gross negligence or wilful misconduct).
- (b) The Chargee and every Receiver and Delegate may, in priority to any payment to the Secured Parties, indemnify itself and its officers and employees out of any of the Charged Property in respect of, and pay and retain, all sums necessary to give effect to the indemnity in this Clause 23.1 and shall have a lien on the proceeds of the

enforcement of the Security created or expressed to be created in favour of the Chargee under this Debenture, for all moneys payable to it.

24. NOTICES

24.1 Communications in writing

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

24.2 Addresses

(a) The address (and the department or officer, if any, for whose attention the communication is to be made) of each party for any communication or document to be made or delivered under or in connection with this Debenture is that identified with its name in paragraph (b) below or any substitute address or department or officer as the relevant party may notify to the other pursuant to clause 10 (*Notices*) of the Loan Note Instrument by not less than five Business Days' notice.

(b) The addresses and other particulars of the parties are:

(i) The Chargor

Name: Byhiras (Europe) Limited
Address: 23 Austin Friars, London, EC2N 2QP
Email: sam.lusty@byhiras.com and rachel.bond@byhiras.com
Attention: Chief Executive Officer

(ii) The Chargee

Address: Herrengasse 2, 9490 Vaduz, Liechtenstein
Attention: Hani Lazkani and Hala Zeibak, Cc: Sung Chul Whang
Email: h.lazkani@Olayangroup.com and
h.zeibak@Olayangroup.com, Cc: s.whang@olayangroup.com

24.3 Delivery

(a) Any communication or document made or delivered by one person to another under or in connection with this Debenture will only be effective:

(i) If by way of letter, when it has been left at the relevant address, or two Business Days or, in the case of airmail, five Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address; or

(ii) If by way of email, when received in legible form,

and, if a particular department or officer is specified as part of its address details provided under Clause 24.2 (*Addresses*), if addressed to that department or officer.

(b) Any communication or document which becomes effective in accordance with paragraph (a) or (b) above, after 5.00 p.m. in the place of receipt shall be deemed only to become effective on the following day.

24.4 English language

- (a) Any notice given under or in connection with this Debenture must be in English.
- (b) All other documents provided under or in connection with this Debenture must be:
 - (i) in English; or
 - (ii) if not in English, and if so required by the Chargee, 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.

25. CALCULATIONS AND CERTIFICATES

25.1 Accounts

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

25.2 Certificates and determinations

Any certification or determination by any of the Secured Parties of a rate or amount under this Debenture is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

26. PARTIAL INVALIDITY

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

27. REMEDIES AND WAIVERS

No failure to exercise, nor any delay in exercising, on the part of the Chargee or any Secured Party, any right or remedy under this 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. The rights and remedies provided in this Debenture are cumulative and not exclusive of any rights or remedies provided by law.

28. AMENDMENTS AND WAIVERS

Any term of this Debenture may be amended or waived only with the written consent of the Chargor and the Chargee.

29. 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.

30. GOVERNING LAW

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

31. JURISDICTION

31.1 Jurisdiction

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Debenture (including a dispute relating to the existence, validity or termination of this Debenture or any non-contractual obligation arising out of or in connection with this Debenture) (a "**Dispute**").
- (b) The parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes between them and accordingly no party will argue to the contrary.
- (c) This Clause 31.1 is for the benefit of the Chargee and the other Secured Parties only. As a result, none of the Secured Parties 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.

EXECUTION PAGE FOR THE DEBENTURE

EXECUTED as a deed and delivered on the date appearing at the beginning of this Debenture

EXECUTED AS A DEED

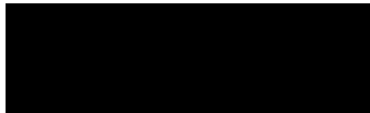
by

BYHIRAS (EUROPE) LIMITED

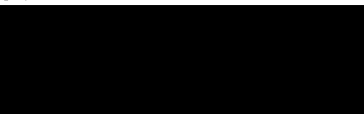
acting by S.A.M. Lusty in the presence of:



.....
Print name: **S.A.M. Lusty**.....
Director




.....
Print name of witness: **RACHEL BOND**.....

Address: 

EXECUTION PAGE FOR THE DEBENTURE

SIGNED by a duly authorised
representative for and on behalf
of **COMPETROL**
ESTABLISHMENT



Print name: Nadim Tabbara/Samer Yaghnam
Duly authorised representatives