



Registration of a Charge

Company name: **CASH MANAGEMENT SOLUTIONS LIMITED**

Company number: **09069081**



X7CAQ4M0

Received for Electronic Filing: **14/08/2018**

Details of Charge

Date of creation: **06/08/2018**

Charge code: **0906 9081 0002**

Persons entitled: **BEP CASH HOLDINGS LLC**

Brief description: **ALL ESTATES AND OTHER INTERESTS IN ANY FREEHOLD, LEASEHOLD OR OTHER IMMOVABLE PROPERTY (INCLUDING, WITHOUT LIMITATION, ALL BUILDINGS AND FIXTURES (AS DEFINED IN THE CHARGING INSTRUMENT) ON SUCH PROPERTY, AND THE BENEFIT OF ALL COVENANTS GIVEN IN RESPECT OF SUCH PROPERTY) WHICH ARE NOW, OR AT ANY TIME AFTER THE DATE OF THE DEBENTURE BECOME, THE PROPERTY OF THE COMPANY, BUT EXCLUDING ANY INTEREST IN LAND IN SCOTLAND. ALL LEGAL AND/OR EQUITABLE INTERESTS (INCLUDING, WITHOUT LIMITATION, THE BENEFIT OF ALL LICENCES IN ANY PART OF THE WORLD) OF THE COMPANY NOW OR IN THE FUTURE IN, OR RELATING TO: (A) ANY PATENTS, TRADE MARKS, SERVICE MARKS, DESIGNS, BUSINESS NAMES, COPYRIGHTS, DATABASE RIGHTS, DESIGN RIGHTS, DOMAIN NAMES, MORAL RIGHTS, INVENTIONS, CONFIDENTIAL INFORMATION, KNOW-HOW AND OTHER INTELLECTUAL PROPERTY RIGHTS AND INTERESTS (WHICH MAY NOW OR IN THE FUTURE SUBSIST), WHETHER REGISTERED OR UNREGISTERED; AND (B) THE BENEFIT OF ALL APPLICATIONS AND RIGHTS TO USE SUCH ASSETS OF THE COMPANY (WHICH MAY NOW OR IN THE FUTURE SUBSIST) FOR MORE DETAILS PLEASE REFER TO THE CHARGING INSTRUMENT.**

Contains fixed charge(s).

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

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: **ED LACEY TLT LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 9069081

Charge code: 0906 9081 0002

The Registrar of Companies for England and Wales hereby certifies that a charge dated 6th August 2018 and created by CASH MANAGEMENT SOLUTIONS LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 14th August 2018 .

Given at Companies House, Cardiff on 16th August 2018

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



Companies House



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES

DEBENTURE

dated 6 AUGUST 2018

The companies listed in Schedule 1

as Chargors

and

BEP Cash Holdings LLC

as Lender

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

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This Debenture is made as a deed on

6 AUGUST

2018

Between:

- (1) The companies listed in Schedule 1; and
- (2) **BEP Cash Holdings LLC** incorporated and registered in the state of Delaware, USA with company number 5459443 whose registered office is at Corporation Service Company, 251 Little Falls Drive, Wilmington, DE 19808 (the "**Lender**").

It is agreed as follows:

1. **Definitions and interpretation**

1.1 **Definitions**

Unless otherwise defined in this Debenture, terms defined in the Credit Agreement shall have the same meanings when used in this Debenture and the following expressions shall have the following meanings:

"**2002 Act**" means the Land Registration Act 2002.

"**2003 Rules**" mean the Land Registration Rules to the Land Registration Act 2002.

"**Assets**" mean the whole of the property or undertaking (including uncalled share capital) which is or may from time to time be comprised in the property and undertaking of each of the Chargors.

"**Assigned Asset**" means an asset for the time being comprised within an assignment created by Clause 3 (*Security*).

"**Assigned Contract**" means each contract specified in Part 4 of Schedule 2.

"**Authorities**" mean all national and local governments, government departments, supranational bodies, local or public authorities, statutory undertakings, states or agencies.

"**Book Debts**" mean:

- (a) all book and other debts in existence from time to time (including, without limitation, any sums whatsoever owed by banks or similar institutions), both present and future, due, owing to or which may become due, owing to or purchased or otherwise acquired by any Chargor; and
- (b) the benefit of all rights whatsoever relating to the debts referred to above including, without limitation, any related agreements, documents, rights and remedies (including, without limitation, negotiable or non-negotiable instruments, guarantees, indemnities, legal and equitable charges, reservation of proprietary rights, rights of tracing, unpaid vendor's liens and all similar connected or related rights and assets).

"**Book Debts Account**" means any separate and denominated account or accounts as may be specified in writing by the Lender for the purpose of receiving payment of the proceeds of realisation and collection of Book Debts.

"**Cash Collateral Accounts**" means each account specified as a Mandatory Prepayment Account or a Holding Account pursuant to the Senior Credit Agreement, the accounts specified as such in Part 3 of Schedule 2 to this Debenture.

"**Charged Property**" means the whole or any part of the property, assets, income and undertaking of each of the Chargors from time to time mortgaged, charged or assigned, or

purported to be mortgaged, charged or assigned to the Lender pursuant to this Debenture, including, where the context permits, the proceeds of sale or realisation thereof.

"Chargors" mean the parties listed in Schedule 1.

"Contracts" mean all of each Chargor's rights, title, interest and benefit in and to any licence, consent, agreement or contract in respect of the whole or any part of the Charged Property to which such Chargor is a party from time to time.

"Credit Agreement" means the Credit Agreement made between the Lender (as lender), Cash Management Solutions Limited (as borrower) and the Obligors on or about the date of this Debenture.

"Debenture Security" means the Security constituted by this Debenture.

"Default Rate" means the default rate of interest set out in clause 7.3 of the Credit Agreement.

"Derivative Assets" mean all stocks, shares, warrants or other securities, rights, dividends, interest or other property accruing, offered, issued or deriving at any time by way of dividend, bonus, redemption, exchange, purchase, substitution, conversion, consolidation, subdivision, preference, option or otherwise attributable to any Securities or any Derivative Assets previously described.

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

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

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

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

"Event of Default" means a failure by any Chargor to comply with the terms of any Finance Document.

"Exchange Rate" means the prevailing spot rate of exchange of such bank as selected by the Lender at or around 11 a.m. on the date on which any conversion of currency is to be effected pursuant to this Debenture.

"Finance Document" shall have the meaning given to such term by the Credit Agreement.

"Financial Collateral" shall have the meaning given to that expression in the Financial Collateral Regulations.

"Financial Collateral Regulations" mean the Financial Collateral Arrangements (No. 2) Regulations 2003 (S.I. 2003 No. 3226).

"Fixed Charge Asset" means an asset for the time being comprised within a mortgage, fixed charge or assignment by way of security created by Clause 3 (*Security*) or pursuant to Clause 6 (*Further Assurance*).

"Fixtures" mean all assets of whatsoever nature, apart from land and buildings, forming part of any freehold or leasehold property owned by any Chargor and deemed by law to be immovable property other than tenant's fixtures.

"Group" means the Parent and its Subsidiaries (if any) from time to time.

"Hedging Agreement" means any master agreement, confirmation, schedule or other agreement entered into or to be entered into by a Chargor for the purpose of hedging liabilities and/or risks.

"Insolvency Act" means the Insolvency Act 1986 unless otherwise stated.

"Intellectual Property Rights" means all legal and/or equitable interests (including, without limitation, the benefit of all licences in any part of the world) of each Chargor now or in the future in, or relating to:

- (a) any patents, trade marks, service marks, designs, business names, copyrights, database rights, design rights, domain names, moral rights, inventions, confidential information, know-how and other intellectual property rights and interests (which may now or in the future subsist), whether registered or unregistered; and
- (b) the benefit of all applications and rights to use such assets of each Chargor (which may now or in the future subsist).

"Intercreditor Agreement" means the intercreditor agreement dated on or about the date of this Debenture and made between HSBC Bank plc, HSBC UK Bank plc, the Lender and the Obligors.

"LPA" means the Law of Property Act 1925.

"Material Adverse Effect" means a material adverse effect on:

- (a) the business, operations, assets or financial condition of the Group taken as a whole; or
- (b) the ability of an Obligor to perform its material obligations under the Finance Documents; or
- (c) the validity or enforceability of, or the effectiveness or ranking of any Security granted or purporting to be granted pursuant to any of, the Finance Documents or the rights or remedies of the Lender under any of the Finance Documents.

"Nominees" mean any of the Lender, its agents, nominees and any other person holding the Securities and the Derivative Assets on behalf of the Lender from time to time.

"Parent" means Cash Management Solutions Limited incorporated and registered in England and Wales with company number 9069081 whose registered office is at Leeway House, Leeway Industrial Estate, Newport, South Wales NP 19 4SL.

"Permitted Security" shall have the meaning given to that term by the Senior Credit Agreement.

"Plant and Machinery" means all plant and machinery, equipment, fittings, installations and apparatus, tools, motor vehicles and all other similar assets (other than Fixtures), wherever they are situated, which are now, or at any time after the date of this Debenture become, the property of any Chargor.

"Property" means all estates and other interests in any freehold, leasehold or other immovable property (including, without limitation, all buildings and Fixtures on such property, and the benefit of all covenants given in respect of such property) which are now, or at any time after the date of this Debenture become, the property of a Chargor, but excluding any interest in land in Scotland, and **"Properties"** shall be construed accordingly.

"Receiver" means any receiver appointed pursuant to this Debenture, including, for the avoidance of doubt, a receiver and manager, a manager or an administrative receiver.

"Rights" mean all of any Chargor's rights, title and interest from time to time in any lease, licence or occupational right whatsoever together with the entire benefit of each Chargor's rights, title and interest from time to time in any renewal of, replacement of or variation to any such lease, licence or occupational right.

"Secured Liabilities" mean all money, debts, obligations and liabilities from time to time due, owing or incurred by the Chargors or any of them to the Lender or its assignee or successor on any current or other account whatever or otherwise in any manner whatever, in each case under each Finance Document (whether present or future, whether alone or jointly with any other person, whether actual or contingent, whether as principal or as surety, whether express or implied, in whatever name, form or style, in whatever currency it is denominated, whether originally owing to the Lender or purchased or otherwise acquired by the Lender, its assignee or successor, or otherwise).

"Securities" means all stocks, shares, loan notes, bonds, certificates of deposit, depositary receipts, loan capital indebtedness, debentures or other securities from time to time legally or beneficially owned by or on behalf of each Chargor, together with all property and rights of each Chargor in respect of any account held by or for it as participant, or as beneficiary of a nominee or trustee participant, with any clearance or settlement system or depositary or custodian or sub-custodian or broker in the United Kingdom or elsewhere.

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

"Security Financial Collateral Arrangement" shall have the meaning given to that expression in the Financial Collateral Regulations.

"Senior Credit Agreement" means the credit agreement originally made between the Parent and HSBC Bank Plc and originally dated 10 July 2014.

"Senior Discharge Date" shall have the meaning given to the expression "Discharge Date" in the Intercreditor Agreement.

"Subsidiary" means a subsidiary within the meaning of section 1159 of the Companies Act 2006 and, a company shall be treated, for the purposes only of the membership requirement contained in subsections 1159(1)(b) and (c), as a member of another company even if its shares in that other company are registered in the name of:

- (a) a person (or its nominee) whether by way of security or in connection with the taking of security; or
- (b) a nominee of the holding company.

1.2 **Construction**

- (a) Unless a contrary intention appears, Clause 1.2 (*Construction*) of the Credit Agreement applies to this Debenture, and shall be deemed to be incorporated into this Debenture, *mutatis mutandis*, as though set out in full in this Debenture, with any reference to "this Agreement" being deemed to be a reference to "this Debenture", subject to any other necessary changes.
- (b) Unless a contrary indication appears, any reference in this Debenture to:

- (i) **"administrators"** are references to administrators appointed under the Insolvency Act, and include administrators appointed under the out-of-court procedure under the Insolvency Act;
- (ii) the **"Lender"**, **"Chargor"** or **"Chargors"**, or **"Receiver"** shall be construed so as to include its successors in title, permitted assigns, permitted transferees and any delegate of any such person;
- (iii) **"costs"** means all costs, fees, charges or expenses of whatsoever nature (including, without limitation, legal fees) including, without limitation, disbursements and any VAT to be charged on such costs, charges, expenses and disbursements;
- (iv) the term **"Finance Document"** includes all restatements, amendments, modifications, variations and supplements including those providing for further advances. The terms of the other Finance Documents and of any side letters between the Lender and any of the Chargors are incorporated into this Debenture to the extent required to ensure that any purported disposition of any freehold or leasehold property contained in this Debenture is a valid disposition in accordance with Section 2(i) of the Law of Property (Miscellaneous Provisions) Act 1989;
- (v) **"receivers"** are references to receivers of whatsoever nature including, without limitation, receivers and managers and administrative receivers; and

1.3 ***Trust***

The perpetuity period for any trusts in this Debenture is 125 years.

1.4 ***Third Party Rights***

- (a) Unless expressly provided in this Debenture, no express term of this Debenture nor any term implied under it is enforceable pursuant to the Contracts (Rights of Third Parties) Act 1999 by any person who is not a party to it. Notwithstanding any term of any Finance Document, the consent is not required to rescind or vary this Debenture at any time of any person who is not a party to it.
- (b) For the avoidance of doubt, the terms of this Debenture are intended to be enforceable by any Receiver.

1.5 ***The Intercreditor Agreement***

- (a) This Debenture is subject in all respects to the terms of, and the subordination created under, the Intercreditor Agreement.
- (b) In the event of any conflict or inconsistency between the terms of this Debenture and the terms of the Intercreditor Agreement, the terms of the Intercreditor Agreement shall prevail.

2. ***Covenant to pay***

- 2.1 Subject always to the terms of the Intercreditor Agreement, each Chargor irrevocably and unconditionally covenants with the Lender to pay to the Lender or discharge on demand all the Secured Liabilities when the Secured Liabilities become due within any applicable grace period made available to the relevant Chargor for the satisfaction of that demand under the Finance Documents.
- 2.2 Each Chargor gives the covenant in this Clause jointly and severally with the other Chargors from time to time.

3. **Security**

3.1 **General provisions**

All Security created under this Debenture:

- (a) is made with full title guarantee in accordance with the Law of Property Act (Miscellaneous Provisions) Act 1994;
- (b) is continuing security for the payment and discharge of the Secured Liabilities; and
- (c) is created in favour of the Lender.

3.2 **Mortgaged Property**

Each Chargor charges by way of second ranking legal mortgage, the Property specified in respect of that Chargor in Part 1 of Schedule 2 to this Debenture, and all Rights relating to such Property.

3.3 **Other Property**

Each Chargor charges, by way of second ranking fixed charge:

- (a) all Property not validly charged in Clause 3.2 (*Mortgaged Property*) and all Rights relating to such Property;
- (b) all easements, rights and agreements in respect of all Property; and
- (c) all proceeds of sale derived from all Property.

3.4 **Contracts**

Each Chargor charges, by way of second ranking fixed charge, the Contracts.

3.5 **Book Debts**

Each Chargor charges, by way of second ranking fixed charge, the Book Debts.

3.6 **Intellectual Property**

Each Chargor charges, by way of second ranking fixed charge, all its Intellectual Property Rights.

3.7 **Plant and Machinery**

Each Chargor charges, by way of second ranking fixed charge, the Plant and Machinery.

3.8 **Securities and Derivative Assets**

- (a) Each Chargor charges by way of second ranking fixed charge, the Securities specified next to its name in Part 2 of Schedule 2 to this Debenture.
- (b) Each Chargor charges by way of second ranking fixed charge, all its Securities not charged by Clause 3.8(a).
- (c) Each Chargor charges by way of second ranking fixed charge, all Derivative Assets of a capital nature.

- (d) Each Chargor charges by way of second ranking fixed charge, all Derivative Assets of an income nature.

3.9 Bank Accounts

- (a) Each Chargor charges by way of second ranking fixed charge each Cash Collateral Account, and all monies standing to the credit of each such account.
- (b) Each Chargor charges by way of second ranking fixed charge each Book Debt Account, and all monies standing to the credit of each such account.
- (c) Each Chargor charges by way of second ranking fixed charge all present and future bank accounts, cash at bank and credit balances of that Chargor not charged by Clause 3.9(a) or Clause 3.9(b) (excluding those arising on fluctuating accounts) with any bank or other person and all rights relating to or attaching to them (including the right to interest).

3.10 Goodwill

Each Chargor charges by way of second ranking fixed charge, all the goodwill and uncalled capital for the time being of that Chargor.

3.11 Security Assignments

- (a) Each Chargor assigns absolutely to the Lender all other present and future insurances and the proceeds of such insurances.
- (b) Each Chargor assigns absolutely to the Lender the benefit of the Assigned Contracts.
- (c) Each Chargor assigns absolutely to the Lender the benefit of the Hedging Agreements and any letters of credit issued to it.
- (d) The assignments set out in this Clause 3.11 (*Security Assignments*) and Clause 3.12 (*Accruals etc*) are absolute assignments for the purposes of section 136 LPA and are not made by way of charge only, and are, at the date of this Debenture, second ranking assignments.
- (e) Any Assigned Assets which are not effectively assigned pursuant to this Clause 3.11 (*Security Assignments*) and Clause 3.12 (*Accruals etc*) will instead be charged by way of second ranking fixed charge.

3.12 Accruals etc

- (a) Each Chargor assigns absolutely all rights, money or property accruing or payable to that Chargor now or in the future under or by virtue of a Fixed Charge Asset, except to the extent such rights, money or property are for the time being effectively charged under the provisions of Clauses 3.2 (*Mortgaged Property*) to 3.11 (*Security Assignments*) (inclusive).
- (b) The assignments referred to in paragraph (a) above are, at the date of this Debenture, second ranking assignments.
- (c) Each Chargor charges by way of second ranking fixed charge, that Chargor's rights now or hereafter to recover any VAT on any supplies made to it relating to the Assets any tax refund, rebate or repayment, and any sums so recovered.

3.13 Floating Charge

- (a) Each Chargor charges by way of second ranking floating charge, all the undertaking and assets of that Chargor whatsoever, wherever situate, whether movable,

immovable, present or future, including, without limitation, its uncalled capital for the time being and all the undertaking and assets of that Chargor referred to above which are, for any reason, not validly charged or assigned pursuant to Clauses 3.2 (*Mortgaged Property*) to 3.12 (*Accruals etc*) (inclusive) of this Debenture.

- (b) The floating charge created by this Debenture is a qualifying floating charge for the purpose of paragraph 14 of Schedule B1 to the Insolvency Act.

4. Conversion of floating charge

4.1 Conversion by notice

Subject always to the terms of the Intercreditor Agreement, the Lender may by notice to the relevant Chargor convert the floating charge contained in this Debenture into a fixed charge as regards such Charged Property as the Lender may specify (whether generally or specifically) in that notice if: (i) the Lender reasonably considers the Charged Property to be in jeopardy in any respect, or (ii) an Event of Default has occurred and is continuing, or both.

4.2 Automatic conversion

If, without the prior written consent of the Lender: (i) any Chargor creates any Security (other than Permitted Security) over any of the Charged Property not expressed to be subject to a fixed charge under this Debenture, or attempts to do so, or (ii) any person levies or attempts to levy any distress, attachment, execution or other legal process against any of such Charged Property, or (iii) any steps are taken for the appointment of, or notice is given of intention to appoint, or a petition is filed or application is made, or a competent court makes an order for the appointment of an administrator, in relation to any Chargor, then the floating charge created by this Debenture over the Charged Property which is the subject of such Security, process, steps or order will automatically, without notice, be converted into a fixed charge as soon as such event occurs.

4.3 No conversion as a result of Moratorium

Notwithstanding any other provision of this Debenture, the floating charge contained in this Debenture may not be converted into a fixed charge solely by reason of the obtaining of a moratorium, or anything done with a view to obtaining a moratorium, as a preliminary to a creditors voluntary arrangement, by an eligible company (as determined by Schedule A1 of the Insolvency Act) under the Insolvency Act.

5. Notices of Assignment and Charge

5.1 Notices of Assignment

After the Senior Discharge Date, each Chargor shall promptly give notice (in the case of (a) and (b) below, in the form set out in Schedule 3 to this Debenture, and in the case of (c) and (d) below in such form as the Lender may require) of:

- (a) the assignment of the Assigned Contracts under this Debenture to each counterparty to an Assigned Contract;
- (b) the assignment of its insurance policies under this Debenture to its insurers;
- (c) the charge over its bank accounts with any bank other than the Lender under this Debenture to its account bank; and
- (d) if the Lender so requires, the assignment of any other Assigned Asset to a relevant third party as required by the Lender,

and in each case shall use its reasonable endeavours to procure that each such person executes and delivers to the Lender an acknowledgement of such notice in form and substance satisfactory to the Lender.

5.2 Notices to Third Parties

After the Senior Discharge Date, each Chargor shall, at the request of the Lender and at such Chargor's expense, promptly deliver any notices to any third party having rights or liabilities in or to all or any of the Charged Property as the Lender reasonably requires, notifying thereby the charge constituted by or pursuant to this Debenture, and shall use all reasonable endeavours to procure that each such person executes and delivers to the Lender an acknowledgement of such notice in form and substance satisfactory to the Lender.

6. Further assurance

Subject always to the terms of the Intercreditor Agreement, each Chargor shall at any time if required by the Lender and at such Chargor's own expense:

- (a) execute and deliver to the Lender such further legal or other mortgages, charges, assignments, securities, authorities, documents, acts and things as the Lender in its discretion may require of the whole or such part of the Charged Property as the Lender may specify, in such form as the Lender in its discretion may require, to secure the payment or discharge of the Secured Liabilities or to vest the whole or such part of the Charged Property in the Lender, its nominee, a Receiver, or in any purchaser from the Lender or a Receiver or to perfect or protect the security created by this Debenture; and
- (b) pending the execution and delivery of any such further Security, hold such Charged Property upon trust for the Lender or in any other manner required by the Lender subject to the provisions of this Debenture.

7. Deposit of documents and title deeds

7.1 At any time following the Senior Discharge Date, and until the Secured Liabilities have been irrevocably discharged in full each Chargor shall deposit with the Lender:

- (a) all deeds and documents of title relating to the Property;
- (b) all stock and share certificates or other documents of title to or representing the Securities (including without limitation the Securities listed in Part 2 of Schedule 2 to this Debenture) and the Derivative Assets (together with duly executed blank transfers); and
- (c) to the extent requested by the Lender from time to time:
 - (i) certified copies of all the Assigned Contracts;
 - (ii) certified copies of all Hedging Agreements and all letters of credit issued to it;
 - (iii) all deeds and documents of title (if any) relating to the Book Debts;
 - (iv) certified copies of all registration documents relating to all registrable Intellectual Property Rights, and details of all Intellectual Property Rights, of each Chargor;
 - (v) details of all Plant and Machinery; and
 - (vi) details of all bank accounts;

- 7.2 The Lender shall be entitled to provide for the safe custody by third parties of all stock and share certificates and documents of title deposited with the Lender or its nominee at the expense of the Chargors and shall not be responsible for any loss of or damage to any such certificates or documents.

8. Bank Accounts and Book Debts

8.1 Cash Collateral Accounts

At any time following the Senior Discharge Date, and until the Secured Liabilities have been irrevocably discharged in full, no Chargor shall, except with the prior written consent of the Lender, withdraw or attempt or be entitled to withdraw from the Cash Collateral Accounts all or any monies standing to the credit of such Cash Collateral Accounts.

8.2 Book Debts and the Book Debts Account

Until the Secured Liabilities have been irrevocably discharged in full, each Chargor shall, subject to the terms of the Intercreditor Agreement:

- (a) collect and realise all Book Debts in the ordinary course of its business (for the avoidance of doubt, it is hereby declared that for the purposes of this Debenture, the ordinary course of business of that Chargor does not include or extend to the selling, assigning or in any other way factoring or discounting any Book Debts other than as permitted by the Senior Credit Agreement);
- (b) after the Senior Discharge Date, if an Event of Default is continuing:
 - (i) hold the proceeds of such collection and realisation of the Book Debts upon trust for the Lender pending payment of such proceeds into the Book Debts Account;
 - (ii) pay the proceeds of such collection and realisation into the Book Debts Account;
 - (iii) not, except with the prior written consent of the Lender, withdraw or attempt or be entitled to withdraw from the Book Debts Account all or any monies standing to the credit of the Book Debts Account; and
 - (iv) if called upon so to do by the Lender, execute a legal assignment of the Book Debts to the Lender in such terms as the Lender in its discretion may require, give such notice of that legal assignment to the debtors from whom the Book Debts are due, owing or incurred and take any such other step as the Lender in its discretion may require to perfect such legal assignment.

8.3 Other Bank Accounts

After the Senior Discharge Date and at any time when an Event of Default is continuing, if the Lender has served written notice on the Parent requiring the same, no Chargor shall, except with the prior written consent of the Lender, withdraw or attempt or be entitled to withdraw from any of its bank accounts all or any monies standing to the credit of such bank accounts.

9. Dividends, voting rights and Nominees

9.1 Dividends and voting rights

For so long as no Event of Default is continuing, each Chargor may:

- (a) subject to Clause 7 (*Deposit of document and title deeds*), receive and retain all dividends, interest and other income deriving from and received by it in respect of the Securities and the Derivative Assets; and

- (b) exercise all voting and other rights and powers attached to the Securities and the Derivative Assets provided that such exercise does not adversely affect the Securities and the Derivative Assets and is not otherwise inconsistent with this Debenture.

9.2 ***Bank's powers of enforcement over the Securities and the Derivative Assets***

- (a) Subject always to the terms of the Intercreditor Agreement, following the occurrence of an Event of Default which is continuing:
 - (i) the Lender may in its discretion (in the name of any Chargor or otherwise and without any consent or authority on the part of any Chargor) exercise all the powers given to trustees by Section 10(3) and (4) of the Trustee Act 1925 (as amended by Section 9 of the Trustee Investments Act 1961) in respect of those Securities and Derivative Assets subject to a trust;
 - (ii) all dividends, interest and other income forming part of the Securities and Derivative Assets shall, unless otherwise agreed between the Lender and the Parent, be paid without any set-off or deduction whatsoever to an interest bearing suspense account in the name of the Lender and shall be retained by the Lender until applied as provided in this Debenture as part of the Securities and the Derivative Assets, and any such monies which may be received by a Chargor shall, pending such payment, be held in trust for the Lender;
 - (iii) all voting rights in respect of all Securities and Derivative Assets charged by Clause 3.8 (*Securities and Derivative Assets*) may be exercised (without obligation to do so) by the Lender (or its nominee) in such a manner as it shall (in its absolute discretion) see fit;
 - (iv) (if directed to do so in writing by the Lender) each Chargor shall procure the registration in its books of the transfer of the Securities and the Derivative Assets to the Lender (or its Nominees), the entry of the Lender (or its Nominees) in the register of members of the company or companies which has/have issued the Securities as the holder or holders of the Securities and the Derivative Assets and the issue of new share certificates in respect of the Securities and the Derivative Assets to the Lender (or its Nominees); and
 - (v) upon the accrual, offer, issue or receipt of any Derivative Assets, each Chargor shall deliver or pay to the Lender or procure the delivery or payment to the Lender of all such Derivative Assets or the stock or share certificates or other documents of title to or representing them together with duly executed blank transfers.
- (b) The Lender shall not have any duty as to any Securities or Derivative Assets and shall not incur liability for:
 - (i) ascertaining or taking action in respect of any calls, instalments, conversions, exchanges, maturities, tenders or other matters in relation to any Securities or Derivative Assets or the nature or sufficiency of any payment whether or not the Lender has or is deemed to have knowledge of such matters; or
 - (ii) taking any necessary steps to preserve rights against prior parties or any other rights pertaining to any Securities or Derivative Assets; or
 - (iii) any failure to present any interest, coupon or any bond or stock drawn for repayment or for any failure to pay any call or instalment or to accept any offer or to notify any Chargor of any such matter or for any failure to ensure that the correct amounts (if any) are paid or received in respect of the Securities or the Derivative Assets.

10. Representations and warranties

Each Chargor makes the representations and warranties set out in this Clause 10 (*Representations and warranties*) to the Lender on the date of this Debenture and as contemplated in Clause 10.4 (*Repetition*) below.

10.1 Status

It has the power to own and grant security as contemplated in this Debenture over its assets.

10.2 Ownership of the Charged Property

- (a) It is the sole legal and beneficial owner of the Charged Property as from the date it or any part of it becomes charged under this Debenture and its rights in respect of the Charged Property are free from any Security of any kind other than any Permitted Security.
- (b) Schedule 2 (*The Secured Assets*) identifies:
 - (i) all the freehold and leasehold Property situated in England and Wales;
 - (ii) all the registered patents and trademarks, and applications in respect of the same; and
 - (iii) all the Securities in respect of companies incorporated in England and Wales, beneficially owned by each Chargor at the date of the Debenture.
- (c) The Securities listed in Part 2 of Schedule 2 are all fully paid.

10.3 Future Security

Except as contemplated by this Debenture, the execution of this Debenture by it and its exercise of the rights and performance of its obligations under this Debenture will not result in the existence of or oblige any Chargor to create any Security over all or any of its present or future revenues or assets.

10.4 Repetition

- (a) The representations and warranties set out in this Clause 10 (*Representations and Warranties*) are:
 - (i) given and made on and as of the date of this Debenture;
 - (ii) shall survive the execution of this Debenture; and
 - (iii) are continuing representations and warranties which are deemed to be repeated in accordance with paragraph (b) below during the continuance of the Debenture Security.
- (b) The representations and warranties set out in this Clause 10 (*Representations and Warranties*) shall be repeated:
 - (i) until the Senior Discharge Date, on the dates that the Repeating Representations (as defined in the Senior Credit Agreement) are deemed to be made under the Senior Credit Agreement; and
 - (ii) on and from the Senior Discharge Date, on each day that the Debenture Security continues to subsist.

11. General undertakings

Each Chargor gives each of the undertakings contained in this Clause 11 (*General undertakings*) to the Lender and each of the undertakings shall remain in force while the Debenture Security subsists.

11.1 Negative pledge and restriction on dealing

No Chargor shall do any of the following without the prior written consent of the Lender:

- (a) create or allow to create any Security over any of its Assets save for Permitted Security;
- (b) sell, lease, licence, transfer, loan or otherwise dispose of any of its Assets (whether by a voluntary or involuntary single transaction or series of transactions); or
- (c) permit or agree to any variation of the rights attaching to the whole or any part of the Charged Property,

unless permitted by the Credit Agreement.

11.2 Insurance

Each Chargor shall:

- (a) maintain insurances on and in relation to its business and assets against those risks and to the extent as is usual for companies carrying on the same or substantially similar business and ensure all insurances must be with reputable independent insurance companies or underwriters;
- (b) supply on request copies of each of its policies of insurance together with the current premium receipts relating to each such policy;
- (c) following the Senior Discharge Date, ensure that the interest of the Lender is noted on all its insurance policies in respect of its Charged Property from time to time;
- (d) duly and punctually pay all premiums and any other moneys necessary for maintaining its insurance policies in full force and effect in accordance with the terms of such policies. If the Chargor at any time fails to pay any such premiums or other moneys, the Lender may pay such premiums and other moneys and the Chargor shall reimburse the Lender for the amount of such premiums and other moneys within 3 Business Days of demand; and
- (e) not, without the prior written consent of the Lender, do any act or commit any default which might prejudice the insurance policies, including, without limitation, any act or default whereby the insurance policies might become void or voidable.

11.3 Insurance monies

Any monies received by virtue of any insurance relating to the whole or any part of the Charged Property (whether effected pursuant to this Debenture or otherwise) shall be deemed to be part of the Charged Property. Each Chargor shall apply all such monies in accordance with:

- (a) prior to the Senior Discharge Date, the Senior Credit Agreement; and
- (b) following the Senior Discharge Date, the terms of the Finance Documents.

11.4 To repair

Each Chargor shall:

- (a) at all times keep in good and substantial repair and condition all the Charged Property including, without limitation, all buildings, erections and structures on and in the Property;
- (b) keep all Plant and Machinery in good repair, working order and condition and fit for its purpose; and
- (c) where it is uneconomic to repair any part of the Charged Property, replace such property by another similar asset of equal or greater quality and value.

11.5 Intellectual Property Rights

Each Chargor shall, subject to the terms of the other Finance Documents:

- (a) preserve and maintain the subsistence and validity of the Intellectual Property necessary for the business of the relevant Group member;
- (b) use reasonable endeavours to prevent any infringement in any material respect of the Intellectual Property;
- (c) make registrations and pay all registration fees and taxes necessary to maintain the Intellectual Property in full force and effect and record its interest in that Intellectual Property;
- (d) not use or permit the Intellectual Property to be used in a way or take any step or omit to take any step in respect of that Intellectual Property which may materially and adversely affect the existence or value of the Intellectual Property or imperil the right of any member of the Group to use such property; and
- (e) not discontinue the use of the Intellectual Property,

where failure to do so, in the case of paragraphs (a) and (b) above, or, in the case of paragraphs (d) and (e) above, such use, permission to use, omission or discontinuation is reasonably likely to have a Material Adverse Effect.

11.6 Miscellaneous undertakings

Each Chargor shall, unless it has the prior written consent of the Lender:

- (a) punctually pay or cause to be paid all rents, rates, taxes, duties, assessments and other outgoings payable in respect of the Charged Property or any part thereof; and
- (b) not do, cause or permit to be done anything which would cause the value or marketability of any Charged Property to depreciate or be jeopardised or prejudiced (or make any omission which has such an effect).

12. Costs

Subject to the terms of the Intercreditor Agreement, each Chargor hereby covenants that it shall, within 3 Business Days of demand, pay to the Lender the amount of all costs and expenses (including legal fees) incurred by the Lender or any Receiver in connection with the enforcement of or the preservation of any rights under this Debenture and any proceedings instituted by or against the Lender as a consequence of taking or holding the Debenture Security or enforcing these rights, together with interest at the Default Rate from the date the relevant cost was expended, incurred or suffered (whichever is the earlier) by the Lender or the Receiver (as the case may be) until full payment or discharge of such cost and such cost shall form part of the Secured Liabilities.

13. Default

13.1 Enforcement

Subject always to the terms of the Intercreditor Agreement, Debenture Security shall become enforceable without further notice immediately:

- (a) on the occurrence of an Event of Default which is continuing; or
- (b) if any Chargor requests the Lender to appoint an administrator or a receiver over the whole or any part of its undertaking or assets.

13.2 Enforcement

- (a) Subject always to the terms of the Intercreditor Agreement and at any time after the Debenture Security becomes enforceable, the Lender will be entitled to enforce all or any part of the Debenture Security in any manner it sees fit, including without limitation by exercising all or any of the powers conferred on a mortgagee by the LPA (as varied or extended by this Debenture), all or any of the powers conferred on the holder of a qualifying floating charge (as defined in the Insolvency Act) and all or any of the rights and powers conferred by this Debenture.
- (b) Without limiting the generality of sub-clause (a) above, on and at any time after the occurrence of an Event of Default which is continuing but subject always to the terms of the Intercreditor Agreement, the Lender in its absolute discretion may by written notice to a Chargor appropriate (for the purposes of the Financial Collateral Regulations and subject to Clause 13.3 (*Financial Collateral*) below) any part or the whole of the Financial Collateral secured by this Debenture.

13.3 Financial Collateral

- (a) To the extent that any of the Charged Property constitutes Financial Collateral and is subject to a Security Financial Collateral Arrangement created by or pursuant to this Debenture, the Lender shall have the right subject always to the terms of the Intercreditor Agreement, at any time after the Debenture Security has become enforceable, to appropriate all or any part of those Assets in or towards the payment or discharge of the Secured Liabilities.
- (b) The value of any Assets appropriated in accordance with this Clause 13.3 (*Financial Collateral*) shall be determined by such method as the Lender may reasonably select (including independent valuation), at the time the right of appropriation is exercised. Each Chargor agrees that the methods of valuation provided for in this Clause 13.3 (*Financial Collateral*) are commercially reasonable for the purposes of Regulation 18 of the Financial Collateral Regulations.
- (c) To the extent that the Assets constitute Financial Collateral, each Chargor agrees that such Assets shall be held or designated so as to be under the control of the Lender for all purposes of the Financial Collateral Regulations.

14. Statutory power of sale

14.1 For the purposes of all powers under this Debenture and implied by statute, and in particular the power of sale under Section 101 of the LPA (Powers incident to estate or interest in a mortgage), the Secured Liabilities will be deemed to have become due immediately on the date of this Debenture and Section 103 of the LPA (Regulation of exercise of power of sale) and Section 93 of the LPA (Restriction on consolidation of mortgages) will not apply.

14.2 The statutory powers of leasing conferred on the Lender are extended so as to authorise the Lender to lease, make arrangements for leases, accept surrender of leases and grant options on such terms and conditions as the Lender may in its discretion think fit. The Lender is not

obliged to comply with any of the provisions of Section 99 (Leasing powers of mortgagor and mortgagee in possession) and Section 100 (Powers of mortgagor and mortgagee in possession to accept surrenders of leases) of the LPA.

- 14.3 Each of the Lender and the Receiver may exercise the statutory power of sale and the statutory powers of leasing, as amended and varied in the foregoing clauses, and all other statutory powers, in respect of the whole or any part of the Property.

15. **Administrator**

At the time that, or at any time after, the Debenture Security becomes enforceable but subject always to the terms of the Intercreditor Agreement, whether or not the Lender has entered into or taken possession of the whole or any part of the Charged Property pursuant to this Debenture, the Lender may, insofar as permitted by law, at its option and in addition to any right to appoint a Receiver, by writing under the hand of any authorised officer of the Lender, appoint, petition the relevant court to appoint or apply to the court for the appointment of any person to be an administrator of any Chargor under the Insolvency Act and such person shall, from the effective date of such appointment, be an administrator.

16. **Receiver**

16.1 ***Appointment of Receiver***

- (a) At any time that, or at any time after, the Debenture Security becomes enforceable but subject always to the terms of the Intercreditor Agreement, whether or not the Lender has entered into or taken possession of the whole or any part of the Charged Property pursuant to this Debenture:
- (i) the Lender may, insofar as permitted by law, at its option, by writing under the hand of any authorised officer of the Lender, appoint any person to be a receiver of the Charged Property and such person shall, with effect from the effective date of such appointment, be a Receiver provided that this provision shall not apply solely by reason of the obtaining of a moratorium, or anything done with a view to obtaining a moratorium, as a preliminary to a creditors voluntary arrangement, by an eligible company (as defined in Schedule A1 of the Insolvency Act) under the Insolvency Act;
 - (ii) the Lender may, from time to time, in similar manner, remove the Receiver and appoint another in his place;
 - (iii) the Lender may, either at the time of appointment or at any time thereafter, fix the remuneration of the Receiver (excluding for the purposes of this Clause the limitation set out in Section 109(6) LPA (Appointment, powers, remuneration and duties of receivers));
 - (iv) the Lender and any Nominee wherever situate may, without further notice and without the restrictions contained in Section 103 of the LPA (Regulation of exercise of power of sale), exercise in respect of all or any part of the Securities and the Derivative Assets all the powers and rights exercisable by the registered holder of the Securities and the Derivative Assets and all other powers conferred on mortgagees by the LPA as varied or extended by this Debenture; and
 - (v) the Lender and any Nominee wherever situate may apply any dividends, interest or other payments received or receivable by the Lender or by such Nominee in respect of the Securities and the Derivative Assets as if they were proceeds of sale.
- (b) None of the restrictions imposed by the LPA in relation to the appointment of receivers, the giving of notice or otherwise shall apply.

- (c) The Receiver may from time to time delegate, by power of attorney or otherwise, to any person any of his powers and discretions, whether arising by statute, the provisions of this Debenture or otherwise, upon such terms and for such periods of time as he may in his discretion think fit and may from time to time terminate any such delegation. Neither the Lender nor any Receiver shall be liable to any Chargor for any loss or damage arising from any such delegate's act, default, neglect or misconduct of any nature whatsoever.

16.2 ***Powers of Receiver***

The Receiver has all the powers to do or abstain from doing anything which the Lender or any Chargor could do or abstain from doing in relation to the Charged Property including, without limitation the powers conferred by Section 109 of the LPA (Appointment, powers, remuneration and duties of receivers) and, in the case of a Receiver who is an administrative receiver, the powers conferred by Section 29 of the Insolvency Act (Definitions) and Schedule 1 to the Insolvency Act (Powers of administrator or administrative receiver), and in particular the Receiver may, subject always to the terms of the Intercreditor Agreement:

(a) *Possession*

take immediate possession of, get in and collect the Charged Property or any part thereof;

(b) *Carry on business*

carry on, manage or concur in carrying on or managing the whole or any part of the business of any Chargor as he in his discretion may think fit;

(c) *Protection of assets*

(i) manage, insure, repair, decorate, maintain, alter, improve, develop, construct, modify, refurbish, renew or add to the Charged Property or concur in so doing;

(ii) commence, continue or complete any new works, unfinished work, building operations, construction, reconstruction, maintenance, furnishing, finishing or fitting-out on the Property;

(iii) apply for and maintain any planning permissions, building regulations, approvals and any other permissions, consents or licences,

in each case as he in his discretion may think fit;

(d) *Realisation of assets*

sell, exchange, convert into money and realise the Charged Property or concur in so doing by public auction or private contract and generally in such manner and on such terms as he in his discretion may think fit. Without prejudice to the generality of the foregoing, he may do any of these things for any valuable consideration, whether full market value or otherwise, including, without limitation, cash, shares, stock, debentures or other obligations. Any such consideration may be payable in a lump sum or by instalments spread over such period as he in his discretion may think fit;

(e) *Let, hire or lease*

(i) let, hire or lease (with or without premium) and accept surrenders of leases or tenancies or concur in so doing;

(ii) grant rights, options or easements over and otherwise deal with or dispose of, and exercise all rights, powers and discretions incidental to, the ownership of the Charged Property;

(iii) exchange or concur in exchanging the Charged Property;

in each such case in such manner and generally on such terms as he may in his discretion think fit, with all the powers of an absolute beneficial owner. The Receiver may exercise any such power by effecting such transaction in the name or on behalf of the relevant Chargor or otherwise;

(f) *Registration*

use a Chargor's name to effect any registration or election for tax or other purposes;

(g) *Insurances*

effect, review or vary insurances;

(h) *Borrowing*

for the purpose of exercising any of the powers, authorities or discretions conferred on him by or pursuant to this Debenture or of defraying any costs (including, without limitation, his remuneration) which are incurred by him in the exercise of such powers, authorities or discretions or for any other purpose, to raise and borrow money or incur any other liability either unsecured or secured on the Charged Property, either in priority to the Debenture Security or otherwise, and generally on such terms as he in his discretion may think fit. No person lending such money is to be concerned to enquire as to the propriety or purpose of the exercise of such power or as to the application of money so raised or borrowed;

(i) *Lending*

lend money to any person;

(j) *Advance credit*

advance credit, in the ordinary course of the Chargor's business, to any person;

(k) *Make calls*

make, or require the directors of any Chargor to make, such calls upon the shareholders of that Chargor in respect of any uncalled capital of that Chargor as the Receiver in his discretion may require and enforce payment of any call so made by action (in the name of that Chargor or the Receiver as the Receiver in his direction may think fit) or otherwise;

(l) *Compromise*

(i) settle or compromise any claim by, adjust any account with, refer to arbitration any dispute with, and deal with any question or demand from, any person who is, or claims to be, a creditor of any Chargor, as he may in his discretion think fit; and

(ii) settle or compromise any claim, adjust any account, refer to arbitration any dispute and deal with any question or demand relating in any way to the Charged Property, as he in his discretion may think fit;

(m) *Proceedings*

in the name of any Chargor, bring, prosecute, enforce, defend or abandon all such actions, suits and proceedings in relation to the Charged Property as he in his discretion may think fit;

(n) *Subsidiaries*

- (i) promote the formation of any subsidiary of any Chargor with a view to such subsidiary purchasing, leasing, licensing or otherwise acquiring an interest in the Charged Property;
 - (ii) arrange for the purchase, lease, licence or acquisition of an interest in the Charged Property by any such subsidiary for any valuable consideration, including, without limitation, cash, shares, debentures, loan stock, convertible loan stock or other securities, profits or a sum calculated by reference to profits, turnover, royalties, licence fees or otherwise, whether or not secured on the undertaking or assets of such subsidiary and whether or not such consideration is payable or receivable in a lump sum or at any time or any number of times by instalments spread over such period, as the Receiver in his discretion may think fit; and
 - (iii) arrange for such subsidiary to trade or cease to trade as the Receiver in his discretion may think fit;
- (o) *Employees*
- appoint and discharge any manager, officer, agent, professional adviser, employee and any other person, upon such terms as he in his discretion may think fit;
- (p) *Receipts*
- give valid receipts for all monies and execute all assurances and things which he in his discretion may think proper or desirable for realising the Charged Property;
- (q) *Environment*
- conduct and complete all investigations, studies, sampling and testing and all remedial, removal and other actions, whether required under Environmental Law or by the Lender or otherwise and comply with all lawful orders and directives of all Authorities regarding Environmental Law;
- (r) *Delegation*
- delegate any or all of his powers in accordance with this Debenture; and
- (s) *General powers*
- do all such other acts and things as the Receiver in his discretion may consider to be incidental or conducive to any of the matters or powers set out in this Debenture or otherwise incidental or conducive to the preservation, improvement or realisation of the Charged Property.

16.3 ***Receiver as agent of a Chargor***

The Receiver is at all times and for all purposes the agent of the Chargor over which, or over the assets of which, he is appointed. Subject to the provisions of the Insolvency Act, that Chargor is solely responsible for all the Receiver's and the Receiver's delegates' acts, defaults, neglect and misconduct of any nature whatsoever and for his remuneration and costs, to the exclusion of liability on the part of the Lender.

16.4 ***No obligation***

The Receiver is not obliged to exercise any nor all of the powers set out in this Clause 16.

16.5 **Several power**

Where more than one Receiver is appointed, each Receiver has the power to act severally unless the Lender specifies otherwise in the appointment of such Receiver.

16.6 **Powers exercisable by the Lender**

- (a) The Lender may exercise all powers granted to the Receiver by this Debenture, whether as attorney of any Chargor or otherwise.
- (b) The powers of the Receiver set out above are in addition to, and without prejudice to, all statutory and other powers of the Lender as provided in Clause 14 (*Statutory power of sale*) or otherwise and so that, inter alia, such powers are and remain exercisable by the Lender in respect of that part of the Charged Property in respect of which no appointment of a Receiver by the Lender is from time to time subsisting.

16.7 **Application of proceeds**

The provisions of Sections 99 to 109 inclusive of the LPA are varied and extended to the extent that all monies received by the Receiver shall be applied (subject to the provisions of the Insolvency Act, in so far as applicable to this Debenture and subject always to the terms of the Intercreditor Agreement) in the following order:

- (a) in full payment of his remuneration and the costs of realisation including, without limitation, all costs of, or incidental to, any exercise of any power referred to in this Debenture, including, without limitation, all outgoings paid by the Receiver;
- (b) providing for the matters specified in paragraphs (i) to (iii) inclusive of Section 109 (8) of the LPA (Appointment, powers, remuneration and duties of receiver);
- (c) in or towards satisfaction of any debts or other imposts which are by statute made payable in preference to the Secured Liabilities to the extent to which such debts or imposts are made so payable;
- (d) in or towards satisfaction of the Secured Liabilities; and
- (e) to the person or persons entitled to any surplus.

17. **Protection of third parties**

17.1 Any person (including, without limitation, any purchaser, mortgagor or mortgagee) (in this Clause 17 (*Protection of Third Parties*) a "**purchaser**") dealing with the Lender or the Receiver may assume without inquiry that:

- (a) some part of the Secured Liabilities has become due;
- (b) a demand for such Secured Liabilities has been duly made, if required; and
- (c) such Secured Liabilities have become due within the meaning of Section 101 of the LPA (Powers incident to estate or interest in a mortgage).

17.2 No purchaser dealing with the Receiver or the Lender is to be concerned to enquire whether any power exercised or purported to be exercised by the Receiver or the Lender has become exercisable, or as to the propriety or regularity of any sale by, or other dealing with, the Receiver or the Lender. Any such sale or dealing is deemed to be within the powers conferred by this Debenture and to be valid and effective accordingly. All the protection to purchasers contained in Section 104 (Conveyance on sale) and Section 107 (Mortgagee's receipt, discharges etc.) of the LPA and Section 42(3) of the Insolvency Act (Prohibition upon enquiry into administrative receiver's powers) apply to any purchaser.

18. No liability as mortgagee in possession

18.1 Mortgagee's liability

Neither the Lender nor the Receiver is:

- (a) liable to account as mortgagee in possession in respect of the Charged Property; nor
- (b) liable for any loss upon realisation or exercise of any power, authority or right of the Lender or the Receiver arising under this Debenture, nor for any act, default, neglect or misconduct of any nature whatsoever.

18.2 Possession

If the Lender or the Receiver enters into possession of the Charged Property, such person may at any time go out of possession at their own discretion.

19. Delegation

19.1 Power of Attorney

The Lender or any Receiver may delegate by power of attorney or in any other manner to any person any right, power or discretion exercisable by it under this Debenture.

19.2 Terms

Any delegation under Clause 19.1 (*Power of Attorney*) may be made upon any terms (including power to sub-delegate) which the Lender or any Receiver may think fit.

19.3 Liability

Neither the Lender nor any Receiver shall be in any way liable or responsible to any Chargor for any loss or liability arising from any act, default, omission or misconduct on the part of any delegate or sub-delegate.

20. Power of attorney

20.1 Each Chargor irrevocably and by way of security appoints the Lender, each person deriving title from the Lender and the Receiver, jointly and severally to be its attorney (with full power to appoint substitutes and to delegate) for it, in its name, on its behalf and as its act and deed or otherwise to (subject always to the terms of the Intercreditor Agreement) sign or execute any deed or document or do any act or thing which that Chargor is, or may become, obliged to sign, execute or do pursuant to this Debenture and which it has not done within any relevant time period permitted to it under the Finance Documents or which the Lender, the Receiver or any person deriving title from the Lender or the Receiver in the absolute discretion of such person may think fit in connection with the exercise of any of the powers of such person or the realisation of any of the Debenture Security.

20.2 Without prejudice to the generality of the foregoing, each Chargor unconditionally undertakes to the Lender, and separately to the Receiver and to each person deriving title from the Lender or the Receiver, that it shall ratify and confirm anything done or purported to be done by any attorney appointed pursuant to this Clause 20.

21. Cumulative and continuing security

21.1 The Debenture Security constitutes a continuing security to the Lender regardless of the intermediate payment or discharge of the whole or any part of the Secured Liabilities and will not be prejudiced or affected by any act, omission or circumstance which, but for this Clause 23, might affect or diminish their effectiveness.

- 21.2 The Debenture Security is in addition to, are not in substitution for, are without prejudice to, and do not merge with, any rights whatsoever which the Lender may have, whether in respect of the Secured Liabilities or otherwise, including, without limitation, any rights arising under any other Security, any bill, note, guarantee, contract or applicable rule of law.
- 21.3 The obligations of the Chargors under this Debenture will not be affected by any amendment, variation, restatement or supplement of or to, or any novation, transfer or termination (in whole or in part) of, any document relating to the Secured Liabilities or any exercise by the Lender (in its absolute discretion) of its rights to refuse, grant, continue, vary, review, determine or increase any credit or facilities to the Chargors or any other person.
- 21.4 Any receipt, release or discharge of the Debenture Security, or of any liability arising under, this Debenture shall not release or discharge any Chargor from any liability which may exist independently of this Debenture to the Lender.
- 21.5 Where the Debenture Security initially take effect as collateral or further security to any other Security held by the Lender then, notwithstanding any receipt, release or discharge given in respect of such other Security, this Debenture shall take effect as an independent security for any monies, liabilities or other sums secured by such other Security.

22. Avoidance of payments

- 22.1 No assurance, security or payment which may be avoided under the law or subject to an order of the court made under any law relating to bankruptcy, insolvency, administration or winding-up, including, without limitation, the Insolvency Act, and no release, settlement or discharge given or made by the Lender on the faith of any such assurance, security or payment, prejudices or affects the right of the Lender:
- (a) to recover any monies from any Chargor (including, without limitation, any monies which it is compelled to refund under the Insolvency Act and any costs payable by it incurred in connection with such process); or
 - (b) to enforce the Debenture Security to the full extent of the Secured Liabilities, and

where any payment has been so received it will not be considered to have been paid for the purposes of this Debenture or for reduction or discharge of the Secured Liabilities.

- 22.2 Any settlement or discharge between a Chargor and the Lender shall be conditional upon no security or payment to the Lender by a 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 the Lender under this Debenture) the Lender shall be entitled to recover from each Chargor the value which the Lender has placed on that security or the amount of any such payment as if that settlement or discharge had not occurred.

23. Prior charges

- 23.1 Subject always to the terms of the Intercreditor Agreement, if there subsists any prior Security against the Charged Property and either any step is taken to exercise any power or remedy conferred by such Security or the Lender or the Receiver exercises any power of sale pursuant to this Debenture, then the Lender may redeem such prior Security or procure the transfer of such Security to itself and may settle and pass the accounts of the person entitled to such Security. Any accounts so settled and passed are conclusive and binding on each Chargor.
- 23.2 Each Chargor shall reimburse the Lender for any costs incurred by the Lender in exercise of its rights under this Clause 23 (*Prior charges*).

24. Opening a new account

- 24.1 If the Lender receives notice of any subsequent Security affecting the Charged Property, then it may open a new account for any Chargor in its books.
- 24.2 If the Lender does not open such new account, then, unless it gives express written notice to the contrary to the relevant Chargor, all payments by or on behalf of the Chargor to the Lender will be treated as from time of receipt of notice of such subsequent Security by the Lender as having been credited to a new account of that Chargor and not as having been applied in reduction of the amount of the Secured Liabilities as at the time when the notice was received.

25. Suspense account

The Lender may, in its discretion, credit to any suspense or impersonal account and hold in such account, on such terms as the Lender (acting reasonably) in its discretion may think fit, all monies received, recovered or realised by the Lender pursuant to this Debenture (including, without limitation, the proceeds of any conversion of currency) pending the application from time to time (as the Lender may effect in its discretion) of such monies and accrued interest, if any, in or towards satisfaction of the Secured Liabilities.

26. Changes to the Parties

- 26.1 No Chargor shall be entitled to assign, transfer, novate or dispose of all or any part of, or any interest in, its rights, benefit or obligations under this Debenture.
- 26.2 Prior to the Senior Discharge Date the Lender shall not be entitled to assign, transfer, novate or dispose of all or any part of, or any interest in, its rights, benefit or obligations under this Debenture.
- 26.3 Following the Senior Discharge Date, the Lender may assign, transfer, novate or dispose of all or any part of, or any interest in, its rights and obligations under this Debenture to any person to whom it assigns, transfers, novates or disposes of all or any part of the Secured Liabilities. Each Chargor will enter into such documentation as the Lender may reasonably require to give effect to any assignment, transfer, novation or disposal permitted by this Clause

27. Currency

- 27.1 Subject always to the terms of the Intercreditor Agreement monies received or held by the Lender or any Receiver in respect of the Secured Liabilities may be converted from time to time after demand has been made, into such other currency as the Lender in its absolute discretion considers necessary or desirable to cover the obligations and liabilities actual or contingent of any Chargor in that other currency at the Exchange Rate for purchasing that other currency with the existing currency.
- 27.2 Neither the Lender nor any Receiver shall be liable to any Chargor for any loss resulting from any fluctuation in exchange rates before or after the exercise of any of its or their powers or rights under this Debenture.
- 27.3 No payment to the Lender (whether under any judgment or court order or otherwise) shall discharge the obligation or liability of any Chargor in respect of which it was made unless and until the Lender shall have received payment in full in the currency in which such obligation or liability was incurred and, to the extent that the amount of any such payment, on actual conversion into such currency, shall fall short of such obligation or liability actual or contingent expressed in that currency, the Lender shall have a further separate cause of action against that Chargor and shall be entitled to enforce the security constituted by this Debenture to recover the amount of the shortfall and such amount will bear interest at the Default Rate from the date of payment by the Lender until the date of reimbursement.

28. **Set-off**

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

29. **Notices**

Clause 20 (*Notices*) of the Credit Agreement is incorporated into this Debenture as if fully set out in this Debenture.

30. **Miscellaneous**

30.1 Clause 16, (*Severance*) and Clause 18 (*Counterparts*) of the Credit Agreement apply to this Debenture as though set out in this Debenture in full.

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

30.3 If any one or more of the Chargors is not bound by any or all of the provisions of this Debenture (whether by reason of lack of capacity, improper execution, failure to execute or for any other reason whatsoever) the remaining Chargors shall nonetheless continue to be bound as if such Chargor had never been a party.

31. **Release**

31.1 Subject to Clause 22 (*Avoidance of payments*), upon irrevocable discharge in full of the Secured Liabilities the Lender shall, at the request and the cost of the Chargors, release from the Debenture Security and reassign to the Chargors all the Chargors' rights, title, interest and benefit in and to the Charged Property.

31.2 Where any Chargor sells or otherwise disposes of an asset to a purchaser which is not a member of the Group, and such sale or disposal is permitted by the terms of the Credit Agreement, the Lender shall, at the request and cost of the relevant Chargor, release from the Debenture Security all the Chargor's rights, title, interest and benefit in and to the asset the subject of the sale or disposal.

32. **Governing law**

(a) This Debenture and any dispute, controversy, proceedings, claim or obligation of whatever nature arising out of or in any way relating to it, its subject matter or formation (whether contractual or non-contractual) is governed by and shall be construed in accordance with English law.

(b) Clause 21.2 and clause 21.3 of the Credit Agreement is incorporated into this Debenture as if fully set out in this Debenture, and as though each reference to "this Agreement" was a reference to this Debenture.

In witness whereof this Debenture has been entered into on the date written at the beginning of this Debenture and has been executed and delivered as a deed by each of the Chargors on the date written at the beginning of this Debenture.

Schedules

Schedule 1

The Chargors

Name of Chargor	Company Number	Company Address
Cash Management Solutions Limited	9069081	Leeway House, Leeway Industrial Estate, Newport, South Wales NP 19 4SL
Tellermate Holdings Limited	07449535	Leeway House, Leeway Industrial Estate, Newport, NP19 4SL
Tellermate Limited	01522341	Leeway House, Leeway Industrial Estate, Newport, NP19 4SL

Schedule 2

The Secured Assets

Part 1

Property

Chargor	Short Description of Property	Title Number (if registered)
Tellermate Holdings Limited	The leasehold title in the property known as Leeway House, Leeway Industrial Estate, Newport NP19 4SL	CYM162873

Part 2

Securities

Chargor	Name of company in which Securities are held	Securities held
Cash Management Solutions Limited	Tellermate Holdings Limited	63,621 B Ordinary Shares of £1 each, 12,575 C Ordinary Shares of £1 each, 32,788 D Ordinary Shares of £1 each, and 3,886 Ordinary Shares of £1 each
Tellermate Holdings Limited	Tellermate Limited	10 Ordinary Shares of 10 pence each

Part 3

Cash Collateral Accounts

None as at the date of this Debenture.

Part 4

Assigned Contracts

Chargor	Date of contract	Parties to contract	Details of contract

Schedule 3

Notice of Assignment

To •[Insurer/Counterparty]
 •[Address]

Attention: •

• 20••[Date]

Dear Sirs

Notice of assignment

- 1 We refer to the following [insurance policy]/[contract] (the "[Policy]/[Contract]");

 •[insert details]
- 2 We hereby give you notice that by a debenture dated • 20•• granted by us, [•] (the "Chargor") to BEP Cash Holdings LLC (the "Lender") we have assigned absolutely to the Lender all of our rights, title, interest and benefits in and to the [Policy]/[Contract].
- 3 Please note that we are not entitled to agree or cancel or modify the [Policy]/[Contract]* in any way, except with the Lender's prior written consent; however you may continue to deal directly with us in relation to the [Policy]/[Contract]* until such time as the Lender gives you written notice that the Debenture has become enforceable in accordance with its terms (an "Enforcement Notice").
- 4 You are hereby authorised and directed:
 - (a) to comply with all requests (for information or otherwise) and instructions received by you from the Lender without reference to or further authority from us;
 - (b) [to note on the Policy the interest of the Lender pursuant to the assignment referred to above;]** and
 - (c) following receipt of notice an Enforcement Notice, to pay all sums payable to us pursuant to the [Policy]/[Contract]* to such bank account as the Lender may instruct you from time to time and to hold the benefit of the [Policy]/[Contract]* to the order of the Lender.
- 5 This notice may only be revoked or amended with the prior written consent of the Lender.
- 6 Please confirm by completing the acknowledgement on the enclosed copy of this notice and returning it to the Lender (with a copy to us) that you agree to the above and that:
 - (a) that up to the date of your acknowledgement of this notice, you have not received any notice of any prior assignments, charges, or other security or third party interests in or to the [Policy]/[Contract]*; you are not aware of any breach of the terms of the [Policy]/[Contract]*, and you will notify the Lender promptly if you should do so in the future;
 - (b) following a receipt of an Enforcement Notice:

- (i) the Lender shall be entitled immediately or at any time thereafter to exercise all our rights, powers and discretions in respect of the [Policy]/[Contract]*; and
- (ii) you will not permit any sums to be paid to us or to any person pursuant to the [Policy]/[Contract]* without the prior written consent of the Lender; and
- (c) if you make any attempt to amend, terminate or cancel the [Policy]/[Contract], you will liaise with and notify the Lender and not us.

7 This notice shall be governed by and construed in accordance with English law.

Yours faithfully

For and on behalf of
●[Chargor]

[On copy]

To BEP Cash Holdings LLC
Corporation Service Company,
251 Little Falls Drive,
Wilmington, DE 19808

Attention: ●

Dear Sirs,

We acknowledge receipt of the above notice (the "**Notice**") and confirm that we agree with, and undertake to comply with, its terms, including without limitation the matters set out in Clause 6 of the notice.

For and on behalf of
●

Dated:

NOTES:

* Delete as appropriate

** Include in notices for insurance policies only

28. **Set-off**

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

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31.2 Where any Chargor sells or otherwise disposes of an asset to a purchaser which is not a member of the Group, and such sale or disposal is permitted by the terms of the Credit Agreement, the Lender shall, at the request and cost of the relevant Chargor, release from the Debenture Security all the Chargor's rights, title, interest and benefit in and to the asset the subject of the sale or disposal.

32. **Governing law**

(a) This Debenture and any dispute, controversy, proceedings, claim or obligation of whatever nature arising out of or in any way relating to it, its subject matter or formation (whether contractual or non-contractual) is governed by and shall be construed in accordance with English law.

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In witness whereof this Debenture has been entered into on the date written at the beginning of this Debenture and has been executed and delivered as a deed by each of the Chargors on the date written at the beginning of this Debenture.

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The Secured Assets

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Chargor	Name of company in which Securities are held	Securities held
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Tellermate Holdings Limited	Tellermate Limited	10 Ordinary Shares of 10 pence each

Part 3

Cash Collateral Accounts

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Part 4

Assigned Contracts

Chargor	Date of contract	Parties to contract	Details of contract

Schedule 3

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To •[Insurer/Counterparty]
•[Address]

Attention: •

• 20••[Date]

Dear Sirs

Notice of assignment

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•[insert details]
- 2 We hereby give you notice that by a debenture dated • 20•• granted by us, [•] (the "Chargor") to BEP Cash Holdings LLC (the "Lender") we have assigned absolutely to the Lender all of our rights, title, interest and benefits in and to the [Policy]/[Contract].
- 3 Please note that we are not entitled to agree or cancel or modify the [Policy]/[Contract]* in any way, except with the Lender's prior written consent; however you may continue to deal directly with us in relation to the [Policy]/[Contract]* until such time as the Lender gives you written notice that the Debenture has become enforceable in accordance with its terms (an "Enforcement Notice").
- 4 You are hereby authorised and directed:
 - (a) to comply with all requests (for information or otherwise) and instructions received by you from the Lender without reference to or further authority from us;
 - (b) [to note on the Policy the interest of the Lender pursuant to the assignment referred to above;]** and
 - (c) following receipt of notice an Enforcement Notice, to pay all sums payable to us pursuant to the [Policy]/[Contract]* to such bank account as the Lender may instruct you from time to time and to hold the benefit of the [Policy]/[Contract]* to the order of the Lender.
- 5 This notice may only be revoked or amended with the prior written consent of the Lender.
- 6 Please confirm by completing the acknowledgement on the enclosed copy of this notice and returning it to the Lender (with a copy to us) that you agree to the above and that:
 - (a) that up to the date of your acknowledgement of this notice, you have not received any notice of any prior assignments, charges, or other security or third party interests in or to the [Policy]/[Contract]*, you are not aware of any breach of the terms of the [Policy]/[Contract]*, and you will notify the Lender promptly if you should do so in the future;
 - (b) following a receipt of an Enforcement Notice:

- (i) the Lender shall be entitled immediately or at any time thereafter to exercise all our rights, powers and discretions in respect of the [Policy]/[Contract]*; and
- (ii) you will not permit any sums to be paid to us or to any person pursuant to the [Policy]/[Contract]* without the prior written consent of the Lender; and
- (c) if you make any attempt to amend, terminate or cancel the [Policy]/[Contract], you will liaise with and notify the Lender and not us.

7 This notice shall be governed by and construed in accordance with English law.

Yours faithfully

For and on behalf of
•[Chargor]

[On copy]

To BEP Cash Holdings LLC
Corporation Service Company,
251 Little Falls Drive,
Wilmington, DE 19808

Attention: •

Dear Sirs,

We acknowledge receipt of the above notice (the "**Notice**") and confirm that we agree with, and undertake to comply with, its terms, including without limitation the matters set out in Clause 6 of the notice.

For and on behalf of
•

Dated:

NOTES:

* Delete as appropriate

** Include in notices for insurance policies only

Signatures

Chargor

Signed by **Cash Management Solutions Limited**

acting by

Richard T. O'Brien
a director

Director

Signature of witness:

Name:

Address:

Occupation:

Laura R. Seltzer
227 Weaver Street, #18C
Greenwich, CT 06831
Executive Assistant

Chargor

Signed by **Tellermate Holdings Limited**
acting by

Richard T. Dell'Aquila
a director

Director

Signature of witness:

Name:

Address:

Occupation:

Laura R. Seltzer
227 Weaver Street, #18C
Greenwich, CT 06831
Executive Assistant

Chargor

Signed by **Tellermate Limited** acting by

Richard T. Dell'Aquila
a director

Director

Signature of witness:

Name:

Laura R. Seltzer

Address:

227 Weaver Street, #18e

Greenwich, CT 06831

Occupation:

Executive Assistant

Lender

Executed as a deed by **BEP Cash Holdings LLC**, a company incorporated in the State of Delaware, USA, acting by Brookside Equity Partners LLC, who, in accordance with the laws of that territory, is acting under the authority of the company.

Brookside Equity Partners LLC is incorporated in the State of Delaware and is acting by RICARDO T. DELAQUILA who, in accordance with the laws of that territory, is acting under the authority of Brookside Equity Partners LLC

Signature in the name of company

BEP Cash Holdings LLC

Signature in the name of company

Brookside Equity Partners LLC

Signature of authorised signatory of
Brookside Equity Partners LLC

A handwritten signature in black ink, appearing to read 'Ricardo T. DelaQuila', is written over a horizontal dotted line.