



**Registration of a Charge**

Company name: **SMARTER FINANCIAL SERVICES (HOLDINGS) LIMITED**

Company number: **10967805**



X92HDKZ6

Received for Electronic Filing: **07/04/2020**

---

**Details of Charge**

Date of creation: **01/04/2020**

Charge code: **1096 7805 0001**

Persons entitled: **MAJOR OAK LIMITED**

Brief description:

**Contains fixed charge(s).**

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

**Contains negative pledge.**

---

**Authentication of Form**

This form was authorised by: **a person with an interest in the registration of the charge.**

---

**Authentication of Instrument**

Certification statement: **I CERTIFY THAT SAVE FOR MATERIAL REDACTED PURSUANT TO S.859G OF THE COMPANIES ACT 2006 THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION**

**FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL  
INSTRUMENT.**

Certified by:

**JONATHAN PORTEOUS**



## **CERTIFICATE OF THE REGISTRATION OF A CHARGE**

Company number: 10967805

Charge code: 1096 7805 0001

The Registrar of Companies for England and Wales hereby certifies that a charge dated 1st April 2020 and created by SMARTER FINANCIAL SERVICES (HOLDINGS) LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 7th April 2020 .

Given at Companies House, Cardiff on 8th April 2020

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**

# STEVENS & BOLTON

DATED

1 April

2020

**(1) SMARTER FINANCIAL SERVICES (HOLDINGS) LIMITED**

**AND**

**(2) MAJOR OAK LIMITED**

## **DEBENTURE**

## CONTENTS

	Page
1 <b>DEFINITIONS AND INTERPRETATION</b>	<b>1</b>
2 <b>COVENANT TO PAY</b>	<b>4</b>
3 <b>GRANT OF SECURITY</b>	<b>4</b>
4 <b>CONVERSION OF FLOATING CHARGE</b>	<b>5</b>
5 <b>LAND REGISTRY REQUIREMENTS</b>	<b>6</b>
6 <b>REPRESENTATIONS</b>	<b>6</b>
7 <b>COVENANTS</b>	<b>6</b>
8 <b>POWER TO REMEDY</b>	<b>10</b>
9 <b>POWERS OF THE LENDER AND ENFORCEMENT</b>	<b>10</b>
10 <b>ADMINISTRATOR, RECEIVER, LIABILITY</b>	<b>11</b>
11 <b>FURTHER ASSURANCE</b>	<b>14</b>
12 <b>POWER OF ATTORNEY</b>	<b>14</b>
13 <b>PAYMENTS</b>	<b>14</b>
14 <b>SET-OFF</b>	<b>15</b>
15 <b>NOTICES</b>	<b>15</b>
16 <b>GENERAL</b>	<b>16</b>
<b>SCHEDULE 1</b>	<b>20</b>
REAL PROPERTY	20
<b>SCHEDULE 2</b>	<b>21</b>
SHARE CAPITAL	21
<b>SCHEDULE 3</b>	<b>22</b>
BANK ACCOUNTS	22
<b>SCHEDULE 4</b>	<b>23</b>
INTELLECTUAL PROPERTY	23
<b>SCHEDULE 5</b>	<b>24</b>
INSURANCES	24
<b>SCHEDULE 6</b>	<b>25</b>
FORM OF NOTICE AND ACKNOWLEDGEMENT – INSURANCE POLICIES	25
<b>SCHEDULE 7</b>	<b>29</b>
FORM OF NOTICE AND ACKNOWLEDGEMENT – ACCOUNTS	29

BETWEEN

- (1) **SMARTER FINANCIAL SERVICES (HOLDINGS) LIMITED** (registered in England and Wales with company number 10967805) whose registered office is at Highdale, Headley Road, Leatherhead, United Kingdom, KT22 8QE (the “**Company**”); and
- (2) **MAJOR OAK LIMITED** (registered in Jersey with company number 122872) whose registered office is at Hibiscus House, Le Mont Sohier, St Brelade’s Bay, Jersey JE3 8EA (the “**Lender**”).

IT IS AGREED AS FOLLOWS

## 1 DEFINITIONS AND INTERPRETATION

- 1.1 Unless otherwise provided in this Debenture, terms defined in the Loan Agreement shall have the same meaning where used in this Debenture. In addition, in this Debenture, unless expressly stated to the contrary:

**Business Day** means a day other than a Saturday or Sunday or a public holiday in England and Wales;

**Charged Assets** means the property, undertaking and assets of the Company mortgaged, charged or assigned (or expressed to be mortgaged, charged or assigned) by way of security to the Lender now or hereafter under or pursuant to this Debenture;

**Encumbrance** means:

- (a) a mortgage, charge, pledge, lien, assignment by way of security or other encumbrance securing any obligation of any person, or any other agreement or arrangement having a similar effect;
- (b) any arrangement under which money held in a bank or other account may be applied, set off or made subject to a combination of accounts so as to effect discharge of any sum owed or payable to any person;
- (c) an arrangement whereby the Company sells, transfers or disposes of any of its receivables pursuant to invoice discounting, factoring or other financing arrangements; or
- (d) any other type of preferential arrangement (including any title transfer and retention arrangement) having a similar effect;

**Environmental Law** means all applicable statutes, treaties, regulations, directives or similar measures relating to the pollution or protection of the environment that affect the Charged Assets;

**Intellectual Property Rights** means any present or future interests (whether legal or equitable, and including the benefit of all licences) relating to any registered or unregistered trademarks, patents, copyrights, design rights, domain names, business names, confidential information, know-how and other intellectual property rights together with the rights to use any of the foregoing (including but not limited to the intellectual property rights specified in Schedule 4 to this Debenture if any);

**Loan Agreement** means the convertible loan agreement dated 28 February 2020 entered into by the Company and the Lender;

**LPA** means the Law of Property Act 1925;

**Party** means a party to this Debenture;

**Permitted Encumbrance** means:

- (a) a lien or right of set-off securing an obligation which is not overdue beyond its standard payment date, arising by operation of law in the ordinary and usual course of trading;
- (b) an Encumbrance arising out of title retention provisions in a supplier's standard conditions of supply of goods acquired in the ordinary and usual course of trading;
- (c) any lien arising by operation of law and in the ordinary course of trading and not as a result of any default or omission by the Company; or
- (d) an Encumbrance granted with the prior written approval of the Lender;

**Real Property** means all registered or unregistered estates and interests in freehold and leasehold properties now or in the future owned by the Company or in which the Company has an interest from time to time (including but not limited to the registered and unregistered properties specified in Schedule 1 to this Debenture, if any) together with all buildings, fixtures and fixed plant and machinery thereon, all easements, rights and agreements in respect thereof and the benefit of all covenants in respect thereof and the proceeds of sale of any part of that property;

**Receivables** means all actual or contingent book debts and other debts, receivables, rentals, royalties, fees, VAT, monetary claims and other amounts now and in the future due or owing to the Company, together with the benefit of all claims, rights, guarantees, security and remedies relating thereto and all proceeds of any of the foregoing;

**Receiver** has the meaning given to that term in clause 10.3.1;

**Secured Obligations** means:

- (a) all the moneys, obligations and liabilities of any kind which may now or at any time in the future be due, owing or incurred by the Company to the Lender under or in connection with the Loan Agreement;
- (b) all costs, charges and legal expenses which the Company is liable to pay pursuant to clause 13.2 of this Debenture; and
- (c) interest as set out in clause 13.1;

**Securities** has the meaning given to that term in clause 7.5.1;

**VAT** means:

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

**VAT Act** means the Value Added Tax Act 1994.

1.2 References to statutes or statutory provisions shall be construed to include references to:

- 1.2.1 those statutes or provisions as amended or re-enacted from time to time, or as their application is modified by other provisions whether before or after the date of this Debenture;
  - 1.2.2 any statute or provision of which they themselves are re-enactments; and
  - 1.2.3 any orders, regulations, instruments or other subordinate legislation under the relevant statute or statutory provision.
- 1.3 The headings in this Debenture are for ease of reference only and shall not in any way affect its construction or interpretation.
- 1.4 In this Debenture:
  - 1.4.1 words denoting the singular include the plural and vice versa, words denoting any one gender include all genders and vice versa, and references to persons include individuals, partnerships, bodies corporate and unincorporated associations; and
  - 1.4.2 a reference to a clause or Schedule is a reference to a clause of or Schedule to this Debenture.
- 1.5 The Schedules form part of this Debenture and shall be construed and have the same full force and effect as if expressly set out in the main body of this Debenture.
- 1.6 A reference to a recital, Clause, paragraph or Schedule is a reference to a recital, Clause, paragraph or Schedule of this Debenture.
- 1.7 A reference to "**this Debenture**" (or any specified provision of it) or any other instrument, agreement or document shall be construed as a reference to this Debenture or other instrument, agreement or document or that provision as in force for the time being in each case as amended, varied, supplemented, restated or novated from time to time.
- 1.8 References to the "**Company**" or the "**Lender**" or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees.
- 1.9 References to "**assets**" includes any present and future properties, rights and revenues of every description.
- 1.10 "**including**" or "**includes**" means including or includes without limitation and where the context permits, "**other**" and "**otherwise**" are illustrative and shall not limit the sense of the words preceding them.
- 1.11 Any reference to the requirement or the consent (or cognate term) of the Lender shall be deemed to be in the absolute discretion of the Lender except where expressed to be otherwise.
- 1.12 References to "**Secured Obligations**" includes obligations and liabilities which would be treated as such but for the liquidation, administration or dissolution of or similar event affecting the Company.
- 1.13 For the purposes of section 2 of the Law of Property (Miscellaneous Provisions) Act 1989, the terms of any loan agreement or side letter between the Company and the Lender are incorporated into this Debenture.
- 1.14 The Parties intend that this Debenture shall take effect as a deed notwithstanding the fact that a Party may only execute this document under hand.
- 1.15 "**in writing**" or "**written**" includes faxes and email.
- 1.16 The security constituted by this Debenture becoming "**enforceable**" shall mean that the security created under this Debenture has become enforceable under clause 9.1.
- 1.17 An Event of Default shall be "**continuing**" for so long as it has not been waived by the Lender or satisfied, cured or otherwise remedied.



## 2 COVENANT TO PAY

The Company hereby covenants that it will on demand pay or discharge the Secured Obligations when due to the Lender.

## 3 GRANT OF SECURITY

### 3.1 Legal mortgage

The Company hereby charges to the Lender by way of first legal mortgage the Real Property in which the Company holds an interest (including any described in Schedule 1 to this Debenture).

### 3.2 Fixed charges

The Company hereby charges to the Lender by way of first fixed charge the following assets (wherever located) now or in the future owned by the Company or in which it from time to time has an interest:

- 3.2.1 to the extent the Company is not precluded from granting, or required to obtain to consent in order to grant, a fixed charge over Real Property, all Real Property not effectively mortgaged or charged by clause 3.1, together with all licences to enter upon or use such land and the proceeds of sale of all Real Property;
- 3.2.2 all plant, machinery, fixtures, fittings, furniture computers, vehicles, office equipment and other equipment not effectively mortgaged or charged by clauses 3.1 or 3.2.1, and all rights, title and interest under any agreements, licences and warranties relating to any of the foregoing, including in respect of their purchase, lease, hire purchase or maintenance;
- 3.2.3 all the goodwill and uncalled capital of the Company;
- 3.2.4 all stocks, shares, loan capital and other securities (including any described in Schedule 2 to this Debenture), all dividends, distributions and other income paid or payable upon the foregoing and all rights, money or property accruing or offered at any time in relation to the foregoing;
- 3.2.5 any money standing to the credit of any present or future account of the Company with a bank or financial institution (including any described in Schedule 3 to this Debenture);
- 3.2.6 all Intellectual Property Rights (including any described in Schedule 4 to this Debenture);
- 3.2.7 all Receivables;
- 3.2.8 any assets expressed to be assigned under clause 3.4 which are not effectively assigned under clause 3.4; and
- 3.2.9 to the extent that the Company is not required to obtain a consent, the benefit of all agreements, licences, consents and authorisations relating to the business and/or assets of the Company not otherwise charged under this clause or assigned under clause 3.4.

### 3.3 Floating charge

The Company hereby charges to the Lender by way of floating charge all the present and future undertaking, property, assets and rights of the Company (wherever located) not otherwise effectively mortgaged, charged or assigned pursuant to clauses 3.1 and 3.2 above and clause 3.4 below.

### 3.4 **Security assignments**

To the extent no consent is required, the Company hereby assigns to the Lender by way of security all of its present and future right, title and interest in and to all insurance policies held by or in favour of the Company or in which the Company has an interest (including any described in Schedule 5 to this Debenture) and all claims under and proceeds of such insurance policies.

### 3.1 **Nature of security**

All security created pursuant to this Debenture is created in favour of the Lender with full title guarantee (in accordance with the Law of Property (Miscellaneous Provisions) Act 1994), as continuing security for the payment of the Secured Obligations.

## 4 **CONVERSION OF FLOATING CHARGE**

### 4.1 **Conversion by notice**

If the security constituted by this Debenture has become enforceable, the Lender may by notice in writing to the Company convert the floating charge created in this Debenture into a fixed charge over any Charged Assets specified in the notice, and by way of further assurance the Company shall promptly execute and deliver to the Lender a fixed charge or legal or equitable assignment over those Charged Assets in favour of the Lender in such form as the Lender shall require. The giving of a notice by the Lender pursuant to this clause shall not be construed as a waiver of the right of the Lender to serve similar notices in respect of other classes of assets or of any other right of the Lender.

### 4.2 **Automatic Conversion**

The floating charge created in this Debenture shall automatically and immediately without notice be converted into a fixed charge:

4.2.1 in relation to any Charged Asset which is subject to a floating charge if:

- (a) the Company creates, or attempts to create, over or in respect of the relevant Charged Asset, an Encumbrance which is not a Permitted Encumbrance or any trust in favour of another person without the prior written consent of the Lender; or
- (b) any person levies any distress, attachment, execution or other process against any such Charged Asset; and

4.2.2 over all of the Charged Assets if:

- (a) a receiver is appointed over all or any of the Charged Assets that are subject to the floating charge; or
- (b) an administrator is appointed in respect of the Company or the Lender receives notice of an intention to appoint such an administrator.

### 4.3 **Assets acquired after floating charge conversion**

Any asset acquired by the Company after any conversion into a fixed charge of the floating charge created under this Debenture which, but for such conversion, would be subject to a floating charge, shall be charged to the Lender by way of first fixed charge.

## 5 LAND REGISTRY REQUIREMENTS

- 5.1 The Company consents to an application being made by the Lender to the Land Registrar for the following restriction to be registered against its title to any Real Property charged pursuant to this Debenture.

"No disposition of the registered estate by the proprietor of the registered estate is to be registered or noted without a written consent signed by the proprietor for the time being of the charge dated ..... 2020 in favour of Major Oak Limited referred to in the charges register or, if appropriate, signed on such proprietor's behalf by its conveyancer".

- 5.2 The Lender covenants with the Company that it shall perform its obligations to make advances under any loan or facility agreement entered into between the Lender and the Company (including any obligation to make available further advances).

## 6 REPRESENTATIONS

The Company represents and warrants to the Lender as follows:

### 6.1 Ownership of Charged Assets

The Company is the sole legal and beneficial owner of all of the Charged Assets.

### 6.2 Real Property

Schedule 1 to this Debenture identifies all freehold and leasehold real property which is beneficially owned by the Company at the date of this Debenture.

### 6.3 Charged Shares

The shares listed in Schedule 2 to this Debenture are fully paid and constitute the entire share capital owned by the Company in the relevant company and, unless otherwise indicated in Schedule 2, constitute the entire issued share capital of each such company.

### 6.4 No Encumbrances

The Charged Assets are not subject to any Encumbrances (other than Permitted Encumbrances).

### 6.5 Avoidance of security

No security expressed to be created pursuant to this Debenture is liable to be avoided or otherwise set aside on the liquidation or administration of the Company or otherwise.

## 7 COVENANTS

### 7.1 Negative Pledge

The Company shall not without the prior written consent of the Lender:

- 7.1.1 create or permit to subsist any Encumbrance on or over the Charged Assets or any part of them (except for any Permitted Encumbrance);
- 7.1.2 sell, transfer or otherwise dispose of the Charged Assets or any part of them, whether by a single transaction or a series of transactions related or not, except in the ordinary course of its business in the case of Charged Assets which are only subject to a floating charge which has not been converted into a fixed charge; or
- 7.1.3 create or grant any interest in the Charged Assets in favour of a third party.

### 7.2 Protection of Charged Assets

The Company shall:

- 7.2.1 not without the prior written consent of the Lender, do, or permit to be done, any act or thing which would or is likely to depreciate, jeopardise or otherwise prejudice the

security held by the Lender or the effectiveness of the security created by this Debenture;

- 7.2.2 not without the prior written consent of the Lender (not to be unreasonably withheld or delayed), enter into any materially onerous or restrictive obligations affecting the whole or any part of the Charged Assets or create or permit to arise any overriding interest, easement or right in or over the whole or any part of any Real Property; and
- 7.2.3 comply in all material respects with all obligations under any law, regulation, order or instrument at any time applicable to the Charged Assets .

### 7.3 **Notices and title documents**

The Company shall:

- 7.3.1 promptly upon the execution of this Debenture (unless the Lender agrees otherwise) and at any time upon request by the Lender give written notice to:
  - (a) the relevant insurers of the assignment of the Company's rights and interest in and under its insurance policies pursuant to this Debenture, and use its reasonable endeavours to procure that each addressee of such notice promptly provides an acknowledgement of the Lender's interest to the Lender in each case in the form set out in Schedule 6; and
  - (b) any bank, financial institution or other person with whom the Company has an account, of the charging to the Lender pursuant to this Debenture of the Company's rights and interests under such accounts, and use its reasonable endeavours to procure that each addressee of such notice promptly provides an acknowledgement of the Lender's interest to the Lender in each case in the form set out in Schedule 7.
- 7.3.2 promptly following the execution of this Debenture (or, if later, promptly following the date of acquisition of the relevant Charged Asset) deposit with the Lender all deeds, documents of title (including share and other securities certificates) and insurance policies relating to the Charged Assets, and execute and deliver to the Lender instruments of transfer (executed in blank and undated) in respect of any shares or securities charged pursuant to this Debenture. The Lender may complete such instruments of transfer in favour of itself or any other person at any time.

### 7.4 **Real Property**

The Company shall:

- 7.4.1 not pull down or remove all or any part of the buildings forming part of the Real Property, nor change their use or develop them, nor sever, unfix or remove any of the fixtures on the Real Property, nor remove any plant and machinery from the Real Property;
- 7.4.2 not grant, or accept a surrender of, any lease or licence of the Real Property, or exercise the statutory powers of leasing (or agreeing to lease), or of accepting (or agreeing to accept) surrenders under sections 99 or 100 of the LPA, or part with or share possession or occupation of the Real Property or any part of it, or create any legal or equitable estate or interest in the whole or any part of the Real Property, or vary any lease or tenancy agreement relating to the Real Property or reduce any sum payable thereunder;
- 7.4.3 keep all buildings in reasonable repair and condition (fair wear and tear excepted) and all fixed and moveable plant, machinery, fixtures and fittings on each Real Property in working order and condition (fair wear and tear excepted) and permit the Lender and

its representatives to enter and view their state and condition upon five Business Days' prior notice (except in any emergency);

- 7.4.4 notify the Lender within 14 days of receipt of every material notice, order, direction or proposal given or made in relation to the Charged Assets by any competent authority, and (if so requested by the Lender) promptly provide it with a copy of the same and either comply with such notice, order, direction or proposal or make such objections to the same as the Lender may reasonably require or approve;
- 7.4.5 perform and observe all covenants and stipulations affecting the Real Property, and punctually pay all rents, licence fees, duties, registration charges and outgoings of whatever nature due in respect of it;
- 7.4.6 observe and perform all the requirements of Environmental Law both in the conduct of its general business and in the management, possession or occupation of Real Property, and promptly notify the Lender in writing upon becoming aware of any actual or anticipated breach of Environmental Law in relation to any Real Property;
- 7.4.7 inform the Lender promptly on becoming bound to complete the purchase of any estate or interest in any Real Property after the date of this Debenture, and upon request from the Lender execute over all or any such property a charge by way of legal mortgage in favour of the Lender in such form as the Lender may reasonably require;
- 7.4.8 use its reasonable endeavours to procure that no person shall be registered under the Land Registration Acts 1925 to 2002 as proprietor of any Real Property without the prior written consent of the Lender. The Company shall be liable for the costs of the Lender in lodging cautions against the registration of the title to the whole or any part of any Real Property from time to time; and
- 7.4.9 not, without the prior written consent of the Lender, carry out or permit or suffer to be carried out on any Real Property any development as defined in the Town and Country Planning Act 1990 or change or permit or suffer to be changed the use of any Real Property.

## 7.5 **Charged Shares**

- 7.5.1 The Lender may at any time after an Event of Default which is continuing cause any of the shares or securities forming part of the Charged Assets (the "**Securities**") to be registered in the name of the Lender or its nominee. The Company agrees promptly to execute and deliver to the Lender all such transfers and other documents and do all such things as may be required by the Lender and which are necessary to achieve such registration.
- 7.5.2 The Company hereby:
  - (a) grants and agrees to use its reasonable endeavours to procure as necessary all consents, waivers and approvals which are necessary, under the articles of association of any issuer of Securities, for the transfer of the Securities to the Lender or its nominee or to a purchaser upon enforcement of the security created by this Debenture; and
  - (b) agrees to use its reasonable endeavours to procure the amendment of the share transfer provisions of each issuer of Securities' articles of association in such manner as the Lender may reasonably require in order to permit such a transfer.
- 7.5.3 The Company shall use its reasonable endeavours to procure promptly, upon request by the Lender, that all dividends and distributions paid in respect of the Securities are held on trust for the Lender and promptly paid into such bank account as the Lender

shall designate, or if received by the Lender shall be retained by the Lender, and that all voting and other rights and powers attaching to such Securities shall be exercised by, or at the direction of, the Lender. The Company shall duly and promptly pay all calls, instalments and other monies which may be payable from time to time in respect of the Securities. The Company acknowledges that the Lender shall not be under any liability in respect of any such calls, instalments or other monies.

## **7.6 Insurance**

The Company shall:

- 7.6.1 keep the Charged Assets insured to the Lender's reasonable satisfaction against all risks that are normally insured against by prudent companies owning or possessing similar assets or carrying on similar businesses to the Company, and such other risks as the Lender may reasonably require, to their full replacement or reinstatement value with such insurers as the Lender shall in writing approve (such approval not to be unreasonably withheld or delayed), on terms requiring the insurer not to cancel the policy without giving at least 14 days prior notice to the Company;
- 7.6.2 duly and promptly pay all premiums and other moneys necessary for maintaining the insurances charged pursuant to this Debenture and promptly on written demand produce copies of the insurance policies and premium receipts to the Lender;
- 7.6.3 if so required by the Lender, use its reasonable endeavours to procure that the Lender's interest is noted on all policies required under this clause;
- 7.6.4 hold on trust for the Lender all money received under any insurance of the Charged Assets and apply the same in making good the relevant loss or damage or, as the Lender may reasonably require, in or towards discharge of the Secured Obligations; and
- 7.6.5 not do or omit to do or permit to be done or omitted anything that would invalidate or otherwise prejudice any policy of insurance in respect of the Charged Assets.

## **7.7 Receivables and Bank Accounts**

The Company shall deal with the Receivables in accordance with any directions from time to time given by the Lender, and shall not, except as set out in this clause 7.7, release, exchange, compound, set-off, charge, assign, sell, factor, discount, grant time or indulgence in respect of, or in any other manner deal with, all or any of the Receivables, and shall:

- 7.7.1 collect in and realise all Receivables as agent for the Lender, pay into such account(s) as may be approved by notice in writing to the Company from time to time by the Lender all monies which it may receive in respect of the Receivables (and pending this payment hold such monies on trust for the Lender), and pay or otherwise deal with such monies in accordance with any directions from time to time given in writing by the Lender;
- 7.7.2 if called upon to do so by the Lender, execute a legal assignment of the Receivables to the Lender in such terms as the Lender may reasonably require and, if so required by the Lender, give notice thereof to the debtors from whom the Receivables are owing or incurred and take such other steps as the Lender may reasonably require to perfect such legal assignment;
- 7.7.3 permit any bank maintaining such account(s) to furnish directly to the Lender full statements and particulars of the account(s); and
- 7.7.4 if so required by the Lender, not withdraw any of the monies standing to the credit of its bank accounts and deal with such monies in accordance with any directions from time to time given in writing by the Lender.

## **7.8 Information**

The Company shall promptly:

- 7.8.1 notify the Lender of any meeting to discuss, or any proposal or application for, the appointment of an administrator, receiver, liquidator or similar official in respect of the Company or any of the Charged Assets and, if any such official is appointed, of his appointment;
- 7.8.2 notify the Lender of any breach of a warranty, representation or covenant of the Company under this Debenture; and
- 7.8.3 provide the Lender with all information that it may reasonably request in relation to the Charged Assets.

## **8 POWER TO REMEDY**

If the Company fails to perform any of its obligations under this Debenture, and that failure if capable of remedy is not remedied within 10 days of the Lender giving notice to the Company or the Company becoming aware of the failure to perform, the Lender may (without prejudice to any of its other rights under this Debenture) take any such action as it may deem appropriate to remedy such failure (including taking out or renewing insurance or effecting repairs) and may recover the expenses so incurred from the Company on demand, and the exercise of such rights by the Lender shall not render it liable as mortgagee in possession. The Company irrevocably authorises the Lender to do all such things (including entering the Real Property) as are necessary for that purpose.

## **9 POWERS OF THE LENDER AND ENFORCEMENT**

### **9.1 Enforcement**

This Debenture shall become immediately enforceable if:

- 9.1.1 there is an Event of Default under clause 5.5 of the Loan Agreement;
- 9.1.2 the Company fails in making due payment of any of the Secured Obligations at any time;
- 9.1.3 there is a breach of any provision of this Debenture by the Company and the same is not cured or remedied within the earlier of five Business Days of:
  - (a) notice of such breach being received by the Company from the Lender; and
  - (b) the Company becoming aware of such breach;
- 9.1.4 the floating charge created by this Debenture shall be converted into a fixed charge in respect of any Charged Assets; or
- 9.1.5 any step is taken in relation to the appointment of a liquidator, administrator, receiver, administrative receiver or similar officer or a moratorium, winding-up or voluntary arrangement in respect of the Company.

When this Debenture is enforceable, the power of sale and other powers conferred by section 101 of the LPA will be immediately exercisable without the restrictions contained in the LPA as to the giving of notice or otherwise with respect to the whole or any part of the Charged Assets. After the security constituted by this Debenture has become enforceable, the Lender may (in its absolute discretion) enforce all or any part of the security in any manner it sees fit.

## **9.2 Secured Obligations deemed due**

For the purposes of all powers implied by statute, the Secured Obligations will be deemed to have become due and payable on the date of this Debenture, and sections 93 and 103 of the LPA shall not apply.

## **9.3 Statutory powers**

The statutory powers of leasing conferred on the Lender will be extended so as to authorise the Lender to lease, make agreements for leases, accept surrenders of leases, vary or reduce sums payable under leases and grant options as the Lender may think fit and without the need to comply with sections 99 and 100 of the LPA.

## **9.4 Prior Encumbrances**

At any time after the security constituted by this Debenture has become enforceable, or after any powers conferred by any Encumbrance having priority to this Debenture shall have become exercisable, the Lender may:

9.4.1 redeem any prior Encumbrance, or procure its transfer to itself; and

9.4.2 settle any account of the holder of any prior Encumbrance.

The settlement of any such account shall (subject to any manifest error) be conclusive and binding on the Company. All principal, interests, costs, charges and expenses of and incidental to any such redemption and/or transfer shall be paid by the Company to the Lender on demand.

## **9.5 Right of appropriation**

To the extent that any of the Charged Assets constitute "financial collateral", and this Debenture and the obligations of the Company hereunder constitute a "security financial collateral arrangement" (in each case as defined in the Financial Collateral Arrangements (No. 2) Regulations 2003 (SI 2003 No. 3226)), the Lender shall have the right, at any time after the security constituted this Debenture has become enforceable, to appropriate all or any of those Charged Assets in or towards the payment and/or discharge of the Secured Obligations in such order as the Lender in its absolute discretion may from time to time determine. The value of any Charged Assets appropriated in accordance with this clause shall be the price of those Charged Assets at the time the right of appropriation is exercised as listed on any recognised market index, or determined by such other method as the Lender may reasonably select. The Company agrees that the methods of valuation provided for in this clause are commercially reasonable under the Financial Collateral Arrangements (No.2) Regulations 2003. The Lender shall notify the Company as soon as reasonably practicable of the exercise of its right of appropriation as regards such of the Charged Assets as are specified in such notice.

# **10 ADMINISTRATOR, RECEIVER, LIABILITY**

## **10.1 Appointment of administrator**

At any time after the security created pursuant to this Debenture has become enforceable or at the request of the Company, the Lender shall be entitled to appoint an administrator under paragraph 14 of Schedule B1 to the Insolvency Act 1986 (as amended).

## **10.2 Qualifying floating charge**

Each floating charge created by or pursuant to this Debenture is a qualifying floating charge for the purposes of the Insolvency Act 1986.

## **10.3 Powers of the Lender**

At any time after the security created pursuant to this Debenture has become enforceable or at the request of the Company, the Lender may:



10.3.1 appoint any person or persons to be a receiver or an administrative receiver (if permissible) or a receiver and manager or receivers and managers of all or any part of the Charged Assets and/or of the income of the Charged Assets ("**Receiver**"); and

10.3.2 exercise any of the powers conferred on mortgagees by the LPA (as amended or extended by this Debenture) and/or any of the powers that are conferred by this Debenture on a Receiver (in each case without first appointing a Receiver or notwithstanding the appointment of any Receiver),

and for these purposes the Company authorises the Lender to opt to charge VAT under schedule 10 paragraph 2(1) of the VAT Act on behalf of the Company in respect of the Real Property.

#### 10.4 **Remuneration of Receiver/agent of Company**

10.4.1 The Lender may from time to time determine the remuneration of the Receiver and may remove the Receiver and appoint another in his place. If at any time there is more than one Receiver of all or any part of the Charged Assets or the income of the Charged Assets, each Receiver shall have the power to act individually.

10.4.2 Any Receiver shall be the Company's agent and the Company alone shall be responsible for his acts and omissions and for his remuneration.

10.4.3 Any exercise of powers by a Receiver may be on behalf of the Company, the directors of the Company or the Receiver.

#### 10.5 **Powers of Receiver**

Any Receiver appointed by the Lender shall have the powers set out in the LPA and in Schedule 1 to the Insolvency Act 1986, the powers which are conferred on the Lender under this Debenture, all powers conferred by any other law conferring powers on receivers, and the following powers:

- 10.5.1 to take possession of, collect and get in all or any part of the Charged Assets and/or the income thereon and for that purpose to take any proceedings in the Company's name or otherwise as he shall think fit;
- 10.5.2 to carry on or concur in carrying on the Company's business and manage the Charged Assets;
- 10.5.3 to borrow and raise money and to redeem any existing Encumbrances on the security of all or any part of the Charged Assets;
- 10.5.4 to sell, let and/or terminate or otherwise dispose of or to accept surrenders of leases or tenancies of or to grant options and licences over, all or any part of the Charged Assets, in such manner and on such terms as he thinks fit;
- 10.5.5 to take, continue or defend any proceedings and enter into any agreement, arrangement or compromise which the Lender or he shall think fit in respect of the Charged Assets and/or the income thereon;
- 10.5.6 to make and effect all repairs, improvements and alterations to the Charged Assets and to insure such assets as he thinks fit;
- 10.5.7 to appoint such managers, officers, agents and professional advisers as he shall think fit, at such salaries as the Receiver may determine;
- 10.5.8 to sever and sell separately any fixtures or fittings from any Real Property without the consent of the Company;
- 10.5.9 to call up any of the Company's uncalled capital;
- 10.5.10 to promote the formation of a subsidiary company or companies of the Company, so that such subsidiary may purchase, lease, license or otherwise acquire interests in all or any part of the Charged Assets;

- 10.5.11 to operate any rent review clause in respect of any Real Property in relation to which he was appointed and to apply for any new or extended lease;
- 10.5.12 to give valid receipts for all monies;
- 10.5.13 to make such VAT options in relation to any Real Property as he thinks fit;
- 10.5.14 to exercise in relation to each Charged Asset all powers and rights as he would be capable of exercising if he were the absolute owner of such Charged Asset; and
- 10.5.15 to do all other acts and things which he may consider to be incidental or conducive to any of the above powers or which he considers to be necessary or desirable for the realisation of any Charged Asset, and to use the name of the Company for any of the above purposes.

#### 10.6 **Application of proceeds**

Any moneys received under this Debenture shall be applied:

- 10.6.1 first, in satisfaction of all costs, charges and expenses properly incurred and payments properly made by the Lender or the Receiver and of the remuneration of the Receiver;
- 10.6.2 secondly, in or towards satisfaction of the Secured Obligations in such order as the Lender shall determine; and
- 10.6.3 thirdly, the surplus (if any) shall be paid to the Company or to any other person or persons entitled to it.

Neither the Lender nor any Receiver shall be bound (whether by virtue of section 109(8) of the LPA, which is varied accordingly, or otherwise) to pay or appropriate any receipt or payment first towards interest rather than principal or otherwise in any particular order between any of the Secured Obligations.

#### 10.7 **Suspense account**

All monies received by the Lender or any Receiver under or in connection with this Debenture (including monies received at a time when no amounts are due in respect of the Secured Obligations) may at the discretion of the Lender or such Receiver be credited to a suspense account for so long as the Lender or the Receiver thinks fit.

#### 10.8 **No liability**

- 10.8.1 Neither the Lender nor any Receiver shall be liable in respect of the Charged Assets or any part thereof, or for any loss or damage arising out of the exercise or the attempted or purported exercise of any of its powers or the failure to exercise any of its powers, or for any other reason whatsoever, and whether as mortgagee in possession or on any other basis other than as a consequence of its own negligence, fraud, breach of contract or wilful default.
- 10.8.2 Notwithstanding any of the provisions of this Debenture, the Company shall remain liable to perform all obligations assumed by it in relation to the Charged Assets, and neither the Lender nor any Receiver shall be obliged to perform any such obligation or make any payment in respect thereof.

#### 10.9 **No duty to enquire**

No purchaser or other person shall be obliged or concerned to enquire:

- 10.9.1 whether the Secured Obligations have become payable;
- 10.9.2 whether any right of the Lender or any Receiver to exercise any of its powers has arisen or become exercisable or not;
- 10.9.3 whether any sums remain due from the Company to the Lender;
- 10.9.4 how any money paid to the Lender or a Receiver is to be applied, or
- 10.9.5 as to the propriety of the exercise or purported exercise of such powers.

#### **10.10 Conclusive discharge to purchasers**

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

### **11 FURTHER ASSURANCE**

11.1 The Company shall, at its own expense, promptly do all acts that are within its power and execute all documents as the Lender or a Receiver may reasonably specify (and in such form as the Lender or a Receiver may reasonably require) for:

11.1.1 creating, perfecting or protecting the security intended to be created by this Debenture;

11.1.2 facilitating the realisation of any Charged Asset;

11.1.3 facilitating the exercise of any rights, powers and remedies exercisable by the Lender or any Receiver in respect of any Charged Asset or under this Debenture;

11.1.4 creating and perfecting security in favour of the Lender over any property and assets of the Company located in any jurisdiction outside England and Wales.

This includes:

(a) the re-execution of this Debenture;

(b) subject to clause 4, the execution of any legal mortgage, charge, transfer, conveyance, assignment, assignation or assurance of any property; and

(c) the giving of any notice, order or direction and the making of any filing or registration,

which, in any such case, the Lender (acting reasonably) or a Receiver may think expedient.

### **12 POWER OF ATTORNEY**

The Company by way of security irrevocably appoints the Lender and any Receiver jointly and severally as its attorney, with full power of substitution and delegation, for it and in its name and on its behalf and as its act and deed or otherwise, to execute any documents and do any acts and things which the Company is required to execute and do under this Debenture, and/or which the attorney may deem necessary or desirable in exercising any of the powers, authorities and discretions conferred on the Lender or any Receiver. The Company ratifies and confirms whatever any attorney does or purports to do pursuant to its appointment under this clause.

### **13 PAYMENTS**

#### **13.1 Payment without deductions**

All amounts due by the Company to the Lender pursuant to this Debenture shall be paid in full without any set-off, abatement, cross claim, deduction or withholding of any kind other than as required by law. If the Company is compelled by law to make any deduction or withholding from any sum payable under this Debenture the sum so payable by the Company shall be increased so as to result in the receipt by the Lender of a net amount equal to the full amount expressed to be payable under this Debenture.

### 13.2 **Indemnity**

The Company shall indemnify the Lender and any Receiver (and each of their respective employees and agents) for all costs, charges and legal expenses (on a full indemnity basis) charged or incurred by the Lender or by any Receiver:

13.2.1 in enforcing or exercising (or attempting to do so) any power or any of its rights under this Debenture;

13.2.2 as a result of or in connection with anything done or omitted in the exercise or purported exercise of the powers contained in this Debenture; or

13.2.3 as a result of any breach by the Company of its obligations under this Debenture.

### 13.3 **Interest**

The Company shall pay interest on any amounts due under this Debenture calculated day by day from demand until full discharge (as well after as before judgment) at such rate as may from time to time have been agreed in writing between the Lender and the Company in relation thereto, and in default of such agreement at the rate of 4 per cent per annum above the Bank of England's published Bank Rate from time to time.

## 14 **SET-OFF**

14.1 The Lender may set-off any matured obligation which is due and payable by the Company to the Lender and unpaid against any matured obligation owed by the Lender to the Company.

14.2 At any time after this Debenture has become enforceable, and in addition to its rights under clause 14.1 above, the Lender may set-off any contingent liability owed by the Company to the Lender against any obligation (whether or not matured) owed by the Lender to the Company.

14.3 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.

14.4 If either of the obligations is unliquidated or unascertained, the Lender may set-off in an amount estimated by it in good faith to be the amount of that obligation.

## 15 **NOTICES**

### 15.1 **Notice in writing**

Any notice under this Debenture shall be in writing addressed as provided in clause 15.3 and signed by or on behalf of the party giving it.

### 15.2 **Service**

Any such notice shall be served:

15.2.1 by delivering it by hand to the addressee;

15.2.2 by pre-paid first class or other recorded delivery post; or

15.2.3 by fax or email transmission.

### 15.3 **Address for service**

15.3.1 Subject to sub-clause 15.3.2 below, the address for service of notices for the purposes of sub-clauses 15.2.1 to 15.2.3 is:

- (a) in the case of the Company, the address referred to in this Debenture or, in the case of service by email, the following email address [ben.pollard@smarterly.co.uk](mailto:ben.pollard@smarterly.co.uk); and

- (b) in the case of the Lender, the address referred to in this Debenture or, in the case of service by email, the following email address:  
[Chris.Hull@ylemenergy.co.uk](mailto:Chris.Hull@ylemenergy.co.uk).

15.3.2 Any party to this Debenture may notify the other parties of another address in the United Kingdom or email address/fax number for the purposes of this clause 15 provided that such notification shall only be effective on the date specified in such notice or five Business Days after the notice is given, whichever is later.

**15.4 Receipt by the Company**

Any notice given by the Lender to the Company shall be deemed to have been received:

15.4.1 if delivered by hand, at the time it is left at the relevant address;

15.4.2 if posted by pre-paid first class post or other pre-paid recorded delivery service, two Business Days after posting (notwithstanding that it be undelivered or returned undelivered) and in proving the time of despatch it shall be sufficient to show that the envelope containing such notice or communication was properly addressed, stamped and posted; or

15.4.3 if delivered by email/fax transmission, at the time of transmission if transmitted before 5.00pm on a Business Day but otherwise on the next Business Day.

**15.5 Receipt by the Lender**

Any notice given to the Lender under this Debenture shall be deemed to have been received only on actual receipt.

**15.6 Legal proceedings**

The parties agree that the documents which start any legal proceedings relating to this Debenture and any other documents required to be served in relation to those proceedings may be served on any party in accordance with, and subject to the provisions of, clause 15.2. These documents may, however, be served in any other manner allowed by law. This clause applies to all proceedings wherever started.

**16 GENERAL**

**16.1 Continuing and independent security**

This Debenture shall be:

16.1.1 a continuing security to the Lender and shall extend to the ultimate balance of the Secured Obligations, notwithstanding any settlement of account or intermediate payment or discharge in whole or in part, and secures present and future advances from time to time;

16.1.2 without prejudice and in addition to any other security for the Secured Obligations (whether by way of mortgage, equitable charge or otherwise) which the Lender may hold now or hereafter on all or any part of the Charged Assets;

16.1.3 in addition to any rights, powers and remedies at law available to the Lender; and

16.1.4 enforceable against the Company without the Lender first having recourse to any other right, remedy, guarantee or security held by or available to it.

**16.2 New accounts**

If the Lender receives notice of any subsequent charge or other interest affecting any part of the Charged Assets, the Lender may open a new account with the Company. If the Lender does not open a new account, it shall nevertheless be treated as if it had done so at the time when it received notice, and as from that time all payments made by the Company to the Lender shall be credited or be treated as having been credited to the new account and shall

not operate to reduce the amount due from the Company to the Lender at the time when it received notice as specified above.

**16.3 Delay**

No failure or delay by the Lender in the exercise of any of its rights under this Debenture or at law shall operate or be construed as a waiver. No waiver of any of the Lender's rights shall preclude any further or other exercise of that right or of any other right.

**16.4 Indulgence**

The Lender may give time or other indulgence, or make any other arrangement, variation or release with any person in respect of the Secured Obligations, and the Company may enter into any other security or guarantee for the Secured Obligations, in each case without derogating from the Company's liabilities or the Lender's rights under this Debenture.

**16.5 Liability not discharged**

The Company's liability under this Debenture in respect of the Secured Obligations shall not be discharged, prejudiced or affected by any security, guarantee, indemnity, remedy or other right held by, or available to, the Lender that is or becomes wholly or partially illegal, void or unenforceable on any ground, or any other act or omission which but for this clause might have discharged, or otherwise prejudiced or affected the liability of the Company.

**16.6 Release**

On or after the date on which the Secured Obligations have been unconditionally and irrevocably paid and discharged to the satisfaction of the Lender, whether or not as a result of enforcement, and the Lender is under no further obligation to provide any financial accommodation to the Company, the Lender shall promptly following the request and at the cost of the Company, take whatever action is necessary to release the Charged Assets from the security created by this Debenture, release the Charged Assets from the security created by this Debenture, re-assign any right assigned under this Debenture, return all deeds and documents of title delivered to the Lender under this Debenture and execute and deliver such further deeds or documents as the Company may reasonably require in order to give effect to this clause (including, without limitation, any filings required to be made in order to remove the restriction referred to in clause 5.1 of this Debenture).

**16.7 Avoidance of payments**

If the Lender considers (acting reasonably) that an amount paid to it may be avoided or otherwise set aside on the liquidation or administration of the Company then that amount shall not be considered to have been irrevocably paid for the purposes of this Debenture. Any release, discharge or settlement between the Company and the Lender shall be deemed conditional on no payment or security received by the Lender in respect of the Secured Obligations being avoided, reduced or ordered to be refunded pursuant to any law, and despite any such release, discharge or settlement the Lender may retain this Debenture and the security created by or pursuant to it, including all certificates and documents relating to the whole or any part of the Charged Assets, for such period as the Lender deems necessary to provide the Lender with security against any such avoidance, reduction or order for refund.

**16.8 Memorandum and articles of association**

The Company certifies that the charges created by this Debenture are first charges and do not contravene any provision of its memorandum or articles of association or any agreement binding on it or any of the Charged Assets.

**16.9 Waiver of set-off rights by Company**

The Company waives any present or future right of set-off it may have in respect of the Secured Obligations (including sums payable by the Company under this Debenture).

**16.10 Delegation**

The Lender may delegate in any manner to any person, any right, power or discretion exercisable by it under this Debenture upon any terms which it may think fit. The Lender shall not be in any way liable or responsible for any loss or liability arising from any act, default, omission or misconduct on the part of any such delegate.

**16.11 Perpetuity Period**

If the rule against perpetuities applies to any trust created by this Debenture, the perpetuity period shall be 125 years (as specified by section 5(1) of the Perpetuities and Accumulations Act 2009).

**16.12 Fraud**

Notwithstanding the other provisions of this Debenture, nothing in it shall have the effect of limiting or restricting any liability arising as a result of any fraud or fraudulent misrepresentation.

**16.13 Partial invalidity**

The provisions of this Debenture are several and distinct from one another and if at any time any provision in this Debenture is or becomes invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions of this Debenture shall not be impaired. If this Debenture is executed by or on behalf of more than one person and any one or more of these persons is not bound by its provisions (whether by reason of lack of capacity or improper execution or for any other reason), the remaining parties shall continue to be so bound.

**16.14 Assignment**

16.14.1 The Lender may assign or transfer the whole of the Lender's rights and/or obligations under this Debenture to any person to whom the Lender assigns all of its rights under the Loan Agreement pursuant to the terms of the Loan Agreement. The Company shall, promptly upon written request by the Lender, enter into such documents as may be necessary to effect such assignment or transfer.

16.14.2 The Company may not assign any of its rights, or transfer any of its obligations, under this Debenture or enter into any transaction which would result in any of those rights or obligations passing to another person.

**16.15 Certificates**

Any certificate of or determination by the Lender specifying the amount of any Secured Obligations due from the Company shall be, in the absence of manifest error, conclusive evidence against the Company of the matters to which it relates.

**16.16 Amendments**

The provisions of this Debenture may be amended only if the Lender and the Company so agree in writing and any breach of this Debenture may be waived only if the Lender so agrees in writing.

**16.17 Counterparts**

This Debenture may be executed in any number of counterparts, and this has the same effect as if the signatures (and seals, if any) on the counterparts were on a single copy of this Debenture.

**16.18 Governing law**

This Debenture and any dispute or claim (including any non-contractual dispute or claim) that arises out of or in connection with this Debenture (and any documents referred to in this Debenture) shall be governed by and construed in accordance with English law. For the benefit of the Lender, the Company irrevocably submits to the jurisdiction of the courts of England and Wales and the Lender shall also be entitled to take proceedings in connection

with this Debenture against the Company in the courts of any country in which the Company has assets or in any other courts of competent jurisdiction.

**16.19 Third Party Rights**

No provision of this Debenture shall be enforceable pursuant to the Contracts (Rights of Third Parties) Act 1999 by any person (except the Receiver) who is not a party to it.

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



## SCHEDULE 1

### REAL PROPERTY

Registered land		
Address	Administrative area	Title number

Unregistered land	
Address	Document describing property

**NOTE:** Details of any material valuable assets of the Company should be obtained and added to the Schedules. This will assist with taking any perfection action required in respect of such assets (e.g. registration, services of notices). By specifically identifying the assets, this may also strengthen an argument that a fixed charge has been created over them.

## SCHEDULE 2

### SHARE CAPITAL

Name of company in which shares are held	Number and class of shares held
Smarterly Limited (Company number <b>11112120</b> )	1,000 ordinary shares of £1 each

**NOTE:** Details of any material valuable assets of the Company should be obtained and added to the Schedules. This will assist with taking any perfection action required in respect of such assets (e.g. registration, services of notices). By specifically identifying the assets, this may also strengthen an argument that a fixed charge has been created over them.

### SCHEDULE 3

#### BANK ACCOUNTS

Account number	Sort code	Account bank name and address

## SCHEDULE 4

### INTELLECTUAL PROPERTY

Trade marks		
Trade mark number	Classes	Mark text

Patents	
Patent number	Description

**NOTE:** Details of any material valuable assets of the Company should be obtained and added to the Schedules. This will assist with taking any perfection action required in respect of such assets (e.g. registration, services of notices). By specifically identifying the assets, this may also strengthen an argument that a fixed charge has been created over them.

## SCHEDULE 5

### INSURANCES

Insurer	Policy number
RSA – Employers Liability insurance and commercial combined	
Markel International – Cyber and professional indemnity	
Royal London – Keyman insurance (Ben Pollard)	
Canada Life – Group Life insurance	
Canada Life – Income Protection Insurance	

**NOTE:** Details of any material valuable assets of the Company should be obtained and added to the Schedules. This will assist with taking any perfection action required in respect of such assets (e.g. registration, services of notices). By specifically identifying the assets, this may also strengthen an argument that a fixed charge has been created over them.

## SCHEDULE 6

### FORM OF NOTICE AND ACKNOWLEDGEMENT – INSURANCE POLICIES

#### NOTICE

From: [Company] (the “Company”)

To: [insurer]

Date: [●]

Dear Sirs

We refer to the [*describe policy and its number*] (the “Policy”).

We hereby give notice that, pursuant to a debenture dated [●] (the “Debenture”), we have assigned to [●] (the “Lender”) all our right, title, interest and benefit in and to the Policy.

We irrevocably authorise and instruct you from time to time:

- 1 to disclose to the Lender without any reference to or further authority from us (and without any enquiry by you as to the justification for each disclosure), such information relating to the Policy as the Lender may at any time and from time to time request;
- 2 to hold all sums from time to time due and payable by you to us under the Policy to the order of the Lender;
- 3 to pay or release all or any part of the sums from time to time due and payable by you to us under the Policy only in accordance with the written instructions given to you by the Lender from time to time;
- 4 to comply with any written notice or instructions in any way relating to, or purporting to relate to, the Policy, the sums payable to us from time to time under the Policy or the debts represented thereby which you receive at any time from the Lender without any reference to or further authority from us and without any enquiry by you as to the justification for or validity of such notice or instruction; and
- 5 to send copies of all notices and other information given or received under the Policy to the Lender.

We are not permitted to receive from you, otherwise than through the Lender, any amount in respect of or on account of the sums payable to us from time to time under the Policy or to agree any amendment or supplement to, or waive any obligation under, the Policy without the prior written consent of the Lender.

This notice may only be revoked or amended with the prior written consent of the Lender. Please confirm by completing the enclosed acknowledgement and returning it to the 275 Lender (with a copy to us) that:

- (a) you accept the instructions and authorisations contained in this notice;
- (b) you have not, at the date this notice is returned to the Lender, received any notice that any third party has or will have any right or interest in, or has made, or will be making any claim or demand or taking any action in respect of, the rights of the Company under or in respect of the Policy and you will notify the Lender promptly if you should do so in future;
- (c) you will pay or release all or part of the amounts from time to time due and payable by you under the Policy in accordance with the written instructions given to you by the Lender from time to time;
- (d) you will not exercise any right to terminate, cancel, vary or waive the Policies or take any action to amend or supplement the Policies without first giving 14 days' written notice to the Lender.

This notice [and any non-contractual obligations arising out of or in connection with it] [is/are] governed by English law.

Yours faithfully

.....

for and on behalf of

[●]

## ACKNOWLEDGEMENT

From: [Company] (the "Company")

To: [Lender] (the "Lender")

Date: [●]

Dear Sirs

We acknowledge receipt of a notice dated [●] (the "Notice") and addressed to us by [●] (the "Company") regarding the Policy (as defined in the Notice) and:

- 1 we accept the instructions and authorisations contained in this notice;
- 2 we have not, at the date of this acknowledgement, received any notice that any third party has or will have any right or interest in, or has made, or will be making any claim or demand or taking any action in respect of, the rights of the Company under or in respect of the Policy and we will notify the Lender promptly if you should do so in future;
- 3 we will pay or release all or part of the amounts from time to time due and payable by us under the Policy in accordance with the written instructions given to us by the Lender from time to time; and
- 4 we will not exercise any right to terminate, cancel, vary or waive the Policy or take any action to amend or supplement the Policies without first giving 14 days' written notice to the Lender.

This notice [and any non-contractual obligations arising out of or in connection with it] [is/are] governed by English law.

Yours faithfully

[insurer]



## ACKNOWLEDGEMENT

From: [counterparty]

To: [Lender]

Copy to: [Company]

Date:

We hereby acknowledge receipt of the notice dated [●], a copy of which is attached to the acknowledgment (the "Notice") and confirm the matters set out in paragraphs (a) and (b) of the Notice.

.....

for and on behalf of  
[counterparty]

## SCHEDULE 7

### FORM OF NOTICE AND ACKNOWLEDGEMENT – ACCOUNTS

#### NOTICE

To: [name and address of third party bank]

Attention: [●]

Date:

Dear Sirs

We hereby give you notice that by a debenture dated [●] (the “Debenture”) we have charged to [●] (the “Lender”) all our right, title and interest in and to all sums of money which are now or may from time to time in the future be held in the following accounts in our name with you together with all interest credited thereto and the debts represented by those sums: [●] (together the “Accounts”).

By counter-signing this notice, the Lender confirms that we may make withdrawals from the Accounts until such time as the Lender shall notify you in writing that an Event of Default has occurred and is continuing and its permission is withdrawn, whereupon we will not be permitted to withdraw any amounts from any Account without the prior written consent of the Lender.

These instructions cannot be revoked or varied without the prior written consent of the Lender.

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

Please confirm your acceptance of the above instructions by returning the attached acknowledgement to the Lender with a copy to ourselves.

Yours faithfully

By.....  
for and on behalf of  
[Company]

[By.....  
for and on behalf of  
[Lender]]

## ACKNOWLEDGEMENT

To: [name and address of Lender]

Date:

Dear Sirs

We confirm receipt of a notice dated [●] (the "Notice") from [Company] (the "Company") of a charge, upon the terms of a debenture dated [●], over all the Company's right, title and interest in and to all sums of money which are now or may from time to time in the future be held in the following accounts with us in the name of the Company together with interest relating thereto: [●] (together the "Accounts").

We confirm that:

- 1 we accept the instructions and authorisations contained in the Notice and undertake to comply with its terms;
- 2 we have not received notice of the interest of any third party in any Account or in the sums of money held in any Account or the debts represented by those sums and we will notify you promptly should we receive notice of any third party interest;
- 3 until you notify us in writing that withdrawals are prohibited, the Company may make withdrawals from the Accounts; upon receipt of such notice we will not permit any amount to be withdrawn from any Account except against the signature of one of your authorised signatories; and
- 4 we will not seek to modify, vary or amend the terms upon which sums are deposited in the Accounts without your prior written consent.

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

Yours faithfully

.....

for and on behalf of

[third party bank]

**SIGNATURE PAGE TO DEBENTURE**

EXECUTED as a DEED by **SMARTER** )  
**FINANCIAL SERVICES (HOLDINGS)** )  
**LIMITED** acting by a Director in the )  
presence of:



Ben Pollard

W Signature .....  
I Name .....  
T Address .....  
N .....  
E .....  
S .....  
S Occupation .....



Sarah-Jane Pollard

Accountant

44 Cronks Hill Road  
Redhill  
RH1 6LZ

EXECUTED as a DEED by **MAJOR** )  
**OAK LIMITED** acting by a director in )  
the presence of: )

W Signature .....  
I Name .....  
T Address .....  
N .....  
E .....  
S .....  
S Occupation .....

OR

EXECUTED as a DEED by **MAJOR** ) .....  
**OAK LIMITED** acting by two directors ) Director  
or a director and its secretary )

.....  
Director/Secretary

**SIGNATURE PAGE TO DEBENTURE**

EXECUTED as a DEED by **SMARTER** )  
**FINANCIAL SERVICES (HOLDINGS)** )  
**LIMITED** acting by a Director in the )  
presence of:

1 Name  
2 Title  
3 Address  
4  
5  
6  
7  
8 Description

EXECUTED as a DEED by **MAJOR** )  
**OAK LIMITED** acting by a director in )  
the presence of: )

1 Name  
2 Title  
3 Address  
4  
5  
6  
7  
8 Description

Chris Scott  
Hibiscus House  
St. Brelades Bay  
Jersey  
JE3 8EA  
Engineer

OR

EXECUTED as a DEED by **MAJOR** )  
**OAK LIMITED** acting by two directors )  
or a director and its secretary )

Description