



Registration of a Charge

Company name: **APOLLO ENDOSURGERY UK LTD**

Company number: **09000573**



X883RE62

Received for Electronic Filing: **21/06/2019**

Details of Charge

Date of creation: **04/06/2019**

Charge code: **0900 0573 0001**

Persons entitled: **SOLAR CAPITAL LTD. (AS COLLATERAL AGENT)**

Brief description: **SEVERAL LEASEHOLD PROPERTIES HELD IN THE NAME OF APOLLO ENDOSURGERY UK LTD, INCLUDING: UNIT 10, ST. JAMES BUSINESS PARK, GRIMBALD CRAG COURT, KNARESBOROUGH, HG5 8GB. FOR ADDITIONAL DETAILS AND LISTINGS PLEASE REFER TO SCHEDULE 2 OF THE SECURITY INSTRUMENT.**

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: **JACK ANDERSON**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 9000573

Charge code: 0900 0573 0001

The Registrar of Companies for England and Wales hereby certifies that a charge dated 4th June 2019 and created by APOLLO ENDOSURGERY UK LTD was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 21st June 2019 .

Given at Companies House, Cardiff on 24th June 2019

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



Companies House



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

4 June 2019

APOLLO ENDOSURGERY UK LTD

and

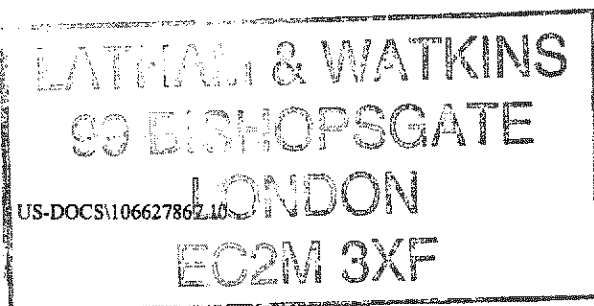
SOLAR CAPITAL LTD.

(as Collateral Agent)

DEBENTURE

LATHAM & WATKINS

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London EC2M 3XF
United Kingdom
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www.lw.com



We hereby certify this to be a true copy of the original

Latham & Watkins

Latham & Watkins

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THIS DEED is made on 4 June 2019

BETWEEN:

- (1) **APOLLO ENDOSURGERY UK LTD**, a company incorporated in England and Wales with registered number 09000573 (the "**Original Chargor**") and
- (2) **SOLAR CAPITAL LTD.**, as collateral agent for itself and the other Secured Parties (the "**Collateral Agent**").

IT IS AGREED AS FOLLOWS:

1. INTERPRETATION

1.1 Definitions

In this Debenture:

"**Account Notice**" means a notice substantially in the form set out in Part 3 of Schedule 7 (*Forms of Notices*);

"**Accounts**" means all present and future accounts opened or maintained by the Chargors, including but not limited to the accounts set out in Schedule 5 (*Bank Accounts*) of this Debenture (and any renewal or re-designation of such account(s)), in each case, together with the debt or debts represented thereby;

"**Assigned Agreements**" means any agreement to which a Chargor is a party that is designated as an Assigned Agreement by the Chargors and the Collateral Agent;

"**Charged Property**" means all the assets and undertakings of the Chargors which from time to time are subject of the Security created or expressed to be created in favour of the Collateral Agent by or pursuant to this Debenture and any Security Accession Deed;

"**Chargor**" means the Original Chargor and each company which grants security over its assets in favour of the Collateral Agent by executing a Security Accession Deed;

"**Counterparty Notice**" means a notice substantially in the form set out in Part 1 of Schedule 7 (*Forms of Notices*);

"**Default Rate**" means the rate at which interest is payable under Clause 2.3(b) (*Default Interest*) of the Loan and Security Agreement;

"**Equipment**" means all present and future plant, machinery, computers, office and other equipment, furnishings and vehicles and other chattels together with any spare parts, replacements or modifications and the benefit of all contracts, licences and warranties relating thereto, including but not limited to any assets specified in Schedule 4 (*Equipment*);

"**Event of Default**" means an Event of Default as defined in the Loan and Security Agreement;

"**Finance Parties**" means the Lenders and the Collateral Agent;

"**Group**" means the Parent, the Chargors and their Subsidiaries;

"**Insurance Notice**" means a notice substantially in the form set out in Part 2 of Schedule 7 (*Forms of Notices*);

“Insurance Policies” means all present and future policies of insurance held by, or written in favour of, a Chargor or in which it is otherwise interested, and all proceeds of them either now or in the future of which a Chargor is a beneficiary to any claim proceeds, including but not limited to the policies of insurance, if any, specified in Schedule 6 (*Insurance Policies*);

“Intellectual Property” means all present and future patents, trademarks, service marks, designs, business names, copyrights, database rights, design rights, domain names, moral rights, inventions, confidential information, knowhow and other intellectual property rights and interests, whether registered or unregistered and the benefit of all applications and rights to use such assets which may now or in the future subsist;

“Investment” means all present and future stock, share, debenture, loan stock, securities, bonds, certificates of deposits, options, warrants, interest in any investment fund or investment scheme and any other comparable investment (including all warrants, options and any other rights to subscribe for, convert into or otherwise acquire these investments), including but not limited to the investments, if any, specified in Schedule 3 (*Shares and Investments*) (including, unless the context otherwise requires, the Shares), in each case whether owned directly by or to the order of a Chargor or by any trustee, fiduciary, nominee or clearance system on its behalf and all Related Rights (including all rights against any such trustee, fiduciary, nominee or clearance system);

“Lenders” means the Lenders as defined in the Loan and Security Agreement;

“Loan and Security Agreement” means the loan and security agreement dated as of 15 March 2019 under which the Lenders have made available certain facilities to the Parent and certain of its subsidiaries;

“Loan Documents” has the meaning given to that term in the Loan and Security Agreement;

“Other Debts” means all present and future book debts and other debts and monetary claims (other than Trading Receivables) owing to a Chargor and any proceeds of such debts and claims;

“Parent” means Apollo Endosurgery, Inc.;

“Parties” means each of the parties to this Debenture from time to time;

“Property” means all present and future freehold and leasehold real property from time to time owned by a Chargor or in which a Chargor is otherwise interested, including, but not limited to the property, if any, specified in Schedule 2 (*Properties*), and shall include:

- (a) the proceeds of sale of all or any part of such property;
- (b) all rights, benefits, privileges, warranties, covenants, easements, appurtenances and licences relating to such property;
- (c) all money received by or payable to a Chargor in respect of such property; and
- (d) all buildings, fixtures and fittings from time to time on such property;

“PSC Register” means the “PSC register” within the meaning of section 790C(10) of the Companies Act 2006;

“PSC Registrable Person” means a “registrable person” or “registrable relevant legal entity” within the meaning of section 790C(4) and (8) of the Companies Act 2006;

“Quasi-Security” means a transaction in which a Chargor:

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

in circumstances where the arrangement or transaction is entered into primarily as a method of raising Indebtedness or of financing the acquisition of an asset;

"Receiver" means a receiver, receiver and manager, administrator or administrative receiver in each case appointed under this Debenture;

"Related Rights" means all dividends, distributions and other income paid or payable on a Share or Investment, together with all shares or other property derived from any Share or Investment and all other allotments, accretions, rights, benefits and advantages of all kinds accruing, offered or otherwise derived from or incidental to that Share or Investment (whether by way of conversion, redemption, bonus, preference, option or otherwise);

"Secured Obligations" means all present and future money, obligations or liabilities due, owing or incurred to any Secured Party by each Loan Party under any Loan Document, whether actual or contingent, whether incurred solely or jointly with any other person and whether as principal or surety, together with all interest accruing thereon and all losses incurred by any Secured Party in connection therewith except for any money, obligation or liability which, if it were so included, would cause the infringement of section 678 of the Companies Act 2006;

"Secured Parties" means the Finance Parties and any Receiver;

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

"Security Accession Deed" means a deed executed by a member of the Group substantially in the form set out in Schedule 8 (*Form of Security Accession Deed*), with those amendments which the Collateral Agent may approve or reasonably require;

"Security Period" means the period beginning on the date of this Debenture and ending on the date on which all Secured Obligations have been irrevocably paid in full;

"Shares" means all present and future shares owned by a Chargor in its Subsidiaries including but not limited to the shares, if any, specified in Schedule 3 (*Shares and Investments*);

"Subsidiary" has the meaning given to it the Loan and Security Agreement;

"Trading Receivables" means all present and future book and other debts arising in the ordinary course of trading; and

"Trust Property" means:

- (a) the Security created or evidenced or expressed to be created or evidenced under or pursuant to any of the Loan Documents governed by English law (being the **"Transaction Security"**), and expressed to be granted in favour of the Collateral Agent as trustee for the Secured Parties and all proceeds of that Transaction Security;

- (b) all obligations expressed to be undertaken by a Loan Party to pay amounts in respect of its liabilities to the Collateral Agent as trustee for the Secured Parties and secured by the Transaction Security together with all representations and warranties expressed to be given by a Loan Party in favour of the Collateral Agent as trustee for the Secured Parties;
- (c) the Collateral Agent's interest in any trust fund created pursuant to any turnover of receipt provisions in any Loan Documents;
- (d) any other amounts or property, whether rights, entitlements, chooses in action or otherwise, actual or contingent, which the Collateral Agent is required by the terms of the Loan Documents to hold as trustee on trust for the Secured Parties.

1.2 Construction

In this Debenture, unless a contrary intention appears, a reference to:

- (a) an **"agreement"** includes any legally binding arrangement, concession, contract, deed or franchise (in each case whether oral or written);
- (b) an **"amendment"** includes any amendment, supplement, variation, novation, modification, replacement or restatement and **"amend"**, **"amending"** and **"amended"** shall be construed accordingly;
- (c) **"assets"** includes present and future properties, revenues and rights of every description;
- (d) **"including"** means including without limitation and **"includes"** and **"included"** shall be construed accordingly;
- (e) **"losses"** includes losses, actions, damages, claims, proceedings, costs, demands, expenses (including fees) and liabilities and **"loss"** shall be construed accordingly;
- (f) a **"person"** includes any person, firm, company, corporation, government, state or agency of a state or any association, trust or partnership (whether or not having separate legal personality) or any two or more of the foregoing; and
- (g) 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 regulatory, self-regulatory or other authority or organisation.

1.3 Other References

- (a) In this Debenture, unless a contrary intention appears, a reference to:
 - (i) any Finance Party, Secured Party, Chargor or any other person is, where relevant, deemed to be a reference to or to include, as appropriate, that person's successors in title, permitted assignees and transferees and in the case of the Collateral Agent, any person for the time being appointed as Collateral Agent or Collateral Agents in accordance with the Loan Documents;
 - (ii) any Loan Document or other agreement or instrument is to be construed as a reference to that agreement or instrument as amended or novated (howsoever fundamentally and whether or not such amendment results in new and / or more onerous obligations and liabilities), including by way of a change in the

purpose of the facilities, or by way of a refinancing, deferral or extension of the facilities or by way of an addition or increase of or other changes to the facilities or other obligations or liabilities under the agreements or accession or retirement of the parties to these agreements but excluding any amendment or novation made contrary to any provision of any Loan Document;

- (iii) any clause or schedule is a reference to, respectively, a clause of and schedule to this Debenture and any reference to this Debenture includes its schedules; and
- (iv) a provision of law is a reference to that provision as amended or re-enacted.
- (b) The index to and the headings in this Debenture are inserted for convenience only and are to be ignored in construing this Debenture.
- (c) Words importing the plural shall include the singular and vice versa.

1.4 Incorporation by reference

Unless the context otherwise requires or unless otherwise defined in this Debenture, words and expressions defined in the Loan and Security Agreement have the same meanings when used in this Debenture.

1.5 Miscellaneous

- (a) The terms of the documents under which the Secured Obligations arise and of any side letters between any Chargor and any Secured Party relating to the Secured Obligations are incorporated in this Debenture to the extent required for any purported disposition of the Charged Property contained in this Debenture to be a valid disposition in accordance with section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.
- (b) Notwithstanding any other provision of this Debenture, the obtaining of a moratorium under section 1A of the Insolvency Act 1986, or anything done with a view to obtaining such a moratorium (including any preliminary decision or investigation), shall not be an event causing any floating charge created by this Debenture to crystallise or causing restrictions which would not otherwise apply to be imposed on the disposal of property by any Chargor or a ground for the appointment of a Receiver.
- (c) The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Debenture and no rights or benefits expressly or impliedly conferred by this Debenture shall be enforceable under that Act against the Parties by any other person.
- (d) The parties hereto intend that this document shall take effect as a deed notwithstanding that any party may only execute this document under hand.

1.6 Declaration of trust

- (a) The Collateral Agent hereby accepts its appointment as Collateral Agent and trustee by the Secured Parties and declares (and each of the Chargors hereby acknowledges) that the Trust Property is held by the Collateral Agent as a trustee for and on behalf of the Secured Parties on the basis of the duties, obligations and responsibilities set out in the Loan and Security Agreement.

- (b) Section 1 of the Trustee Act 2000 shall not apply to the duties of the Collateral Agent in relation to the trusts created by this Debenture or any other Loan Document. In performing its duties, obligations and responsibilities, the Collateral Agent shall be considered to be acting only in a mechanical and administrative capacity or as expressly provided in this Debenture and the other Loan Documents.
- (c) In acting as trustee for the Secured Parties under this Debenture, the Collateral Agent shall be regarded as acting through its trustee division which shall be treated as a separate entity from any other of its divisions or departments. Any information received by some other division or department of the Collateral Agent may be treated as confidential and shall not be regarded as having been given to the Collateral Agent's trustee division.

2. COVENANT TO PAY

Each Chargor as primary obligor covenants with the Collateral Agent (for the benefit of itself and the other Secured Parties) that it will on demand pay the Secured Obligations when they fall due for payment in accordance with the Loan and Security Agreement and in the manner provided for in the Loan and Security Agreement.

3. CHARGING PROVISIONS

3.1 Specific Security

Each Chargor, as continuing security for the payment of the Secured Obligations, charges in favour of the Collateral Agent as trustee for itself and the other Secured Parties with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994 the following assets, both present and future, from time to time owned by it or in which it has an interest:

- (a) by way of first legal mortgage all Property now belonging to or vested in it; and
- (b) by way of first fixed charge:
 - (i) all other interests (not effectively charged under Clause 3.1(a)) in any Property and the benefit of all other agreements relating to land to the extent held by such Chargor;
 - (ii) all of its rights, title and interest in the Equipment;
 - (iii) all the Investments, Shares and all corresponding Related Rights;
 - (iv) all Trading Receivables and all rights and claims against third parties and against any security in respect of those Trading Receivables;
 - (v) all Other Debts and all rights and claims against third parties against any security in respect of those Other Debts;
 - (vi) all monies from time to time standing to the credit of the Accounts and any other bank accounts which it may have with any bank, financial institution or other person (including any interest and other sums accruing thereon) and all of its rights, title and interest in, and benefits and proceeds deriving from or arising in connection with, the Accounts;
 - (vii) all of its goodwill and uncalled capital; and

- (viii) if not effectively assigned by Clause 3.2 (*Security Assignment*), all its rights, title and interest in (and proceeds and claims under) the Insurance Policies and the Assigned Agreements,

and includes, in respect of each of the above charged assets (as appropriate), the benefit of all licences, consents and agreements held by any Chargor in connection with the use of the asset, any monies or income paid or payable in respect of the asset, any proceeds of the sale of the asset and any other property, rights or claims relating to, accruing to or deriving from the asset.

3.2 Security Assignment

As further continuing security for the payment of the Secured Obligations, each Chargor assigns absolutely with full title guarantee to the Collateral Agent all its rights, title and interest, both present and future, from time to time in as far as such assignment is permitted under such Insurance Policies and the Assigned Agreements:

- (a) the Insurance Policies; and
- (b) the Assigned Agreements,

subject in each case to reassignment by the Collateral Agent to the relevant Chargor of all such rights, title and interest upon payment or discharge in full of the Secured Obligations.

3.3 Floating Charge

- (a) As further continuing security for the payment of the Secured Obligations, each Chargor charges with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994 in favour of the Collateral Agent as trustee for itself and the other Secured Parties by way of first floating charge all its present and future assets, undertakings and rights.
- (b) Paragraph 14 of Schedule B1 to the Insolvency Act 1986 shall apply to the floating charge created by this Debenture.

3.4 Conversion of Floating Charge

- (a) The Collateral Agent may, by notice to any Chargor, convert the floating charge created under this Debenture into a fixed charge with immediate effect as regards those assets specified in the notice, if:
 - (i) an Event of Default has occurred and is continuing; or
 - (ii) the Collateral Agent (acting reasonably) is of the view that any asset charged under the floating charge created under this Debenture is in danger of being seized or sold under any form of distress, attachment, execution or other legal process or is otherwise in jeopardy; or
 - (iii) the Collateral Agent reasonably considers that it is necessary in order to protect the priority, value or enforceability of the Security created under this Debenture.
- (b) The floating charge created under this Debenture will automatically (without notice) and immediately be converted into a fixed charge over all the assets of a Chargor which are subject to the floating charge created under this Debenture, if:

- (i) the members of that Chargor convene a meeting for the purposes of considering any resolution for its winding-up, dissolution, or a compromise, assignment or arrangement with any creditor;
 - (ii) that Chargor creates, or purports to create, Security (except as permitted by the Loan Documents or with the prior consent of the Collateral Agent) on or over any asset which is subject to the floating charge created under this Debenture;
 - (iii) any third party who is entitled to do so takes any formal step with a view to levying distress, attachment, execution or other legal process against any such asset;
 - (iv) any person (entitled to do so) gives notice of its intention to appoint an administrator to any Chargor or files such a notice with the court; or
 - (v) if any other floating charge created by that Chargor crystallises for any reason.
- (c) Upon the conversion of any floating charge pursuant to this Clause 3.4, each relevant Chargor shall, at its own expense, immediately upon request by the Collateral Agent execute a fixed charge or legal assignment in such form as the Collateral Agent may require.

3.5 Property Restricting Charging

- (a) There shall be excluded from the charge created by Clause 3.1(*Specific Security*) and from the operation of Clause 4 (*Further Assurance*) any leasehold property held by a Chargor under a lease which prohibits either absolutely or conditionally (including requiring the consent of any third party) that Chargor from creating any charge over its leasehold interest until the relevant condition or waiver has been satisfied or obtained.
- (b) For all material leasehold property referred to in Clause 3.5(a), each relevant Chargor undertakes to apply for the relevant consent or waiver of prohibition or condition within fourteen days of the date of this Debenture and, in respect of any lease, licence or agreement which provides that the relevant third party will not unreasonably withhold its consent to charging, to use all reasonable endeavours to obtain such consent as soon as possible and to keep the Collateral Agent informed of the progress of its negotiations.
- (c) Immediately upon receipt of the relevant waiver or consent, the formerly excluded leasehold property shall stand charged to the Collateral Agent under Clause 3.1 (*Specific Security*). If required by the Collateral Agent, at any time following receipt of that waiver or consent, the relevant Chargor will forthwith execute a valid fixed charge or legal assignment in such form as the Collateral Agent shall reasonably require.

4. FURTHER ASSURANCE

- (a) The covenants set out in Section 2(1)(b) of the Law of Property (Miscellaneous Provisions) Act 1994 shall extend to include the obligations set out in sub-clause 4 (b) and (c) below.
- (b) Each Chargor shall promptly (and at its own expense) (any such expenses to be reasonably and properly incurred) do all such acts (including payment of all stamp

duties or fees) or execute or re-execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions on terms equivalent or similar to those set out in this Debenture) as the Collateral Agent may reasonably specify (and in such form as the Collateral Agent may reasonably require):

- (i) to perfect the Security created or intended to be created under or evidenced by this Debenture and on terms no more onerous than those provided for in this Debenture (which may include the execution or re-execution of a mortgage, charge, assignment or other Security over all or any of the assets which are, or are intended to be, the subject of this Debenture) or for the exercise of any rights, powers and remedies of the Collateral Agent, any Receiver or the other Secured Parties provided by or pursuant to this Debenture or by law;
 - (ii) to confer on the Collateral Agent, or on the Secured Parties, Security over any property and assets of that Chargor located in any jurisdiction equivalent or similar to the Security intended to be conferred by or pursuant to this Debenture; and/or
 - (iii) to facilitate the realisation of the assets which are, or are intended to be, the subject of the Security created under this Debenture.
- (c) Each Chargor shall take all such action as is available to it (including making all filings and registrations) as may be necessary for the purpose of the creation, perfection, protection or maintenance of any Security conferred or intended to be conferred on the Collateral Agent or the Secured Parties by or pursuant to this Debenture.

5. NEGATIVE PLEDGE

No Chargor may during the Security Period:

- (a) create or agree to create or permit to subsist any Security or Quasi-Security over all or any part of the Charged Property or its Intellectual Property;
- (b) sell, transfer, lease out, lend or otherwise dispose of all or any part of the Charged Property (other than in respect of assets charged under Clause 3.3 (*Floating Charge*) on arm's length terms in the ordinary course of trading) or its Intellectual Property, or in each case the right to receive or to be paid the proceeds arising on the disposal of the same, or agree or attempt to do so; or
- (c) dispose of the equity of redemption in respect of all or any part of the Charged Property or its Intellectual Property,

except as permitted by the Loan and Security Agreement or with the prior consent of the Collateral Agent.

6. REPRESENTATIONS AND WARRANTIES

6.1 General

Each Chargor represents and warrants to the Collateral Agent as set out in this Clause 6 on the date of this Debenture and on each date that any representations are repeated under the Loan and Security Agreement.

6.2 Property

Schedule 2 (*Properties*) identifies all freehold and leasehold property beneficially owned by it as at the date of this Debenture. There are no proceedings, actions or circumstances relating to any of that property which materially and adversely affect that property's value or its ability to use that property for the purposes for which it is currently used.

6.3 Shares

It is the legal and beneficial owner of the Shares including those identified against its name in Schedule 2 (*Properties*) which represent the entire issued share capital of the relevant Subsidiaries and all of those Shares are fully paid.

6.4 Bank Accounts

It is the legal and beneficial owner of the Accounts. It has full power to establish and maintain the Accounts and to enter into and deliver and to create the Security constituted by this Deed.

6.5 PSC Register

- (a) It has not issued and does not intend to issue any warning notice or restrictions notice under Schedule 1B of the Companies Act 2006 in respect of any Shares which constitute Charged Property.
- (b) It has not received any warning notice or restrictions notice under Schedule 1B of the Companies Act 2006 in respect of any Shares which constitute Charged Property.

7. PROTECTION OF SECURITY

7.1 Title Documents

- (a) During the Security Period, each Chargor will promptly deposit with the Collateral Agent (or as it shall direct):
 - (i) all deeds and documents of title relating to all real property mortgaged or charged under this Debenture and, if those deeds and documents are with the Land Registry, will promptly deposit them with the Collateral Agent (or as it shall direct) upon their release;
 - (ii) all stock and share certificates and other documents of title relating to the Shares and Investments together with stock transfer forms (or local law equivalent) executed in blank and left undated on the basis that the Collateral Agent shall be able to hold such documents of title and stock transfer forms until the Secured Obligations have been irrevocably and unconditionally discharged in full and shall (subject to Clause 19.3 of this Deed and for the sole purpose of converting any equitable security created by this Deed over the relevant shares and investments to a legal mortgage) be entitled, at any time following the occurrence of an Event of Default which is continuing or if the Collateral Agent reasonably considers that the Security constituted by this Deed is in jeopardy to complete, under its power of attorney given in this Debenture, the stock transfer forms on behalf of the relevant Chargor in favour of itself or such other person as it shall select;
 - (iii) following an Event of Default which is continuing, all documents (including any passbook) relating to the Accounts;

- (iv) following an Event of Default or upon request of the Collateral Agent (acting reasonably), certified copies of all Insurance Policies; and
 - (v) all other documents relating to the Charged Property which the Collateral Agent may from time to time reasonably require.
- (b) The Collateral Agent may retain any document delivered to it under this Clause 7.1 or otherwise until the Security created under this Debenture is released and, if for any reason it ceases to hold any such document before that time, it may by notice to the relevant Chargor require that the document be redelivered to it (if practicably possible) and the relevant Chargor shall promptly comply (or procure compliance) with that notice.
 - (c) Any document required to be delivered to the Collateral Agent under Clause 7.1(a) which is for any reason not so delivered or which is released by the Collateral Agent to a Chargor shall be held on trust by the relevant Chargor for the Collateral Agent.

7.2 Receivables and Bank Accounts

- (a) During the Security Period, each Chargor shall:
 - (i) as agent for the Collateral Agent, collect all Trading Receivables and Other Debts charged to the Collateral Agent under this Debenture, pay the proceeds into an Account promptly upon receipt and, pending such payment, hold those proceeds on trust for the Collateral Agent;
 - (ii) not charge, factor, discount or assign any of the Trading Receivables or Other Debts in favour of any person, or purport to do so unless permitted by the Loan and Security Agreement or with the prior consent of the Collateral Agent; and
 - (iii) where an Account is not maintained with the Collateral Agent, serve an Account Notice on the bank with whom the Account is maintained and use all reasonable endeavours to procure that such bank signs and delivers to the Collateral Agent an acknowledgement substantially in the form of the schedule to the Account Notice within 14 days of the execution of this Debenture (or, as the case may be, of the date on which such Account is established).
- (b) The Collateral Agent shall not be entitled to give any notice referred to in paragraph 2(b) of the Account Notice, withdrawing its consent to the making of withdrawals by the Chargors in respect of the Accounts, unless and until an Event of Default has occurred which is continuing or any of the circumstances described in Clause 3.4 (*Conversion of Floating Charge*) has arisen.

7.3 Insurance Policies, Assigned Agreements and Hedging Agreements

- (a) During the Security Period, each Chargor will:
 - (i) within five (5) Business Days of the date of this Debenture (or in respect of any Insurance Policy or Assigned Agreement designated as such after the date of execution of this Debenture, promptly after the date of such designation) give notice to the other party to each Insurance Policy and Assigned Agreement that it has assigned or charged its right under the relevant policy or agreement to the Collateral Agent under this Debenture. Such notice will be a Counterparty Notice, except in the case of the Insurance Policies where it

will be an Insurance Notice. Each relevant Chargor will use all reasonable endeavours to procure that the relevant counterparty or insurer signs and delivers to the Collateral Agent an acknowledgement substantially in the form of that set out in the schedule to the relevant Notice within 14 days of the execution of this Debenture (or, as the case may be, of the entering into of the relevant policy or agreement);

- (ii) perform all its obligations under the Insurance Policies or Assigned Agreements in a diligent and timely manner; and
 - (iii) not make or agree to make any material amendments to the Insurance Policies or Assigned Agreements, waive any of its material rights under such policies or agreements or exercise any right to terminate any Insurance Policy or Assigned Agreement, except with the prior consent of the Collateral Agent or as explicitly permitted by the Loan and Security Agreement.
- (b) The Collateral Agent shall not be entitled to give any notice referred to in paragraph 2 of the Counterparty Notice or paragraph 2 of the Insurance Notice, unless and until an Event of Default has occurred and is continuing.

7.4 The Land Registry

- (a) Each Chargor shall apply to the Land Registrar for a restriction to be entered on the Register of Title in relation to all real property situated in England and Wales and charged by way of legal mortgage under this Debenture (including any unregistered properties subject to compulsory first registration at the date of this Debenture) on the prescribed Land Registry form and in the following or substantially similar terms:
- “No disposition of the registered estate by the proprietor of the registered estate is to be registered without a consent signed by the proprietor for the time being of the charge dated _____ in favour of Solar Capital Ltd. referred to in the charges register”.
- (b) Subject to the terms of the Loan and Security Agreement, the Finance Parties are under an obligation to make further advances to the Parent and the Chargors (which obligation is deemed to be incorporated into this Debenture) and this Security has been made for securing those further advances. Each Chargor shall apply to the Land Registrar on the prescribed Land Registry form for a notice to be entered on the Register of Title in relation to real property situated in England and Wales and charged by way of legal mortgage under this Debenture (including any unregistered properties subject to compulsory first registration at the date of this Debenture) that there is an obligation to make further advances on the security of the registered charge.
- (c) If any Chargor fails to make the applications set out in Clauses 7.4(a) or (b) or if the Collateral Agent gives notice to any Chargor that it will make such applications on its behalf, each Chargor irrevocably consents to the Collateral Agent making such application on its behalf and shall promptly provide the Collateral Agent with all information and fees which the Collateral Agent may reasonably request in connection with such application.
- (d) In respect of any of the real property mortgaged or charged under this Debenture title to which is registered at the Land Registry, it is certified that the Security created by this Debenture does not contravene any of the provisions of the articles of association of any Chargor.

7.5 Equipment

With respect to such pieces of Equipment with an aggregate value in excess of US\$250,000, promptly upon request by the Collateral Agent, each Chargor shall, to the extent practically possible, (at its own expense) affix to a visible part of such pieces of Equipment as the Collateral Agent shall specify a plate, label, sign or memoranda in such form as the Collateral Agent shall reasonably require, drawing attention to the Security created by this Debenture.

8. UNDERTAKINGS

8.1 General

- (a) Each Chargor undertakes to the Collateral Agent in the terms of this Clause 8 from the date of this Debenture and for so long as any of the Secured Obligations are outstanding.
- (b) Each Chargor will observe and perform all covenants and stipulations from time to time affecting the Charged Property, make all payments, carry out all registrations or renewals and generally take all steps which are necessary to preserve, maintain and renew when necessary or desirable all of the Charged Property.
- (c) Each Chargor will keep all Property and Equipment which forms part of the Charged Property in good and substantial repair (fair wear and tear excepted) and, where applicable, in good working order.

8.2 Real Property

- (a) Each Chargor will notify the Collateral Agent if it intends to acquire any estate or interest in any freehold, leasehold or other real property and will in any event notify the Collateral Agent promptly in writing of the actual acquisition by it of any such freehold, leasehold or other real property.
- (b) Each Chargor will permit the Collateral Agent and any person nominated by the Collateral Agent to enter into and upon any of Property at all reasonable times during business hours and on not less than 5 Business Days' notice to view the state and condition of such property; provided that, such inspection and examination shall be conducted no more often than once every twelve (12) months unless an Event of Default has occurred and is continuing, and will remedy any material defect or disrepair promptly after the Collateral Agent serves notice of such defect or disrepair, or notify the landlord to make such remedy.
- (c) No Chargor will grant any lease, tenancy, contractual licence or right to occupy in respect of the whole or any part of the Property or otherwise part with possession of the whole or any part of the Property (except as permitted by the Loan and Security Agreement).
- (d) Each Chargor will give immediate notice to the Collateral Agent if it receives any notice under section 146 of the Law of Property Act 1925 or any proceedings are commenced against it for the forfeiture of any lease comprised in any Property.

8.3 Voting and Distribution Rights

- (a) Before the Security constituted by this Debenture becomes enforceable:
 - (i) each Chargor shall be entitled to receive and retain all dividends, distributions and other monies paid on or derived from its Shares and Investments; and

- (ii) each Chargor shall be entitled to exercise all voting and other rights and powers attaching to its Shares and Investments provided that it shall not exercise any such voting rights or powers in a manner which would prejudice the interests of the Secured Parties under this Debenture or adversely affect the validity, enforceability or existence of the Charged Property or the Security created under this Deed.
- (b) At any time after the Security constituted by this Debenture becomes enforceable, all voting rights in respect of the Shares and Investments shall be exercised by each Chargor as directed by the Collateral Agent (in order to preserve and/or realise the value of the security), unless the Collateral Agent has notified the relevant Chargor in writing that it wishes to give up this right.
- (c) At any time after the Security constituted by this Debenture becomes enforceable, each Chargor shall hold any dividends, distributions and other monies paid on or derived from the Shares and Investments on trust for the Secured Parties and pay the same to, or as directed by, the Collateral Agent.
- (d) If, at any time, any Shares or Investments are registered in the name of the Collateral Agent or its nominee, the Collateral Agent will not be under any duty to ensure that any dividends, distributions or other monies payable in respect of those Shares or Investments are duly and promptly paid or received by it or its nominee, or to verify that the correct amounts are paid or received, or to take any action in connection with the taking up of any (or any offer of any) stocks, shares, rights, monies or other property paid, distributed, accruing or offered at any time by way of interest, dividend, redemption, bonus, rights, preference, option, warrant or otherwise on or in respect of or in substitution for, any of those Shares or Investments.

8.4 PSC Register

- (a) Each Chargor shall promptly:
 - (i) notify the Collateral Agent of its intention to issue, or its receipt of, any warning notice or restrictions notice under Schedule 1B of the Companies Act 2006 in respect of any shares which constitute Charged Property; and
 - (ii) provide to the Collateral Agent a copy of any such warning notice or restrictions notice,

in each case before it issues, or after it receives, any such notice.
- (b) For the purposes of withdrawing any restrictions notice or for any application (or similar) to the court under Schedule 1B of the Companies Act 2006, each Chargor shall provide such assistance as the Collateral Agent may reasonably request in respect of any shares which constitute Charged Property and provide the Collateral Agent with all information, documents and evidence that it may reasonably request in connection with the same.

9. IMPLIED COVENANTS FOR TITLE

9.1 Law of Property (Miscellaneous Provisions) Act 1994

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 3 (*Charging Provisions*).

9.2 Implications of Clause 3

It shall be implied in respect of Clause 3 (*Charging Provisions*) that each 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).

10. COLLATERAL AGENT'S POWER TO REMEDY

10.1 Power to Remedy

If any Chargor fails to comply with any obligation set out in Clause 7 (*Protection of Security*) or Clause 8 (*Undertakings*) and that failure is not remedied to the reasonable satisfaction of the Collateral Agent within 14 days of the Collateral Agent giving notice to the relevant Chargor or the relevant Chargor becoming aware of the failure to comply, it will allow (and irrevocably authorises) the Collateral Agent or any person which the Collateral Agent nominates to take any action on behalf of that Chargor which is reasonably necessary to ensure that those obligations are complied with.

10.2 Indemnity

Each Chargor will indemnify the Collateral Agent against all losses incurred by the Collateral Agent as a result of a breach by any Chargor of its obligations under Clause 7 (*Protection of Security*) or Clause 8 (*Undertakings*) and in connection with the exercise by the Collateral Agent (other than if such losses are incurred solely as a result of the gross negligence or wilful misconduct of the Collateral Agent as determined by a final judgment of a court of competent jurisdiction) of its rights contained in Clause 10.1 above. All sums the subject of this indemnity will be payable by the relevant Chargor to the Collateral Agent on demand and if not so paid will bear interest at the Default Rate from the date on which those monies were expended by the Collateral Agent. Any unpaid interest will be compounded monthly.

11. CONTINUING SECURITY

11.1 Continuing Security

The Security constituted by this Debenture shall be a continuing security for the duration of the Security Period notwithstanding any intermediate payment or settlement of all or any part of the Secured Obligations or any other act, matter or thing.

11.2 Other Security

The Security constituted by this Debenture is to be in addition to and shall neither be merged in nor in any way exclude or prejudice or be affected by any other Security or other right which the Collateral Agent and/or any other Secured Party may now or after the date of this Debenture hold for any of the Secured Obligations, and this Security may be enforced against each Chargor without first having recourse to any other rights of the Collateral Agent or any other Secured Party.

12. ENFORCEMENT OF SECURITY

12.1 Enforcement Powers

For the purpose of all rights and powers implied or granted by statute, the Secured Obligations are deemed to have fallen due on the date of this Debenture. The power of sale and other powers conferred by section 101 of the Law of Property Act 1925 and all other enforcement

powers conferred by this Debenture shall be immediately exercisable at any time after an Event of Default has occurred which is continuing.

12.2 Statutory Powers

The powers conferred on mortgagees, receivers or administrative receivers by the Law of Property Act 1925 and the Insolvency Act 1986 (as the case may be) shall apply to the Security created under this Debenture, unless they are expressly or impliedly excluded. If there is ambiguity or conflict between the powers contained in those Acts and those contained in this Debenture, those contained in this Debenture shall prevail.

12.3 Exercise of Powers

All or any of the powers conferred upon mortgagees by the Law of Property Act 1925 as varied or extended by this Debenture, and all or any of the rights and powers conferred by this Debenture on a Receiver (whether expressly or impliedly), may be exercised by the Collateral Agent without further notice to any Chargor at any time after an Event of Default has occurred which is continuing, irrespective of whether the Collateral Agent has taken possession or appointed a Receiver of the Charged Property.

12.4 Disapplication of Statutory Restrictions

The restriction on the consolidation of mortgages and on power of sale imposed by sections 93 and 103 respectively of the Law of Property Act 1925 shall not apply to the security constituted by this Debenture.

12.5 Appropriation under the Financial Collateral Regulations

- (a) To the extent that any of the Charged Property constitutes "financial collateral" and this Deed and the obligations of the Chargors hereunder constitute "security financial collateral arrangement" (in each case as defined in, and for the purposes of, the Financial Collateral Arrangements (No. 2) Regulations 2003 (as amended) (the "Regulations")), the Collateral Agent shall have the right after the Security constituted by this Debenture has become enforceable to appropriate all or any part of such financial collateral in or towards discharge of the Secured Obligations and may exercise that right to appropriate by giving notice to the relevant Chargors at any time after an Event of Default has occurred which is continuing.
- (b) The Parties agree that the value of any such appropriated financial collateral shall be: (x) in the case of securities, the price at which such securities can be disposed of by the Collateral Agent; and (y) in the case of any other asset, the market value of such financial collateral as determined by the Collateral Agent, in each case, in a commercially reasonable manner by way of an independent valuation. The Parties agree that the methods of valuation provided for in this paragraph shall constitute commercially reasonable methods of valuation for the purposes of the Regulations.

12.6 Powers of Leasing

At any time after the Security constituted by this Debenture has become enforceable, the Collateral Agent may lease, make agreements for leases at a premium or otherwise, accept surrenders of leases and grant options or vary or reduce any sum payable under any leases or tenancy agreements as it thinks fit, without the need to comply with any of the provisions of sections 99 and 100 of the Law of Property Act 1925.

12.7 Fixtures

At any time after the Security constituted by this Debenture has become enforceable, the Collateral Agent may sever any fixtures from the property to which they are attached and sell them separately from that property.

12.8 Bank Accounts

At any time after an Event of Default has occurred which is continuing the Collateral Agent may and is hereby irrevocably and unconditionally authorised, without further enquiry and without either giving notice to the Chargor or the Parent or obtaining any consent, to apply the whole or part of all monies standing to the credit of the Accounts in or towards payment of the Secured Obligations.

13. RECEIVERS

13.1 Appointment of Receiver

- (a) Subject to paragraph (c) below, at any time after the Security constituted by this Debenture has become enforceable, or if so requested by the relevant Chargor, the Collateral Agent may by writing under hand signed by any officer or manager of the Collateral Agent, appoint any person (or persons) to be a Receiver of all or any part of the Charged Property.
- (b) Section 109(1) of the Law of Property Act 1925 shall not apply to this Debenture.
- (c) The Collateral Agent shall be entitled to appoint a Receiver save to the extent prohibited by section 72A Insolvency Act 1986 and the Collateral Agent is not entitled to appoint a Receiver solely as a result of the obtaining of a moratorium (or anything done with a view to obtaining a moratorium) under section 1A of the Insolvency Act 1986.

13.2 Powers of Receiver

Each Receiver appointed under this Debenture shall have until his removal (subject to any limitations or restrictions which the Collateral Agent may incorporate in the deed or instrument appointing it) all the powers conferred from time to time on receivers by the Law of Property Act 1925 and the Insolvency Act 1986 (each of which is deemed incorporated in this Debenture), so that the powers set out in schedule 1 to the Insolvency Act 1986 shall extend to every Receiver, whether or not an administrative receiver. In addition, notwithstanding any liquidation of the relevant Chargor, each Receiver shall have power to:

- (a) manage, develop, reconstruct, amalgamate or diversify any part of the business of the relevant Chargor;
- (b) enter into or cancel any contracts on any terms or conditions;
- (c) incur any liability on any terms, whether secured or unsecured, and whether to rank for payment in priority to this security or not;
- (d) let or lease or concur in letting or leasing, and vary the terms of, determine, surrender leases or tenancies of, or grant options and licences over, or otherwise deal with, all or any of the Charged Property, without being responsible for loss or damage;
- (e) establish subsidiaries to acquire interests in any of the Charged Property and/or arrange for those subsidiaries to trade or cease to trade and acquire any of the Charged Property on any terms and conditions;

- (f) make and effect all repairs, renewals and improvements to any of the Charged Property and maintain, renew, take out or increase insurances;
- (g) exercise all voting and other rights attaching to the Shares or Investments and stocks, shares and other securities owned by the relevant Chargor and comprised in the Charged Property, but only following a written notification from either the Receiver or the Collateral Agent to the relevant Chargor stating that the Collateral Agent shall exercise all voting rights in respect of the Shares or Investments and stocks, shares and other securities owned by the relevant Chargor and comprised in the Charged Property;
- (h) redeem any prior Security on or relating to the Charged Property and settle and pass the accounts of the person entitled to that prior Security, so that any accounts so settled and passed shall (subject to any manifest error) be conclusive and binding on the relevant Chargor and the money so paid shall be deemed to be an expense properly incurred by the Receiver;
- (i) appoint and discharge officers and others for any of the purposes of this Debenture and/or to guard or protect the Charged Property upon terms as to remuneration or otherwise as he may think fit;
- (j) settle any claims, accounts, disputes, questions and demands with or by any person who is or claims to be a creditor of the relevant Chargor or relating to any of the Charged Property;
- (k) implement or continue the development of (and obtain all consents required in connection therewith) and/or complete any buildings or structures on any real property comprised in the Charged Property;
- (l) purchase or acquire any land or any interest in or right over land;
- (m) exercise on behalf of the relevant Chargor all the powers conferred on a landlord or a tenant by any legislation from time to time in force in any relevant jurisdiction relating to rents or agriculture in respect of any part of the Property; and
- (n) do all other acts and things (including signing and executing all documents and deeds) as the Receiver considers to be incidental or conducive to any of the matters or powers in this Clause 13.2, or otherwise incidental or conducive to the preservation, improvement or realisation of the Charged Property, and use the name of the relevant Chargor for all such purposes,

and in each case may use the name of any Chargor and exercise the relevant power in any manner which he may think fit.

13.3 Receiver as Agent

Each Receiver shall be the agent of the relevant Chargor, which shall be solely responsible for his acts or defaults, and for his remuneration and expenses, and be liable on any agreements or engagements made or entered into by him. The Collateral Agent will not be responsible for any misconduct, negligence or default of a Receiver.

13.4 Removal of Receiver

The Collateral Agent may by notice remove from time to time any Receiver appointed by it (subject to the provisions of section 45 of the Insolvency Act 1986 in the case of an

administrative receivership) and, whenever it may deem appropriate, appoint a new Receiver in the place of any Receiver whose appointment has terminated, for whatever reason.

13.5 Remuneration of Receiver

The Collateral Agent may from time to time fix the remuneration of any Receiver appointed by it.

13.6 Several Receivers

If at any time there is more than one Receiver, each Receiver may separately exercise all of the powers conferred by this Debenture (unless the document appointing such Receiver states otherwise).

14. APPLICATION OF PROCEEDS

14.1 Order of Application

All monies received or recovered by the Collateral Agent or any Receiver pursuant to this Debenture shall (subject to the claims of any person having prior rights thereto) be applied in the order and manner specified by the Loan and Security Agreement notwithstanding any purported appropriation by any Chargor.

14.2 Insurance Proceeds

Subject to Clause 14.1 above, if an Event of Default has occurred which is continuing, all monies received by virtue of any insurance maintained or effected in respect of the Charged Property shall be paid to the Collateral Agent (or, if not paid by the insurers directly to the Collateral Agent, shall be held on trust for the Collateral Agent) and shall, at the option of the Collateral Agent, be applied in replacing or reinstating the assets destroyed, damaged or lost (any deficiency being made good by the relevant Chargor) or (except in the case of leasehold premises) in reduction of the Secured Obligations.

14.3 Section 109 Law of Property Act 1925

Sections 109(6) and (8) of the Law of Property Act 1925 shall not apply to a Receiver appointed under this Debenture.

14.4 Application against Secured Obligations

Subject to Clause 14.1 above, any monies or other value received or realised by the Collateral Agent from a Chargor or a Receiver under this Debenture may be applied by the Collateral Agent to any item of account or liability or transaction forming part of the Secured Obligations to which they may be applicable in any order or manner which the Collateral Agent may determine.

14.5 Suspense Account

Until the Secured Obligations are paid in full, the Collateral Agent or the Receiver (as applicable) may place and keep (for such time as it shall determine) any money received, recovered or realized pursuant to this Debenture or on account of any Chargor's liability in respect of the Secured Obligations in an interest bearing separate suspense account (to the credit of either the relevant Chargor or the Collateral Agent or the Receiver as the Collateral Agent or the Receiver shall think fit) and the Collateral Agent or the Receiver may retain the same for the period which it considers expedient acting reasonably and in good faith with any interest accruing thereon at such commercial rate (if any) as the Collateral Agent or the Receiver (as applicable) usually grants for accounts of that size and nature without having any

obligation to apply all or any part of that money in or towards discharge of the Secured Obligations.

15. PROTECTION OF COLLATERAL AGENT AND RECEIVER

15.1 No Liability

Neither the Collateral Agent nor any Receiver shall be liable in respect of any of the Charged Property or for any loss or damage which arises out of the exercise or the attempted or purported exercise of, or the failure to exercise any of, their respective powers, unless caused by its or his gross negligence or wilful misconduct under the Loan Documents.

15.2 Possession of Charged Property

Without prejudice to Clause 15.1 above, if the Collateral Agent or the Receiver enters into possession of the Charged Property, it will not be liable to account as mortgagee in possession and may at any time at its discretion go out of such possession.

15.3 Primary liability of Chargor

Each Chargor shall be deemed to be a principal debtor and the sole, original and independent obligor for the Secured Obligations and the Charged Property shall be deemed to be a principal security for the Secured Obligations. The liability of each Chargor under this Debenture and the charges contained in this Debenture shall not be impaired by any forbearance, neglect, indulgence, abandonment, extension of time, release, surrender or loss of securities, dealing, variation or arrangement by the Collateral Agent or any other Secured Party, or by any other act, event or matter whatsoever whereby the liability of the relevant Chargor (as a surety only) or the charges contained in this Debenture (as secondary or collateral charges only) would, but for this provision, have been discharged.

15.4 Waiver of defences

The obligations of each Chargor under this Debenture will not be affected by an act, omission, matter or thing which, but for this Debenture, would reduce, release or prejudice any of its obligations under this Debenture (without limitation and whether or not known to it or any Secured Party) including:

- (a) any time, waiver or consent granted to, or composition with, any Loan Party or other person;
- (b) the release of any other Loan Party or any other person under the terms of any composition or arrangement with any creditor of any member of the Group;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any Loan Party or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of an Loan Party or any other person;
- (e) any amendment, novation, supplement, extension restatement (however fundamental and whether or not more onerous) or replacement of a Loan Document or any other document or security including, without limitation, any change in the purpose of, any

extension of or increase in any facility or the addition of any new facility under any Loan Document or other document or security;

(f) any unenforceability, illegality or invalidity of any obligation of any person under any Loan Document or any other document or security; or

(g) any insolvency or similar proceedings.

15.5 Collateral Agent

The provisions set out in Clause 12.12 (*Collateral Agent and Lender Agreement*) of the Loan and Security Agreement shall govern the rights, duties and obligations of the Collateral Agent under this Debenture.

15.6 Delegation

The Collateral Agent may delegate by power of attorney or in any other manner all or any of the powers, authorities and discretions which are for the time being exercisable by it under this Debenture to any person or persons upon such terms and conditions (including the power to sub-delegate) as it may think fit. The Collateral Agent will not be liable or responsible to any Chargor or any other person for any losses arising from any act, default, omission or misconduct on the part of any delegate other than any acts, omissions, defaults or misconducts arising as a result of the gross negligence or wilful misconduct of the delegate.

15.7 Cumulative Powers

The powers which this Debenture confers on the Collateral Agent, the other Secured Parties and any Receiver appointed under this Debenture are cumulative, without prejudice to their respective powers under the general law, and may be exercised as often as the relevant person thinks appropriate. The Collateral Agent, the other Secured Parties or the Receiver may, in connection with the exercise of their powers, join or concur with any person in any transaction, scheme or arrangement whatsoever. The respective powers of the Collateral Agent, the other Secured Parties and the Receiver will in no circumstances be suspended, waived or otherwise prejudiced by anything other than an express consent or amendment.

16. POWER OF ATTORNEY

Each Chargor, by way of security, irrevocably and severally appoints the Collateral Agent, each Receiver and any person nominated for the purpose by the Collateral Agent or any Receiver (in writing and signed by an officer of the Collateral Agent or Receiver) as its attorney (with full power of substitution and delegation) in its name and on its behalf and as its act and deed to, whilst an Event of Default is continuing or the Security constituted by this Debenture has become enforceable, execute, seal and deliver (using the company seal where appropriate) and otherwise perfect and do any deed, assurance, agreement, instrument, act or thing which it ought to execute and do under the terms of this Debenture, or which may be required or deemed proper in the exercise of any rights or powers conferred on the Collateral Agent or any Receiver under this Debenture or otherwise for any of the purposes of this Debenture, and each Chargor covenants with the Collateral Agent and each Receiver to ratify and confirm all such acts or things lawfully made, done or executed by that attorney provided, in each case, that such acts were not carried out by the Collateral Agent, Receiver or any delegate (as applicable) with gross negligence or wilful misconduct or in default of the provisions of this Debenture.

17. PROTECTION FOR THIRD PARTIES

17.1 No Obligation to Enquire

No purchaser from, or other person dealing with, the Collateral Agent or any Receiver (or their Collateral Agents) shall be obliged or concerned to enquire whether:

- (a) the right of the Collateral Agent or any Receiver to exercise any of the powers conferred by this Debenture has arisen or become exercisable or as to the propriety or validity of the exercise or purported exercise of any such power; or
- (b) any of the Secured Obligations remain outstanding and/or are due and payable or be concerned with notice to the contrary and the title and position of such a purchaser or other person shall not be impeachable by reference to any of those matters.

17.2 Receipt Conclusive

The receipt of the Collateral Agent or any Receiver shall be an absolute and a conclusive discharge to a purchaser, and shall relieve him of any obligation to see to the application of any monies paid to or by the direction of the Collateral Agent or any Receiver.

18. COSTS AND EXPENSES

18.1 Initial Expenses

Each Chargor shall on demand pay to each of the Collateral Agent and any Receiver the amount of all costs and expenses (including legal fees) reasonably and properly incurred by any of them in connection with:

- (a) the negotiation, preparation, execution, completion and perfection of this Debenture and any other documents or notices referred to in, or related or incidental to, this Debenture; and
- (b) any amendment, waiver or consent relating to this Debenture (and documents, matters or things referred to in this Debenture).

18.2 Enforcement Expenses

Each Chargor shall, within three (3) Business Days of demand, pay to each of the Collateral Agent, any Receiver and each other Secured Party the amount of all costs and expenses (including legal fees) properly incurred by it in connection with the enforcement of or the preservation of any rights under (and any documents referred to in) this Debenture and any proceedings instituted by or against the Collateral Agent and any Secured Party as a consequence of taking or holding the Security created under this Debenture or enforcing these rights.

18.3 Stamp Duties, etc

Each Chargor shall pay and, within three (3) Business Days of demand, indemnify each Secured Party against any cost, loss or liability that Secured Party incurs in relation to all stamp duty, registration and other similar Taxes payable in respect of this Debenture.

18.4 Default Interest

If not paid when due, the amounts payable under this Clause 18 shall carry interest compounded with monthly rates at the Default Rate (after as well as before judgment), from the date of demand until payment and shall form part of the Secured Obligations.

19. REINSTATEMENT AND RELEASE

19.1 Amounts Avoided

If any amount paid by a Chargor in respect of the Secured Obligations is capable of being avoided or set aside on the liquidation or administration of the relevant Chargor or otherwise, then for the purposes of this Debenture that amount shall not be considered to have been paid.

19.2 Discharge Conditional

Any settlement or discharge between a Chargor and any Secured Party shall be conditional upon no security or payment to that Secured Party by that Chargor or any other person being avoided, set aside, ordered to be refunded or reduced by virtue of any provision or enactment relating to insolvency and accordingly (but without limiting the other rights of that Secured Party under this Debenture) that Secured Party shall be entitled to recover from that Chargor the value which that Secured Party has placed on that security or the amount of any such payment as if that settlement or discharge had not occurred.

19.3 Covenant To Release

Once all the Secured Obligations have been irrevocably paid in full and none of the Collateral Agent nor any Secured Party has any actual or contingent liability to advance further monies to, or incur liability on behalf of, any Chargor or the Collateral Agent is instructed to release collateral (the "**LSA Released Collateral**") in accordance with paragraph 8, Exhibit B of the Loan and Security Agreement, the Collateral Agent and each Secured Party shall, promptly at the request and cost of each Chargor:

- (a) execute any documents (or procure that its nominees execute any documents) or take any action which may be necessary to release or reassign the Charged Property or the LSA Released Collateral from the Security constituted by this Debenture;
- (b) return to each Chargor any and all title deeds and share certificates deposited with it pursuant to this Debenture (or indemnities dealing with the loss or destruction of the same); and
- (c) deliver to each Chargor such further deeds or documents as the Chargors reasonably require in order to give effect to this Clause 19.

20. CURRENCY CLAUSES

20.1 Conversion

All monies received or held by the Collateral Agent or any Receiver under this Debenture may be converted into any other currency which the Collateral Agent considers necessary to cover the obligations and liabilities comprised in the Secured Obligations in that other currency at Lloyds Bank plc's spot rate of exchange then prevailing for purchasing that other currency with the existing currency.

20.2 No Discharge

No payment to the Collateral Agent (whether under any judgment or court order or otherwise) shall discharge the obligation or liability of the relevant Chargor in respect of which it was made unless and until the Collateral Agent has received payment in full in the currency in which the obligation or liability is payable or, if the currency of payment is not specified, was incurred. To the extent that the amount of any such payment shall on actual conversion into that currency fall short of that obligation or liability expressed in that currency, the Collateral

Agent shall have a further separate cause of action against the relevant Chargor and shall be entitled to enforce the Security constituted by this Debenture to recover the amount of the shortfall.

21. SET-OFF

21.1 Set-off rights

The Collateral Agent may set off any matured obligation due from a Chargor under the Loan Documents (to the extent beneficially owned by the Collateral Agent) against any matured obligation owed by the Collateral Agent to that Chargor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Collateral Agent may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

21.2 Different Currencies

The Collateral Agent may exercise its rights under Clause 21.1 (*Set-off rights*) notwithstanding that the amounts concerned may be expressed in different currencies and the Collateral Agent is authorised to effect any necessary conversions at a market rate of exchange selected by it.

21.3 Unliquidated Claims

If, at any time after notice demanding payment of any sum which is then due but unpaid in respect of the Secured Obligations has been given by the Collateral Agent to any Chargor, the relevant obligation or liability is unliquidated or unascertained, the Collateral Agent may set-off the amount which it estimates (in good faith) will be the final amount of that obligation or liability once it becomes liquidated or ascertained.

21.4 No Set-off

The Chargors will pay all amounts payable under this Deed without any set-off, counterclaim or deduction whatsoever unless required by law, in which event the Chargors will pay an additional amount to ensure that the payment recipient receives the amount which would have been payable had no deduction been required to have been made.

22. RULING OFF

If the Collateral Agent or any other Secured Party receives notice of any subsequent Security or other interest affecting any of the Charged Property (except as permitted by the Loan and Security Agreement) it may open a new account for the relevant Chargor in its books. If it does not do so then (unless it gives express notice to the contrary to the relevant Chargor), as from the time it receives that notice, all payments made by the relevant Chargor to it (in the absence of any express appropriation to the contrary) shall be treated as having been credited to a new account of the relevant Chargor and not as having been applied in reduction of the Secured Obligations.

23. REDEMPTION OF PRIOR CHARGES

The Collateral Agent may, at any time after an Event of Default has occurred which is continuing, redeem any prior Security on or relating to any of the Charged Property or procure the transfer of that Security to itself, and may settle and pass the accounts of any person entitled to that prior Security. Any account so settled and passed shall (subject to any manifest error) be conclusive and binding on each Chargor. Each Chargor will on demand

pay to the Collateral Agent all principal monies and interest and all losses incidental to any such redemption or transfer.

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 fax, letter or email.

24.2 Addresses

The address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each party to this Debenture for any communication or document to be made or delivered under or in connection with this Debenture is:

- (a) as shown immediately after its name on the execution pages of this Debenture (in the case of any person who is a party as at the date of this Debenture);
- (b) in the case of any person who becomes a party after the date of this Debenture, notified in writing to the Collateral Agent on or prior to the date on which it becomes a party,

or any substitute address or fax number as the party may notify to the Collateral Agent (or the Collateral Agent may notify to the other Parties, if a change is made by the Collateral Agent) by not less than five (5) Business Days' notice.

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 fax, when received in legible form; or
 - (ii) if by way of letter, when it has been left at the relevant address or five Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address,and, if a particular department or officer is specified as part of its address details provided under Clause 24.2, if addressed to that department or officer.
- (b) Any communication or document to be made or delivered to the Collateral Agent will be effective only when actually received by the Collateral Agent and then only if it is expressly marked for the attention of the department or officer identified with the Collateral Agent's signature below (or any substitute department or officer as the Collateral Agent shall specify for this purpose).

25. CHANGES TO PARTIES

25.1 Assignment by the Collateral Agent

The Collateral Agent may at any time assign or otherwise transfer all or any part of its rights under this Debenture in accordance with the Loan Documents.

25.2 Changes to Parties

Each Chargor acknowledges Clause 12.1 (*Successors and Assigns*) of the Loan and Security Agreement and authorises the Collateral Agent to execute on its behalf any document required to effect the necessary transfer of rights or obligations contemplated by those provisions.

25.3 New Subsidiaries

Each of the Chargors will procure that any new Subsidiary of the Parent which is required to do so by the terms of the Loan and Security Agreement executes a Security Accession Deed.

25.4 Consent of Chargors

- (a) Each Chargor consents to new Subsidiaries becoming Chargors as contemplated by Clause 25.3 above.
- (b) Each Chargor confirms that the execution of any Security Accession Deed by a new Subsidiary will in no way prejudice or affect the security granted by each of them under (and the covenants given by each of them in), the Debenture and that the Debenture shall remain in full force and effect as supplemented by any such Security Accession Deed.
- (c) Each Chargor further confirms that the execution of any other supplemental security document by a Chargor will in no way prejudice or affect the security granted by each of them under (and the covenants given by each of them in), the Debenture and that the Debenture shall remain in full force and effect as supplemented by any such supplemental security document.

26. MISCELLANEOUS

26.1 Certificates Conclusive

A certificate or determination of the Collateral Agent as to any amount payable under this Debenture will be conclusive and binding on each Chargor, except in the case of manifest error.

26.2 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.

26.3 Invalidity of any Provision

If any provision of this Debenture is or becomes invalid, illegal or unenforceable in any respect under any law, the validity, legality and enforceability of the remaining provisions shall not be affected or impaired in any way.

26.4 Failure to Execute

Failure by one or more parties ("**Non-Signatories**") to execute this Deed on the date hereof will not invalidate the provisions of this Deed as between the other Parties who do execute this Deed. Such Non-Signatories may execute this Deed on a subsequent date and will thereupon become bound by its provisions.

27. GOVERNING LAW AND JURISDICTION

- (a) This Debenture and any non-contractual claims arising out of or in connection with it shall be governed by and construed in accordance with English law.
- (b) Subject to Clause (c) below, the Parties agree that the courts of England shall have exclusive jurisdiction to settle any dispute arising out of or in connection with this Debenture, whether contractual or non-contractual (including a dispute regarding the existence, validity or termination of this Debenture) (a "**Dispute**"). The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no party will argue to the contrary.
- (c) The Parties agree that, for the benefit of the Secured Parties only, nothing in this Debenture shall limit the right of the Secured Parties to bring any legal action against any of the Chargors in any other court of competent jurisdiction.

IN WITNESS whereof this Debenture has been duly executed as a deed and is delivered on the date first above written.

SCHEDULE 1
THE CHARGORS

Name of Chargor	Registered Number	Registered Address
Apollo Endosurgery UK Ltd	09000573	Unit 10 St James Business Park Grimbald Crag Court Knaresborough United Kingdom HG5 8QB

SCHEDULE 2

PROPERTIES

Leasehold Interests:

- a. Unit 10, St. James Business Park, Grimbold Crag Court, Knaresborough, HG5 8GB
- b. C/O B-Smart Coltro, Via Carlo Cattaneo, nr 09, 21013 Gallarate, Italy

SCHEDULE 3
SHARES AND INVESTMENTS

Shares

Name of Chargor which holds the shares	Name of company issuing shares	Number and class of shares
Apollo Endosurgery UK Ltd	Apollo Endosurgery Costa Rica Sociedad de Responsabilidad Limitada	10 common and registered shares
Apollo Endosurgery UK Ltd	Apollo Endosurgery Australia Pty Ltd	1 Unit
Apollo Endosurgery UK Ltd	Apollo Endosurgery Brasil Aparelhos Cirúrgicos Ltda	11,149 Units
Apollo Endosurgery UK Ltd	Apollo Endosurgery Canada Ltd.	100 Units

Investments

See Shares listed above.

SCHEDULE 4

EQUIPMENT

Register	Name	Details	Invoice	Details	Class	GL code	NBV
127	Scope	Dr Wilfried Muller	EU10011070	Colonoscope	Equipment	Equipment	887.93
130	Scope	Crimo scope			Equipment	Equipment	1,454.66
134	Scope	Crimo scope			Equipment	Equipment	2,684.20
141	Olympus CV 160				Equipment	Equipment	2,083.33
94	Olympus scope 2200282				Equipment	Equipment	2,008.50
142	Olympus scope GIF 2T160				Equipment	Equipment	1,594.25
143	2 x Lenovo think pad UK				Computer Equipment	Computer Equipment	626.50
145	Olympus light source		017/17		Equipment	Equipment	975.86
146	Lenovo Laptop	Dutch			Computer Equipment	Computer Equipment	397.22
148	Olympus scope				Equipment	Equipment	1,245.83
150	Scopes	Endomedical	021/17		Equipment	Equipment	5,109.96
154	Towers				Equipment	Equipment	6,459.76
155	Scope				Equipment	Equipment	2,836.54
156	Dell laptop				Computer Equipment	Computer Equipment	1,480.61
157	Yoga 460 BE				Computer Equipment	Computer Equipment	533.78
158	FR Yoga 260		102-4071315		Computer Equipment	Computer Equipment	580.83
159	Olympus 2T160				Equipment	Equipment	3,353.96
160	Yoga 370				Computer Equipment	Computer Equipment	544.50
161	New exhibition stands	Contest Srl			Equipment	Equipment	9,906.30
162	Dell Latitude		102-4083453		Computer Equipment	Computer Equipment	972.22
163	Dell Latitude		102-4082268		Computer Equipment	Computer Equipment	1,944.44
164	Dell Latitude		102-4084023		Computer Equipment	Computer Equipment	437.50
165	Dell Latitude		102-4088909		Computer Equipment	Computer Equipment	530.83
167	Scope		057/2018		Equipment	Equipment	4,136.55
168	Scope		061/2018		Equipment	Equipment	2,898.14
169	Scope		049/2018		Equipment	Equipment	4,024.76
170	Dell Latitude		102 4103946		Computer Equipment	Computer Equipment	1,215.28
171	Dell Latitude		102 4103945		Computer Equipment	Computer Equipment	1,263.89
172	Dell Latitude		102 4103945		Computer Equipment	Computer Equipment	1,263.89
173	Office furniture		131382		Office furniture	Office furniture	1,403.29
174	Dell Latitude 7480		102-4107240		Computer Equipment	Computer Equipment	1,319.25
175	Dell Latitude x 2 8R67QG2 & J167QG2 plus docks		102-4110009		Computer Equipment	Computer Equipment	4,131.71
176	Office Partitions		EBINV 00127		Office Equipment	Office Equipment	3,888.89
177	Boardroom furniture		1670		Office Equipment	Office Equipment	3,282.72
178	Lab furniture		7988		Office Equipment	Office Equipment	662.32
179	Dell Package		102-4112632		Computer Equipment	Computer Equipment	1,361.11
180	Dell Package		102-4112633		Computer Equipment	Computer Equipment	659.44
181	32 chairs, screens and tables		47203		Office furniture	Office furniture	3,894.78
182	Dell Desktops CSS & office emove		16992		Computer Equipment	Computer Equipment	2,500.43
183	Office furniture		Barday card sept		Office furniture	Office furniture	3,199.20
184	Dell & 5 monitors		17036		Computer Equipment	Computer Equipment	2,500.43
185	NL Dell		17310		Computer Equipment	Computer Equipment	1,541.38

SCHEDULE 5

BANK ACCOUNTS

Bank Name	Account Number	Chargor	Purpose of Account
Bank of America	REDACTED	Apollo Endosurgery UK Ltd	GBP Account
Bank of America	REDACTED	Apollo Endosurgery UK Ltd	EUR Account
Bank of America	REDACTED	Apollo Endosurgery UK Ltd	French Account
Bank of America	REDACTED	Apollo Endosurgery UK Ltd	Sede Secondaria
Bank of America	REDACTED	Apollo Endosurgery UK Ltd	SUCURSAL EN ESPANA
Bank of America	REDACTED	Apollo Endosurgery UK Ltd	Belgium Branch Office Account
Bank of America	REDACTED	Apollo Endosurgery UK Ltd	USD Account

SCHEDULE 6
INSURANCE POLICIES

Name of Chargor	Insurer	Policy Number	Type of Risk Insured
Apollo Endosurgery UK Ltd	Federal Insurance Company	3605-75-61	Commercial General Liability Insurance
Apollo Endosurgery UK Ltd	Federal Insurance Company	3605-75-61	Automobile Insurance
Apollo Endosurgery UK Ltd	Federal Insurance Company	71770926	Umbrella Liability Insurance
Apollo Endosurgery UK Ltd	Federal Insurance Company	3605-75-61	Workers Compensation and Employers' Liability Insurance
Apollo Endosurgery UK Ltd	Lloyd's	PCOI 1501 19	Product Liability Insurance

SCHEDULE 7

FORMS OF NOTICES

Part 1

Form of Counterparty Notice

To: [insert name and address of counterparty]

Dated: [●]

Dear Sirs

Re: [here identify the relevant Assigned Agreement] (the "Agreement")

We notify you that, [insert name of Chargor] (the "Chargor") has [charged in favour of]/[assigned to] [insert name of Collateral Agent] (the "Collateral Agent") for the benefit of itself and certain other banks and financial institutions (the "Secured Parties") all its right, title and interest in the Agreement as security for certain obligations owed by the Chargor to the Secured Parties by way of a debenture dated [●].

We further notify you that:

1. the Chargor may not agree to amend or terminate the Agreement without the prior written consent of the Collateral Agent;
2. you may continue to deal with the Chargor in relation to the Agreement until you receive written notice to the contrary from the Collateral Agent. Thereafter the Chargor will cease to have any right to deal with you in relation to the Agreement and therefore from that time you should deal only with the Collateral Agent;
3. you are authorised to disclose information in relation to the Agreement to the Collateral Agent on request;
4. after receipt of written notice in accordance with paragraph 2 above, you must pay all monies to which the Chargor is entitled under the Agreement direct to the Collateral Agent (and not to the Chargor) unless the Collateral Agent otherwise agrees in writing; and
5. the provisions of this notice may only be revoked with the written consent of the Collateral Agent.

Please sign and return the enclosed copy of this notice to the Collateral Agent (with a copy to the Chargor) by way of confirmation that:

- (a) you agree to the terms set out in this notice and to act in accordance with its provisions;
- (b) you have not received notice that the Chargor has assigned its rights under the agreement to a third party or created any other interest (whether by way of security or otherwise) in the agreement in favour of a third party; and
- (c) you have not claimed or exercised, nor do you have any outstanding right to claim or exercise against the Chargor any right of set-off, counter-claim or other right relating to the Agreement.

The provisions of this notice are governed by English law.

Yours faithfully

.....

for and on behalf of
[insert name of Chargor]

[On acknowledgement copy]

To: [insert name and address of Collateral Agent]

Copy to: [insert name and address of Chargor]

We acknowledge receipt of the above notice and confirm the matters set out in paragraphs (a) to (c) above.

.....

for and on behalf of
[insert name of Counterparty]

Dated:

Part 2
Form of Insurance Notice

To: [insert name and address of insurance company]

Dated: [●]

Dear Sirs

Re: [here identify the relevant insurance policy(ies)] (the "Policies")

We notify you that, [insert name of Chargor] (the "**Chargor**") has assigned to [insert name of Collateral Agent] (the "**Collateral Agent**") for the benefit of itself and certain other banks and financial institutions (the "**Secured Parties**") all its right, title and interest in the Policies as security for certain obligations owed by the Chargor to the Secured Parties by way of a debenture dated [●].

We further notify you that:

1. the Chargor may not agree to amend or terminate the Policies without the prior written consent of the Collateral Agent;
2. you may continue to deal with the Chargor in relation to the Policies until you receive written notice to the contrary from the Collateral Agent. Thereafter the Chargor will cease to have any right to deal with you in relation to the Policies and therefore from that time you should deal only with the Collateral Agent;
3. you are authorised to disclose information in relation to the Policies to the Collateral Agent on request; and
4. the provisions of this notice may only be revoked with the written consent of the Collateral Agent.

Please sign and return the enclosed copy of this notice to the Collateral Agent (with a copy to the Chargor) by way of confirmation that:

- (a) you agree to act in accordance with the provisions of this notice;
- (b) you [will note/have noted] the Collateral Agent's interest as first chargee on each of the Policies;
- (c) after receipt of written notice in accordance with paragraph 2 above, you will pay all monies to which the Chargor is entitled under the Policies direct to the Collateral Agent (and not to the Chargor) unless the Collateral Agent otherwise agrees in writing;
- (d) you will not cancel or otherwise allow the Policies to lapse without giving the Collateral Agent not less than 14 days written notice;
- (e) you have not received notice that the Chargor has assigned its rights under the Policies to a third party or created any other interest (whether by way of security or otherwise) in the Policies in favour of a third party; and

- (f) you have not claimed or exercised nor do you have any outstanding right to claim or exercise against the Chargor, any right of set-off, counter-claim or other right relating to the Policies.

The provisions of this notice are governed by English law.

Yours faithfully

.....
for and on behalf of
[insert name of Chargor]

[On acknowledgement copy]

To: [insert name and address of Collateral Agent]

Copy to: [insert name and address of Chargor]

We acknowledge receipt of the above notice and confirm the matters set out in paragraphs (a) to (f) above.

.....
for and on behalf of
[insert name of insurance company]

Dated: [●]

Part 3
Form of Account Notice

To: [insert name and address of Account Bank] (the "Account Bank")

Dated: [●]

Dear Sirs

Re: The [●] Group of Companies - Security over Bank Accounts

We notify you that [insert name of Chargor] (the "Chargor") and certain other companies identified in the schedule to this notice (together the "Customers") charged to [insert name of Collateral Agent] (the "Collateral Agent") for the benefit of itself and certain other banks and financial institutions all their right, title and interest in and to the monies from time to time standing to the credit of the accounts identified in the schedule to this notice and to any other accounts from time to time maintained with you by the Customers (the "Charged Accounts") and to all interest (if any) accruing on the Charged Accounts by way of a debenture dated [●] (the "Debenture").

1. We irrevocably authorise and instruct you:

- (a) to hold all monies from time to time standing to the credit of the Charged Accounts to the order of the Collateral Agent and to pay all or any part of those monies to the Collateral Agent (or as it may direct) promptly following receipt of written instructions from the Collateral Agent to that effect; and
- (b) to disclose to the Collateral Agent any information relating to the Customers and the Charged Accounts which the Collateral Agent may from time to time request you to provide.

2. We also advise you that:

- (a) by counter-signing this notice the Collateral Agent confirms that the Customers may make withdrawals from the Charged Accounts set out in the schedule below until such time as the Collateral Agent shall notify you (with a copy to the Chargor) in writing that their permission is withdrawn. That permission may be withdrawn or modified by the Collateral Agent in accordance with the terms of the Debenture; and
- (b) the provisions of this notice may only be revoked or varied with the prior written consent of the Collateral Agent.

3. Please sign and return the enclosed copy of this notice to the Collateral Agent (with a copy to the Chargor) by way of your confirmation that:

- (a) you agree to act in accordance with the provisions of this notice;
- (b) you have not received notice that any Customer has assigned its rights to the monies standing to the credit of the Charged Accounts or otherwise granted any security or other interest over those monies in favour of any third party;
- (c) you will not exercise any right to combine accounts or any rights of set-off or lien or any similar rights in relation to the monies standing to the credit of the Charged Accounts, except for the netting of credit and debit balances pursuant to current account netting arrangements previously approved in writing by the Collateral Agent; and

- (d) you have not claimed or exercised, nor do you have outstanding any right to claim or exercise against the Chargor, any right of set-off, counter-claim or other right relating to the Charged Accounts.

The provisions of this notice are governed by English law.

Schedule

Customer	Account Number	Sort Code
[•]	[•]	[•]

Yours faithfully,

.....
for and on behalf of
[Insert name of Chargor]
as agent for and on behalf of
all of the Customers

Counter-signed by

.....
for and on behalf of
[Insert name of Collateral Agent]

[On acknowledgement copy]

To: [Insert name and address of Collateral Agent]

Copy to: [Insert name of Chargor] (on behalf of all the Customers)

We acknowledge receipt of the above notice and confirm the matters set out in paragraphs (a) to (d) above.

.....
for and on behalf of
[Insert name of Account Bank]

Dated: [●]

SCHEDULE 8

FORM OF SECURITY ACCESSION DEED

THIS SECURITY ACCESSION DEED is made on [●]

BETWEEN:

- (1) **Apollo Endosurgery UK Ltd**, a company incorporated in England and Wales with registered number 09000573 (the "**Original Chargor**");
- (2) [●] **Limited**, a company incorporated in England and Wales with registered number [●] (the "**New Chargor**"); and
- (3) **Solar Capital Ltd.** as collateral agent for itself and the other Secured Parties (the "**Collateral Agent**").

RECITAL:

This deed is supplemental to a debenture dated [●] between, amongst others, the Original Chargor and the Collateral Agent, as previously supplemented by earlier Security Accession Deeds (if any) (the "**Debenture**").

NOW THIS DEED WITNESSES as follows:

1. INTERPRETATION

1.1 Definitions

Terms defined in the Debenture shall have the same meaning when used in this deed.

1.2 Construction

Clauses 1.2 (*Construction*) to 1.5 (*Miscellaneous*) of the Debenture will be deemed to be set out in full in this deed, but as if references in those clauses to the "Debenture" and other similar expressions were references to this deed.

2. ACCESSION OF NEW CHARGOR

2.1 Accession

The New Chargor agrees to be a Chargor for the purposes of the Debenture with immediate effect and agrees to be bound from the date hereof by all of the terms of the Debenture as if it had originally been a party to it as a Chargor.

2.2 Covenant to pay

The New Chargor as primary obligor covenants with the Collateral Agent (for the benefit of itself and the other Secured Parties) that it will on demand pay the Secured Obligations when they fall due for payment in accordance with the terms of the Loan and Security Agreement and in the manner provided for in the Loan and Security Agreement .

2.3 Specific Security

- (a) The New Chargor, as continuing security for the payment of the Secured Obligations, charges in favour of the Collateral Agent as trustee for itself and the other Secured Parties with full title guarantee in accordance with the Law of Property

(Miscellaneous Provisions) Act 1994 the following assets, both present and future, from time to time owned by it or in which it has an interest:

- (i) by way of first legal mortgage all Property now belonging to or vested in it; and
- (ii) by way of first fixed charge:
 - (A) all other interests (not effectively charged under Clause 2.3(a)) in any Property and the benefit of all other agreements relating to land to the extent held by such Chargor;
 - (B) all of its rights, title and interest in the Equipment;
 - (C) all the Investments, Shares and all corresponding Related Rights;
 - (D) all Trading Receivables and all rights and claims against third parties and against any security in respect of those Trading Receivables;
 - (E) all Other Debts and all rights and claims against third parties against any security in respect of those Other Debts;
 - (F) all monies from time to time standing to the credit of the Accounts and any other bank accounts which it may have with any bank, financial institution or other person (including any interest and other sums accruing thereon) and all of its rights, title and interest in, and benefits and proceeds deriving from or arising in connection with, the Accounts;
 - (G) all of its goodwill and uncalled capital; and
 - (H) if not effectively assigned by Clause 2.4 (*Security Assignment*), all its rights, title and interest in (and proceeds and claims under) the Insurance Policies and the Assigned Agreements,

and includes, in respect of each of the above charged assets (as appropriate), the benefit of all licences, consents and agreements held by the New Chargor in connection with the use of the asset, any monies or income paid or payable in respect of the asset, any proceeds of the sale of the asset and any other property, rights or claims relating to, accruing to or deriving from the asset.

2.4 Security Assignment

As further security for the payment of the Secured Obligations, the New Chargor assigns absolutely with full title guarantee to the Collateral Agent all its rights, title and interest in as far as such assignment is permitted under such Insurance Policies and the Assigned Agreements:

- (a) the Insurance Policies; and
- (b) the Assigned Agreements,

subject in each case to reassignment by the Collateral Agent to the New Chargor of all such rights, title and interest upon payment or discharge in full of the Secured Obligations.

2.5 Floating charge

- (a) As further continuing security for the payment of the Secured Obligations, the New Chargor charges with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994 in favour of the Collateral Agent as trustee for itself and the other Secured Parties by way of first floating charge all its present and future assets, undertakings and rights.
- (b) Paragraph 14 of Schedule B1 to the Insolvency Act 1986 shall apply to the floating charge created by this deed.

3. IMPLIED COVENANTS FOR TITLE

3.1 Law of Property (Miscellaneous Provisions) Act 1994

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 2 (*Accession of New Chargor*).

3.2 Implications of Clause 2

It shall be implied in respect of Clause 2 (*Accession of New Chargor*) that the New 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).

4. NEGATIVE PLEDGE

The New Chargor may not during the Security Period:

- (a) create or agree to create or permit to subsist any Security or Quasi-Security over all or any part of the Charged Property under this deed;
- (b) sell, transfer, lease out, lend or otherwise dispose of all or any part of Charged Property under this deed (other than in respect of assets charged under Clause **Error! Reference source not found.** (*Floating Charge*) on arm's length terms in the ordinary course of trading) or the right to receive or to be paid the proceeds arising on the disposal of the same, or agree or attempt to do so; or
- (c) dispose of the equity of redemption in respect of all or any part of the Charged Property under this deed,

except as permitted by the Loan and Security Agreement or with the prior consent of the Collateral Agent.

5. CONSTRUCTION OF DEBENTURE

- (a) The Debenture shall remain in full force and effect as supplemented by this deed.
- (b) The Debenture and this deed shall be read together as one instrument on the basis that references in the Debenture to "this deed" or "this Debenture" and other similar expressions will be deemed to be references to the Debenture as supplemented by this deed.

6. DESIGNATION AS A LOAN DOCUMENT

This deed is designated as a Loan Document.

7. FAILURE TO EXECUTE

Failure by one or more parties ("**Non-Signatories**") to execute this Deed on the date hereof will not invalidate the provisions of this Deed as between the other Parties who do execute this Deed. Such Non-Signatories may execute this Deed on a subsequent date and will thereupon become bound by its provisions.

8. NOTICES

The New Chargor confirms that its address details for notices in relation to Clause 24 (*Notices*) of the Debenture are as follows:

Address: [•]

Facsimile: [•]

Attention: [•]

9. GOVERNING LAW

This deed (and any dispute, controversy, proceedings or claims of whatever nature arising out of or in any way relating to this deed or its formation) and obligations of the Parties hereto and any matter, claim or dispute arising out of or in connection with this deed (including any non-contractual claims arising out of or in association with it) shall be governed by and construed in accordance with English law.

IN WITNESS whereof this document has been duly executed as a deed and is delivered on the date first above written.

SIGNATORIES TO DEED OF ACCESSION

THE NEW CHARGOR

EXECUTED as a DEED by

[Name of New Chargor] acting by:

☐ as Director: _____

Witness: _____

Name: _____

Address: _____

Occupation: _____

Notice Details

Address: ☐

Facsimile: ☐

Attention: ☐

[THE ORIGINAL CHARGOR

EXECUTED as a DEED by

[Name of Original Chargor] acting by:

☐ as Director: _____

Witness: _____

Name: _____

Address: _____

Occupation: _____

THE COLLATERAL AGENT

EXECUTED as a DEED by

[Name of Collateral Agent] acting by:

[●]as Authorised Signatory: _____

SCHEDULES TO DEED OF ACCESSION

SCHEDULE 1

PROPERTIES

[•]

SCHEDULE 2

SHARES AND INVESTMENTS

[•]

SCHEDULE 3

EQUIPMENT

[•]

SCHEDULE 4

BANK ACCOUNTS

[•]

SCHEDULE 5

INSURANCE POLICIES

[•]

SIGNATORIES TO DEBENTURE

THE CHARGOR

EXECUTED as a DEED by

APOLLO ENDOSURGERY UK LTD acting by:

REDACTED

Stefanie Cavanaugh

as Director:

Witness:

REDACTED

Name:

Brian Scymczak

Address:

1120 S. Capital of Texas Hwy, Bldg 1, Suite 300, Austin, Tx 78746

Occupation:

Attorney

Notice Details

Address:

1120 S Capital of Texas Hwy, #300, Austin, Texas 78746

Facsimile:

512-279-5105

Attention:

General Counsel.

[Signature page to Debenture]

THE COLLATERAL AGENT

EXECUTED as a DEED by
SOLAR CAPITAL LTD. acting by:

REDACTED

_____ as Authorised Signatory: ANTHONY J. STORINO

Notice Details

Address: Solar Capital Ltd
500 Park Avenue, 3rd Floor
New York, NY 10022

Attention: Anthony Storino

Email: Storino@solarcapld.com