



**Registration of a Charge**

Company name: **ALCONTROL TRIBOLOGY LIMITED**

Company number: **02839361**

Received for Electronic Filing: **01/11/2016**



X51V4ES0

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**Details of Charge**

Date of creation: **31/10/2016**

Charge code: **0283 9361 0003**

Persons entitled: **WILMINGTON TRUST (LONDON) 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.**

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**Authentication of Form**

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

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**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:

**CLIFFORD CHANCE LLP**



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

Company number: 2839361

Charge code: 0283 9361 0003

The Registrar of Companies for England and Wales hereby certifies that a charge dated 31st October 2016 and created by ALCONTROL TRIBOLOGY LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 1st November 2016 .

Given at Companies House, Cardiff on 2nd November 2016

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

DATED 31 OCTOBER 2016

ALCONTROL TRIBOLOGY LIMITED

AS THE CHARGOR

AND

WILMINGTON TRUST (LONDON) LIMITED

AS SECURITY TRUSTEE

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DEBENTURE

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THIS DEBENTURE is made on 31 October 2016

**BETWEEN:**

- (1) **ALCONTROL TRIBOLOGY LIMITED**, a private limited company incorporated in England and Wales with company registration number 02839361 (the "**Chargor**"); and
- (2) **WILMINGTON TRUST (LONDON) LIMITED** as trustee for the Secured Creditors (the "**Security Trustee**", which expression includes any person which is for the time being a trustee (or a co-trustee) for the Secured Creditors).

**RECITALS:**

- (A) The Senior Lenders and the Mezzanine Lenders have made available the Senior Facilities and the Mezzanine Facilities respectively, on the terms and subject to the conditions set out in the Senior Facilities Agreement and the Mezzanine Facilities Agreement, one of the these conditions being that the Chargor enters into this debenture (this "**Debenture**") as security for the Secured Obligations.
- (B) The Board of Directors of the Chargor is satisfied that the Chargor is entering into this Debenture for the purposes of its business and that its doing so benefits that Chargor.
- (C) The Security Trustee and the Chargor intend this Debenture to take effect as a deed (even though the Security Trustee only executes it under hand).
- (D) The Security Trustee holds the Security and the benefit of this Debenture on trust for itself and the other Secured Creditors on the terms of this Debenture and the Intercreditor Agreement.

**IT IS AGREED AS FOLLOWS:**

**1. INTERPRETATION**

**1.1 Definitions**

In this Debenture the following terms have the meanings given to them in this Clause 1.

"**Account**" means any account now or in the future opened or maintained by the Chargor with a bank or other financial institution (and any replacement account or subdivision or subaccount of that account), all amounts from time to time standing to the credit of, or accrued or accruing on, such account and all Related Rights.

"**Acknowledgement**" means a duly completed acknowledgement of assignment in the form set out in the relevant Part of Schedule 2 (*Forms of Notice and Acknowledgement of Assignment*) being:

- (a) Part 2 in the case of Insurances;
- (b) Part 4 in the case of Assigned Accounts; and

(c) Part 6 in the case of Assigned Agreements (not being Insurances).

**"Assigned Account"** means:

- (a) each Account identified in Part 4 of Schedule 1 (*Assigned Accounts*); and
- (b) any other Account designated in writing as an Assigned Account by the Security Trustee.

**"Assigned Agreements"** means the Insurances, the Intercompany Loan Agreements and any agreement evidencing any present, future, actual or contingent obligations and liabilities owed by any member (including, without limitation, as borrower, guarantor and/or surety) of the Group to the Chargor.

**"Book Debts"** of the Chargor means all book and other debts of any nature, and all other rights to receive money (excluding Accounts), now or in the future due, owing or payable to it and the benefit of all related negotiable instruments, rights, security, guarantees and indemnities of any kind.

**"CA 2006"** means the Companies Act 2006.

**"Debenture"** has the meaning given to that term in Recital (A).

**"Default Rate"** means the rate specified in clause 10.5 (*Default Interest*) of the Senior Facilities Agreement up to and including the Senior Discharge Date, and thereafter, clause 10.5 (*Default Interest*) of the Mezzanine Facilities Agreement.

**"Dispute"** has the meaning given to that term in paragraph (a) of Clause 40 (*Enforcement*).

**"Dissolution Event"** means any of the following occurs or applies in respect of the Chargor:

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

in each case, or any analogous procedure or step taken in any jurisdiction.

**"Encumbrance"** means:

- (a) a mortgage, charge, pledge, lien or other encumbrance or Security Interest securing any obligation of any person;



- (b) any arrangement under which money or claims to, or the benefit of, a bank or other account may be applied, set off or made subject to a combination of accounts so as to effect payment of sums owed or payable to any person; or
- (c) any other type of preferential arrangement (including title transfer and retention arrangements) having a similar effect.

**"Enforcement Event"** means:

- (a) a Declared Default as defined under the Senior Facilities Agreement or the Mezzanine Facilities Agreement (as applicable); or
- (b) the Chargor being entitled to issue a Restrictions Notice pursuant to paragraph 1(3) of Schedule 1B to the CA 2006.

**"Finance Documents"** means the Senior Finance Documents and the Mezzanine Finance Documents.

**"Finance Parties"** means the Senior Finance Parties and the Mezzanine Finance Parties.

**"HM Land Registry"** means Her Majesty's Land Registry of England and Wales.  
**"Fixtures"** means, in relation to any Real Property, all fixtures and fittings (including trade fixtures and fittings) and fixed plant, machinery and equipment and other items attached to the relevant Real Property whether or not constituting a fixture at law.

**"Insurances"** means the insurances identified in Part 6 of Schedule 1 (*Insurances*) (if any) and all other contracts and policies of insurance of whatever nature which are, from time to time, taken out by or on behalf of the Chargor or (to the extent of such interest) in which the Chargor has an interest.

**"Intellectual Property Rights"** means all patents, trade marks, service marks, designs, design rights, utility models, business names, topographical or similar rights, copyrights, moral rights, database rights, rights in inventions, domain names, computer software, know-how, trade secrets and confidential information and other intellectual property rights and any interests (including by way of licence) subsisting anywhere in the world in any of the foregoing (in each case whether registered or not and including all applications for the same) owned by the Chargor now or in the future.

**"Intercompany Loan Agreements"** means any agreements or documents designated as Intercompany Loan Agreements by Topco and the Agent and includes the intercompany loan agreements listed in Part 5 of Schedule 1 (*Intercompany Loan Agreements*).

**"Intra-Group Liabilities"** any present, future, actual or contingent obligations and liabilities owed at any time by any member of the Group to the Chargor in any capacity whatsoever, including, without limitation, as borrower, guarantor and/or surety.

**"Intercreditor Agreement"** means the intercreditor agreement dated on or about the date of this Debenture as amended, restated, modified or supplemented from time to

time, and made between, among others, Topco, the Investors, the other Obligor, Wilmington Trust (London) Limited as Security Trustee, Wilmington Trust (London) Limited as Senior Agent and as Mezzanine Agent, the Lenders and the Hedge Counterparties.

**"Investments"** means:

- (a) the Shares and any other shares, stocks, debentures, bonds, notes, commercial paper, certificates of deposit, interests in collective investment schemes and other securities and investments of any kind whatsoever; and
- (b) all warrants, options or other rights to subscribe for, purchase or otherwise acquire any securities and investments,

in each case whether held directly by or to the order of the Chargor or by any custodian, nominee, fiduciary, clearance system or other similar person on its behalf (and all rights against any such person) in which it now or in the future owns or has an interest.

**"Liability"** means any present or future obligation or liability for the payment of money, whether in respect of principal, interest or otherwise, whether actual or contingent, whether owed jointly or severally and whether as principal or surety or in any other capacity and including any amount which would constitute such a liability but for any discharge, non-provability, unenforceability or non-allowability of the same in any insolvency or other proceedings.

**"Mezzanine Facilities Agreement"** means the mezzanine facilities agreement dated 18 November 2009 as amended, restated, modified or supplemented from time to time, between, among others, Topco, ALcontrol Group Limited, certain Subsidiaries of Topco as borrowers and guarantors, Wilmington Trust (London) Limited as Agent and as the Security Trustee and the Mezzanine Finance Parties (as defined therein).

**"Mezzanine Finance Document"** has the meaning given to the term "Finance Document" in the Mezzanine Facilities Agreement.

**"Mezzanine Lenders"** means the lenders under and as defined in the Mezzanine Facilities Agreement.

**"Notice of Assignment"** means a duly completed notice of assignment in the form set out in the relevant Part of Schedule 2 (*Forms of Notice and Acknowledgement of Assignment*) being:

- (a) Part 1, in the case of Insurances;
- (b) Part 3, in the case of Assigned Accounts; and
- (c) Part 5, in the case of Assigned Agreements (not being Insurances), or in such other form as may be approved by the Security Trustee.

**"Obligor"** has the meaning given to such term in the Intercreditor Agreement.

**"Permitted Invoice Discounting Arrangement"** has the meaning given to that term in the Senior Facilities Agreement.

**"Permitted Invoice Discounting Secured Assets"** means, with respect to any Permitted Invoice Discounting Arrangement entered into by the Chargor, any assets of the Chargor over which the Chargor has provided first priority security in favour of the provider of such Permitted Invoice Discounting Arrangement as permitted by the Finance Documents and notified in writing by the Chargor to the Security Trustee in advance of entering into such Permitted Invoice Discounting Arrangement.

**"Person with Significant Control"** means, in respect of a company, an individual who meets one or more of the "specified conditions" (within the meaning of section 790C(3) of the CA 2006) in relation to that company, in accordance with section 790C(2) of the CA 2006.

**"PSC Register"** means "PSC register" within the meaning of section 790C(10) of the CA 2006.

**"Real Property"** means any freehold or leasehold property in England and Wales and all rights, easements and privileges from time to time attached or appurtenant thereto and all buildings, erections and Fixtures from time to time situated on or forming part of such freehold or leasehold property.

**"Receiver"** means a receiver and manager or any other receiver (whether appointed pursuant to this Debenture or any statute, by a court or otherwise) of all or any of the Secured Assets and shall, where permitted by law, include an administrative receiver.

**"Registered Intellectual Property Rights"** means patents, petty patents, utility models, registered trade marks, registered designs and registered copyright, including applications for any of the same in any part of the world.

**"Related Rights"** means, in relation to any asset:

- (a) the proceeds of sale of all or any part of that asset;
- (b) all rights under any licence, agreement for sale or agreement for lease in respect of that asset;
- (c) all rights, powers, benefits, claims, contracts, warranties, remedies, security, guarantees, indemnities or covenants for title in respect of that asset; and
- (d) any monies, proceeds or income paid or payable in respect of that asset;
- (e) any rights or monies accruing or offered at any time by way of redemption, substitution, exchange, bonus or preference in respect of that asset; and
- (f) in relation to any Investment, any right against any clearance system and any right against any institution or under any other agreement.

**"Relevant Interest"** means, in respect of a company, a "relevant interest" (within the meaning of section 790I(2) of the CA 2006).

**"Relevant Legal Entity"** means, in respect of a company, a "legal entity" (within the meaning of section 790C(5) of the CA 2006) that is a "relevant legal entity" (within the meaning of section 790C(6) of the CA 2006) in relation to that company.

**"Restrictions Notice"** has the meaning given to "restrictions notice" in paragraph 1(2) of Schedule 1B to the CA 2006 and for the purposes of paragraph 1 of that Schedule.

**"Secured Assets"** means all of the assets, rights, title, interests and benefits of the Chargor from time to time the subject of the Security.

**"Secured Creditors"** means each of the Finance Parties and any Receiver appointed under this Debenture.

**"Secured Obligations"** means all present and future Liabilities of the Chargor and the Obligors to the Secured Creditors (or any of them) under or in relation to any one or more of the Finance Documents (including, without limitation, all Liabilities arising out of any extension, variation, modification, restatement or novation of such Finance Documents whatsoever) provided that no Liability shall be included in the definition of "Secured Obligations" to the extent that, if it were so included, the Security (or any part thereof) or any other provision of this Debenture would be unlawful or prohibited by any applicable law.

**"Security"** means the security created or intended to be created by this Debenture.

**"Security Interest"** means any mortgage, charge, pledge, lien or other security interest including, without limitation, anything analogous to any of the foregoing under the laws of any jurisdiction.

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

- (a) none of the Secured Creditors is under any obligation (whether actual or contingent) to make advances or provide other financial accommodation to the Borrowers under any of the Finance Documents; and
- (b) all Secured Obligations have been unconditionally and irrevocably paid and discharged in full.

**"Senior Facilities Agreement"** means the senior facilities agreement dated on or about the date of this Debenture as amended, restated, modified or supplemented from time to time, between, among others, ALcontrol Group Limited, certain Subsidiaries of ALcontrol Group Limited as borrowers and guarantors and Wilmington Trust (London) Limited as Security Agent and as Agent.

**"Senior Finance Document"** has the meaning given to the term "Finance Document" in the Senior Facilities Agreement.

**"Senior Lenders"** means the lenders under and as defined in the Senior Facilities Agreement.

**"Shares"** means the shares identified in Part 3 of Schedule 1 (*Shares*) (if any) and all other shares in the capital of the issuing companies named in Schedule 1 (*Details of*

*Certain Assets*) now or in the future legally or beneficially owned by the Chargor and/or any nominee on its behalf.

"**third party**" has the meaning given to that term in Clause 1.9 (*Third Party Rights*).

"**Topco**" means Alcontrol Investors (Luxembourg) S.à r.l., a private limited liability company incorporated and existing under the laws of Luxembourg with registered office at L-2310 Luxembourg, 16, Avenue Pasteur, having a share capital of EUR 60,000, and registered with the Luxembourg Register of Commerce and Companies under number B 148.998.

"**Warning Notice**" has the meaning given to "warning notice" in paragraph 1(2) of Schedule 1B to the CA 2006 and for the purposes of paragraph 1 of that Schedule.

## 1.2 **Defined Terms**

Unless this Debenture provides otherwise or the context otherwise requires, a term which is defined (or expressed to be subject to a particular construction) in the Senior Facilities Agreement (up to and including the Senior Discharge Date and thereafter the Mezzanine Facilities Agreement) or in the Intercreditor Agreement shall have the same meaning (or be subject to the same construction) in this Debenture.

## 1.3 **Incorporation of Terms**

The terms of the Finance Documents are incorporated into this Debenture to the extent required for any purported disposition contained in this Debenture to be a valid disposition in accordance with section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.

## 1.4 **References to Agreements**

Unless otherwise stated, any reference in this Debenture to any agreement or document (including any reference to this Debenture or any other Finance Document or to any agreement or document entered into pursuant to or in accordance with such agreement or document) shall be construed as a reference to:

- (a) such agreement or document as amended, restated, varied, novated or supplemented from time to time; and
- (b) any agreement or document whereby such agreement or document is so amended, varied, supplemented or novated or which is entered into pursuant to or in accordance with any such agreement or document.

## 1.5 **Certificates**

A certificate of any Secured Creditor as to the amount of any Secured Obligation owed to it shall be prima facie evidence of the existence and amount of such Secured Obligation.

## 1.6 Statutes

Any reference in this Debenture to a statute or statutory provision shall, unless the contrary is indicated, be construed as a reference to such statute or statutory provision as the same shall have been amended or re-enacted.

## 1.7 Implied Covenants

In accordance with Rule 68 of the Land Registration Rules 2003:

- (a) the covenants set out in Section 3(1) of the Law of Property (Miscellaneous Provisions) Act 1994 shall extend to Clauses 3 (*Fixed Charges*), 4 (*Assignments*) and 5 (*Floating Charge*) save for the words "other than any charges, incumbrances or rights which that person does not and could not reasonably be expected to know about";
- (b) the covenants set out in Section 3(2) of the Law of Property (Miscellaneous Provisions) Act 1994 shall extend to Clauses 3 (*Fixed Charges*), 4 (*Assignments*) and 5 (*Floating Charge*) save for the words "except to the extent that such liabilities and rights are, by reason of (i) being, at the time of the disposition, only potential liabilities and rights in relation to the property or (ii) being liabilities and rights imposed or conferred in relation to property generally, not such as to constitute defects in title"; and
- (c) the covenants set out in Section 6(2) of the Law of Property (Miscellaneous Provisions) Act 1994 shall not extend to Clauses 3 (*Fixed Charges*), 4 (*Assignments*) and 5 (*Floating Charge*).

## 1.8 Nominees

If the Security Trustee causes or requires Shares or any other asset to be registered in the name of a nominee for the Security Trustee, any reference in this Debenture to the Security Trustee shall, if the context so permits or requires, be construed as a reference to each of the Security Trustee and such nominee.

## 1.9 Third Party Rights

- (a) A person which is not a party to this Debenture (a "**third party**") shall have no rights to enforce any of its provisions except that:
  - (i) a third party shall have those rights it would have had if the Contracts (Rights of Third Parties) Act 1999 had not come into effect; and
  - (ii) each Clauses 30.4 (*Value Added Tax*), 33 (*Set-Off*), 35.3 (*Currency Conversion*) and 35.4 (*Currency Indemnity*) shall be enforceable by any third party referred to in such clause as if such third party were a party to this Debenture.
- (b) The parties to this Debenture may vary or rescind this Debenture without the consent of any third party.

### **1.10 Clause and Schedule Headings**

- (a) Unless otherwise stated, any reference in this Debenture to a Clause or a Schedule shall be construed as a reference to a clause of or a schedule to this Debenture.
- (b) Clause and Schedule headings are for ease of reference only and shall not affect the construction of this Debenture.
- (c) The fact that a schedule is blank or incomplete shall not invalidate or prevent this Debenture taking effect.

### **1.11 Intercreditor Agreement**

This Debenture should be read and construed subject to the terms of the Intercreditor Agreement. In the event of any inconsistency between the terms of this Debenture and the Intercreditor Agreement, the terms of the Intercreditor Agreement shall prevail.

### **1.12 Chargor intent**

Without prejudice to the generality of any other provision of this Debenture, the Chargor expressly confirms that it intends that this Debenture and the Transaction Security shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any of the Debt Documents and/or any present or future facility or amount made available under any of the Debt Documents, including for the purposes of, or in connection with, any of the following: business acquisitions of any nature; increasing the commitments under any Debt Document; increasing the indebtedness (including adding a new facility) under any Debt Document; increasing working capital; enabling investor distributions to be made; carrying out restructurings; refinancing existing facilities; refinancing any other indebtedness; making facilities available to new borrowers; any other variation or extension of the purposes for which any such facility or amount might be made available from time to time; and any Taxes, fees, costs and expenses associated with any of the foregoing.

## **2. COVENANT TO PAY**

### **2.1 Covenant to Pay**

- (a) The Chargor agrees, as a primary obligor and not only as a surety, that it will pay and discharge the Secured Obligations promptly on demand of the Security Trustee.
- (b) The Chargor acknowledges to the Security Trustee that the amount secured by this Debenture and in respect of which this Debenture and the security hereby created is enforceable is the full amount of the Secured Obligations.

### **2.2 Interest**

Any Secured Obligation which is owed by the Chargor under this Debenture and is not paid when due shall bear interest at the Default Rate from the due date until the date on which such Secured Obligation is unconditionally and irrevocably paid in full

and such interest shall accrue from day to day (after as well as before judgment) and be payable by the Chargor on demand of the Security Trustee.

### 3. FIXED CHARGES

The Chargor, with full title guarantee and as continuing security for the payment and discharge of the Secured Obligations, charges in favour of the Security Trustee to hold the same on trust for the Secured Creditors on the terms set out in the Intercreditor Agreement:

- (a) by way of first legal mortgage, all of the Real Property (if any) specified in Part 1 of Schedule 1 (*Real Property*) and all other Real Property now vested in the Chargor;
- (b) by way of first fixed charge all of the Chargor's present and future right, title and interest in and to and the benefit of (but in the case of paragraphs (iv), (vi), (vii) and (viii) below only if and to the extent the rights in question have not been effectively assigned pursuant to Clause 4 (*Assignments*) or such rights have been effectively assigned but such assignment has not been perfected by the service of the appropriate Notice of Assignment):
  - (i) to the extent not effectively charged pursuant to paragraph (a) above, all estates or interests in any Real Property (whether such interests are freehold, leasehold or licences) vested in, or acquired by, it;
  - (ii) to the extent not effectively charged pursuant to paragraph (a) or (i) above, all plant and machinery, equipment, computers, vehicles and other chattels (excluding any for the time being forming part of the Chargor's stock-in-trade or work in progress) owned by the Chargor or (to the extent of such interest) in which the Chargor has an interest and the benefit of all contracts and warranties relating to the same;
  - (iii) Book Debts (other than, until such time as the liabilities under the relevant Permitted Invoice Discounting Arrangement are discharged in full, to the extent constituting Permitted Invoice Discounting Secured Assets);
  - (iv) Bank Accounts (other than, until such time as the liabilities under the relevant Permitted Invoice Discounting Arrangement are discharged in full, to the extent constituting Permitted Invoice Discounting Secured Assets);
  - (v) all Investments and all Related Rights;
  - (vi) the Insurances and all Related Rights (other than, until such time as the liabilities under the relevant Permitted Invoice Discounting Arrangement are discharged in full, to the extent constituting Permitted Invoice Discounting Secured Assets);
  - (vii) (to the extent that the same do not fall within any other paragraph of this paragraph (b)) the Assigned Agreements and all Related Rights;



- (viii) all Intra-Group Liabilities;
- (ix) any pension fund (to the extent permitted as a matter of law);
- (x) all Authorisations held in connection with the business of the Chargor or the use of any asset of the Chargor and the right to recover and receive all compensation which may at any time become payable to it in respect of the same;
- (xi) all goodwill and uncalled capital of the Chargor; and
- (xii) all of the Registered Intellectual Property Rights (if any) specified in Part 2 of Schedule 1 (*Registered Intellectual Property Rights*) and all other Registered Intellectual Property Rights of the Chargor.

#### 4. ASSIGNMENTS

##### 4.1 Assignments

Subject to Clause 4.2 (*Non-Assignable Rights*) and any assignment pursuant to the First Ranking Debenture, the Chargor, with full title guarantee and as continuing security for the payment and discharge of the Secured Obligations, assigns absolutely to the Security Trustee to hold the same on trust for the Secured Creditors on the terms set out in the Intercreditor Agreement all its present and future right, title and interest in and to and the benefit of:

- (a) all its Assigned Accounts;
- (b) all its Assigned Agreements, all its Intra-Group Liabilities and all its Related Rights; and
- (c) to the extent not charged under the provisions of paragraph (b)(xii) of Clause 3 (Fixed Charges), all its Intellectual Property Rights.

##### 4.2 Non-Assignable Rights

The Chargor declares that to the extent that any right, title, interest or benefit in or in respect of any asset described in Clause 4.1 (*Assignments*) cannot be or is not effectively assigned pursuant to Clause 4.1 (*Assignments*) for whatever reason other than if such assets cannot be or are not effectively assigned as a result of such assets being assigned under the First Ranking Debenture or the First Ranking Fixed and Floating Security Document, the Chargor shall:

- (a) promptly notify the Security Trustee of the same and the reasons therefor;
- (b) hold the benefit of the same on trust for the Security Trustee as security for the payment and discharge of the Secured Obligations; and
- (c) take such steps as the Security Trustee may require to remove such impediment to an assignment.

### 4.3 Notice of Assignment

The Chargor shall promptly upon the execution of this Debenture and thereafter upon the request of the Security Trustee, give notice of the assignments effected pursuant to Clause 4.1 (*Assignments*) by sending a Notice of Assignment to:

- (a) in relation to the Insurances, each of the insurers party to each such Insurance;
- (b) in relation to the Assigned Accounts, each bank or other financial institution with which each such Assigned Account is maintained; and
- (c) in relation to the Assigned Agreements (not including the Insurances), each debtor or obligor party to each such Assigned Agreement (including any relevant landlord or tenant),

and the Chargor shall use all its reasonable endeavours to procure that within 14 days (20 Business Days in relation to the Assigned Accounts) of the date of the relevant Notice of Assignment the recipient thereof acknowledges the same in the form of the relevant Acknowledgement.

### 4.4 Licence Back of Intellectual Property Rights

The Security Trustee hereby grants to the Chargor an exclusive, royalty-free licence to use and to have used on its behalf and to sub-license all of the Chargor's Intellectual Property Rights assigned under this Clause 4 (*Assignments*) at any time prior to the Security becoming enforceable. Subject to Clause 15.4 (*Maintenance*), the grant of licence under this Clause 4.4 includes the grant to the Chargor of the sole right to take action against, and compromise or make settlements with, any third parties infringing the Intellectual Property Rights in satisfaction of a Chargor's obligations under paragraph (b) of Clause 15.4 (*Maintenance*).

## 5. FLOATING CHARGE

### 5.1 Creation of Floating Charge

- (a) The Chargor, with full title guarantee and as continuing security for the payment and discharge of the Secured Obligations, charges in favour of the Security Trustee to hold the same on trust for the Secured Creditors on the terms set out in the Intercreditor Agreement by way of a first floating charge all its undertaking and assets whatsoever and wheresoever both present and future, not effectively charged pursuant to Clause 3 (*Fixed Charges*) or effectively assigned pursuant to Clause 4 (*Assignments*) (other than, until such time as the liabilities under the relevant Permitted Invoice Discounting Arrangement are discharged in full, to the extent constituting Permitted Invoice Discounting Secured Assets).
- (b) Paragraph 14 of Schedule B1 to the Insolvency Act 1986 applies to the floating charge created pursuant to this Clause 5 (*Floating Charge*).

## 5.2 Conversion of Floating Charge

- (a) The Security Trustee may, by notice to the Chargor, convert the floating charge created under this Debenture with immediate effect into a fixed charge if:
  - (i) the Security becomes enforceable in accordance with Clause 20 (*Enforcement of Security*); or
  - (ii) the Security Trustee considers such conversion to be necessary or desirable in order to protect or preserve the Secured Assets and/or the priority of the Security,

and such fixed charge shall apply to all assets the subject of the floating charge unless and to the extent that such notice otherwise specifies.

- (b) The floating charge created under this Debenture shall (in addition to the circumstances in which the same will occur under general law) automatically be converted into a fixed charge (without notice) as regards all the assets and as at the instant immediately before such event occurs, rights and property subject to the floating charge at such time if:
  - (i) any person takes any step to effect any expropriation, attachment, sequestration, distress or execution against any of those Secured Assets;
  - (ii) any Dissolution Event occurs; or
  - (iii) the Chargor fails to comply with its covenant in Clause 9.5 (*Negative Pledge and Disposals*),

**provided that** nothing in this Debenture shall cause the floating charge to crystallise by reason of the Chargor obtaining or of anything being done with a view to the Chargor obtaining a moratorium under Section 1A of and Schedule A1 to the Insolvency Act 1986.

- (c) The giving of notice by the Security Trustee pursuant to paragraph (a) above in relation to any of the Secured Assets shall not be construed as a waiver or abandonment of the right of the Security Trustee to serve similar notices in respect of any other of the Secured Assets or of any other of the rights of the Secured Creditors (or any of them) under any Finance Document.

## 5.3 Reconversion of floating charge

Any floating charge which has crystallised under Clause 5.2 (*Conversion of Floating Charge*) may, by notice in writing given at any time by the Security Trustee to the Chargor, be reconverted into a floating charge in relation to the assets, rights and property specified in that notice. The conversion to a fixed charge and reconversion to a floating charge (or the converse) may occur any number of times.

## **6. CONTINUING SECURITY**

### **6.1 Continuing and Independent Security**

The Security shall constitute and be continuing security which shall not be released or discharged by any intermediate payment or settlement of all or any of the Secured Obligations, shall continue in full force and effect until the end of the Security Period and is in addition to and independent of, and shall not prejudice or merge with, any other security (or any right of set-off) which the Security Trustee or any other Secured Creditor may hold at any time for the Secured Obligations or any of them.

### **6.2 New Accounts**

If the Security Trustee receives notice of any Encumbrance created or arising after the date of this Debenture other than any Encumbrance created or arising under the First Ranking Debenture or the First Ranking Fixed and Floating Security Document in respect of the Secured Assets or any of them or makes demand of the Chargor for payment of any or all of the Secured Obligations:

- (a) the Security Trustee may open a new account or accounts in respect of any or all of the Secured Obligations (and if it does not do so it shall be treated as if it had done so at the time it received such notice or made such demand); and
- (b) thereafter any amounts paid to the Security Trustee in respect of the Secured Obligations, or realised or recovered by the Security Trustee under this Debenture, shall be credited to a new account (or be treated as having been so credited) and not applied (or be treated as having been applied) in or towards payment of all or any of the Secured Obligations.

### **6.3 Avoidance of Payments**

Where any release, discharge or other arrangement in respect of any Secured Obligation or any security the Security Trustee may hold for such Secured Obligation is given or made in reliance on any payment or other disposition which is avoided or must be repaid in an insolvency, liquidation or otherwise, and whether or not the Security Trustee has conceded or compromised any claim that any such payment or other disposition will or should be avoided or repaid, this Debenture and the Security shall continue as if such release, discharge or other arrangement had not been given or made.

### **6.4 Immediate Recourse**

Neither the Security Trustee nor any other Secured Creditor shall be obliged before exercising any of the rights conferred on it by this Debenture or by law to seek to recover amounts due from the Chargor or to exercise or enforce any other rights or security it may have or hold in respect of the Secured Obligations or any of them.

### **6.5 Waiver of Defences**

Neither the obligations of the Chargor under this Debenture, nor the Security and the rights, powers and remedies conferred on the Security Trustee by this Debenture or by law shall be discharged, impaired or otherwise affected by:

- (a) the winding-up, dissolution, administration or reorganisation of any Borrower or any other person or any change in the status, function, control or ownership of any Borrower or any such person;
- (b) any of the Secured Obligations or any other security held by the Security Trustee or any other Secured Creditor in respect thereof being or becoming illegal, invalid, unenforceable or ineffective in any respect;
- (c) any time or other indulgence being granted or agreed to or with any Borrower or any other person in respect of the Secured Obligations or any of them or in respect of any other security held by the Security Trustee or any other Secured Creditor in respect thereof;
- (d) any amendment to, or any variation, waiver or release of, the Secured Obligations or any of them or any other security, guarantee or indemnity held by the Security Trustee or any other Secured Creditor in respect thereof;
- (e) any total or partial failure to take or perfect any security proposed to be taken in respect of the Secured Obligations or any of them;
- (f) any total or partial failure to realise the value of, or any release, discharge, exchange or substitution of, any other security, guarantee or indemnity held by the Security Trustee or any other Secured Creditor in respect of the Secured Obligations or any of them; or
- (g) any other act, event or omission which might operate to discharge, impair or otherwise affect the obligations of the Chargor under this Debenture, the Security or any of the rights, powers and remedies conferred on the Security Trustee by this Debenture or by law.

## 6.6 No Competition

- (a) Any right which the Chargor may have by way of subrogation, contribution or indemnity in relation to the Secured Obligations, or otherwise to claim or prove as a creditor of the Borrowers or any other person or its estate in competition with the Security Trustee or any other Secured Creditor, shall be exercised by the Chargor only if and to the extent that the Security Trustee so requires and in such manner and upon such terms as the Security Trustee may specify and the Chargor shall hold any moneys, rights or security held or received by it as a result of the exercise of any such rights on trust for the Security Trustee for application in accordance with the terms of this Debenture as if such moneys, rights or security were held or received by the Security Trustee under this Debenture.
- (b) Until all the Secured Obligations have been irrevocably paid in full and unless the Security Trustee otherwise directs, the Chargor will not exercise any rights which it may have by reason of performance (or a claim for performance) by it of its obligations under the Finance Documents:
  - (i) to be indemnified by an Obligor;

- (ii) to claim any contribution from any guarantor of any Obligor's obligations under the Finance Documents; or
  - (iii) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Secured Parties under the Finance Documents or of any other guarantee or security taken pursuant to, or in connection with, the Finance Documents by any Secured Party;
  - (iv) to bring legal or other proceedings for an order requiring an Obligor to make any payment, or perform any obligation, in respect of which the Chargor has given a guarantee, undertaking or indemnity under the Finance Documents;
  - (v) to exercise any right of set-off against an Obligor;
  - (vi) to exercise any right of quasi-retainer or other analogous equitable right; and/or
  - (vii) to claim or prove as a creditor of an Obligor in competition with the Secured Parties.
- (c) If the Chargor receives any benefit, payment or distribution in relation to such rights it shall hold that benefit, payment or distribution to the extent necessary to enable all amounts which may be or become payable to the Secured Parties by an Obligor under or in connection with the Finance Documents to be repaid in full on trust for the Secured Parties and shall promptly pay or transfer the same to the Secured Parties or as the Secured Parties may direct.

## 6.7 Appropriation

Neither the Security Trustee nor any other Secured Creditor shall be obliged to apply any sums held or received by it in respect of the Secured Obligations in or towards payment of the Secured Obligations and any such sum shall be held by or paid to the Security Trustee for application pursuant to the terms of this Debenture and the Intercreditor Agreement.

## 7. REPRESENTATIONS AND WARRANTIES

The Chargor:

- (a) makes the representations and warranties set out in clause 20 (*Representations*) of the Senior Facilities Agreement and clause 20 (*Representations*) of the Mezzanine Facilities Agreement to the Security Trustee on the date of this Debenture;
- (b) represents and warrants to the Security Trustee that the assets listed in Schedule 1 (*Details of Certain Assets*) in respect of the Chargor are all of the relevant class of assets in which it has an interest; and
- (c) represents that no Security Interest other than any Security Interest under the First Ranking Debenture or the First Ranking Fixed and Floating Security

Document, exists over any of its Real Property, Accounts (except in favour of the Account Bank), pension fund, Registered Intellectual Property Rights, Investments, Assigned Agreements or Intra-Group Liabilities.

## **8. PSC REPRESENTATIONS**

### **8.1 PSC representations**

The Chargor represents and warrants on the date of this Debenture that:

- (a) no Warning Notice or Restrictions Notice has been issued to it in respect of all or any part of any Investment which remains in effect;
- (b) the copy of its PSC Register that was delivered to the Security Trustee on or about the date of this Debenture:
  - (i) is correct, complete and in full force and effect;
  - (ii) has not been amended or superseded since that date; and
  - (iii) sets out the "required particulars" (within the meaning (iii) of section 790K of the CA 2006) and any other information prescribed under Part 21A of the CA 2006 (including section 790M) and/or any related law, in each case, in relation to all of the Relevant Legal Entities and Persons with Significant Control that are "registrable" (within the meaning of section 790C(4) or section 790C(8), as applicable) in respect of the Chargor (or that other member of the Group, as the case may be) in accordance with Part 21A of the CA 2006.

### **8.2 Repetition**

The representation set out in Clause 8.1 (*PSC representations*):

- (a) shall survive the execution of each Finance Document and each drawdown under the Facility Agreements; and
- (b) is made on the date of this Debenture and is deemed to be repeated on each date during the Security Period with reference to the facts and circumstances then existing.

## **9. GENERAL UNDERTAKINGS**

### **9.1 Protection of Assets**

The Chargor shall keep or cause to be kept all its Secured Assets in good working order and condition, ordinary wear and tear excepted.

### **9.2 Access**

The Chargor shall ensure that representatives of the Security Trustee (with or without surveyors, workmen and others) are able at all reasonable times to view the condition of any of its Secured Assets.

### **9.3 No Fixing**

The Chargor shall not fix or permit the affixing of any Secured Asset to any of its Real Property which is not itself a Secured Asset.

### **9.4 No Other Prejudicial Conduct**

The Chargor shall not do, or permit to be done, anything which could prejudice the Security.

### **9.5 Negative Pledge and Disposals**

The Chargor shall not:

- (a) create or permit to subsist any Encumbrance over all or any of its present or future assets other than:
  - (i) Encumbrances constituted by or created pursuant to any of the Finance Documents; and
  - (ii) other Encumbrances expressly permitted under the terms of the Finance Documents; or
- (b) dispose of any of its assets except to the extent and in the manner expressly permitted under the Finance Documents.

## **10. PSC UNDERTAKING**

The Chargor shall comply with all of its obligations under Schedule 1A and Schedule 1B of the CA 2006 and any notice served on it pursuant to Part 21A of the CA 2006 and within the timeframe specified in the notice.

## **11. ACCOUNTS**

### **11.1 Restriction on Accounts**

The Chargor shall not have any Accounts other than those from time to time designated by the Security Trustee.

### **11.2 Operations Before an Enforcement Event**

Notwithstanding the fixed charge created by Clause 3 (*Fixed Charges*), the Chargor shall prior to the occurrence of an Enforcement Event be entitled to receive, withdraw or otherwise transfer any credit balance from time to time on any Account, subject to the terms of the Finance Documents, the First Ranking Debenture and the First Ranking Fixed and Floating Security Document.

### **11.3 Operations After an Enforcement Event**

On the occurrence of an Enforcement Event, the Chargor shall not be entitled to receive, withdraw or otherwise transfer any credit balance from time to time on any Account except with the prior consent of the Security Trustee.



#### **11.4 Restrictions on Dealing with Accounts**

Without prejudice and in addition to Clauses 9.5 (*Negative Pledge and Disposals*) and 18 (*Further Assurance*):

- (a) except for the Security, the Chargor shall not create or have outstanding any security over, nor do anything else prohibited by the Finance Documents or the First Ranking Debenture or the First Ranking Fixed and Floating Security Document in respect of, all or any part of any of its Accounts; and
- (b) except as required by Clause 18 (*Further Assurance*), the Chargor shall not enter into a single transaction or a series of transactions (whether related or not and whether voluntary or involuntary) to transfer, assign or otherwise dispose of all or any part of any of its Accounts.

#### **11.5 Prior Security Interests of Account Banks**

The Security created by this Debenture over Accounts is subject to any pre-existing Security Interest in favour of the account bank created with at law or in the standard terms and conditions of the account bank.

#### **11.6 Invoice Discounting**

Notwithstanding any other provision of this Clause 11 (*Accounts*), the restrictions and obligations set out in Clause 11.1 (*Restriction on Accounts*), Clause 11.3 (*Operations after an Enforcement Event*), Clause 11.4 (*Restrictions on Dealing with Accounts*) and Clause 4.3 (*Notice of Assignment*) shall not apply to any account opened by the Chargor in connection with a Permitted Invoice Discounting Arrangement.

### **12. BOOK DEBTS**

#### **12.1 Collection**

Subject to Clause 12.4 (*Proceeds*), the Chargor shall promptly collect all Book Debts and shall hold the proceeds of collection on trust for the Finance Parties.

#### **12.2 Payment into Designated Account(s)**

The Chargor shall immediately pay all moneys received or receivable by it from any source (including all proceeds of collection of Book Debts) into an Account (or, if one or more Accounts have been designated for this purpose by the Security Trustee, the relevant Account(s)). The Security Trustee may designate different Accounts for different moneys.

#### **12.3 Restrictions on Dealing with Book Debts and Intra-Group Liabilities**

Without prejudice and in addition to Clauses 9.5 (*Negative Pledge and Disposals*) and 18 (*Further Assurance*):

- (a) except for the Security, the Chargor shall not create or permit to subsist any security over, nor do anything else prohibited by the Finance Documents or the First Ranking Debenture or the First Ranking Fixed and Floating Security

Document in respect of, all or any part of any of its Book Debts or the Intra-Group Liabilities; and

- (b) except as required by Clause 18 (*Further Assurance*), the Chargor shall not enter into a single transaction or a series of transactions (whether related or not and whether voluntary or involuntary) to sell, factor, transfer or otherwise dispose of all or any part of any of its Book Debts or the Intra-Group Liabilities (in the case of the Intra-Group Liabilities to a person who is not a member of the Group).

#### **12.4 Proceeds**

Until the occurrence of an Enforcement Event, the proceeds of the realisation of the Book Debts shall (subject to any restrictions on the application of such proceeds contained in this Debenture, the Finance Documents, the First Ranking Debenture, the First Ranking Fixed and Floating Security Document and the Intercreditor Agreement), upon such proceeds being credited to an Account, be released from the fixed charge created pursuant to Clause 3 (*Fixed Charges*) or Clause 5.2 (*Conversion of Floating Charge*) and the Chargor shall be entitled to withdraw such proceeds from such Account provided that such proceeds shall continue to be subject to the floating charge created pursuant to Clause 5.1 (*Creation of Floating Charge*) and the terms of this Debenture.

#### **12.5 Documents**

- (a) The Chargor shall promptly execute and/or deliver to the Security Trustee such documents relating to such of its Book Debts and/or the Intra-Group Liabilities as the Security Trustee requires (acting reasonably).
- (b) Until the occurrence of an Enforcement Event, the Security Trustee may not require the disclosure of any information from any party regarding any contractual arrangements underlying or constituting the Chargor's Book Debts.

#### **12.6 Exclusions**

Notwithstanding any other provision of this Clause 12 (*Book Debts*), the restrictions and obligations set out in Clause 12 (*Book Debts*) shall not apply to any Book Debts which are the subject of a Permitted Invoice Discounting Arrangement until such time as the liabilities outstanding under that Permitted Invoice Discounting Arrangement are discharged in full.

### **13. ASSIGNED AGREEMENTS**

- (a) The Chargor will:
  - (i) perform all its obligations under the Assigned Agreements in a diligent and timely manner;
  - (ii) not make or agree to make any material amendments to the Assigned Agreements, waive any of its material rights under the Assigned Agreements or exercise any right to terminate any of the Assigned

Agreements, except with the prior consent of the Security Trustee (acting reasonably); and

- (iii) prior to the occurrence of an Enforcement Event, be free to deal with the Assigned Agreements, subject to the terms of the Finance Documents.
- (b) The Chargor shall remain liable to perform all its obligations under the Assigned Agreements. Neither the Security Trustee nor any Receiver shall be under any obligation or liability to the Chargor or any other person under or in respect of any Assigned Agreement. In particular, the Security Trustee shall not be obliged to take any steps necessary to preserve any of the Assigned Agreements or to enforce any term of the Assigned Agreements against any person, or to make any enquires as the nature or sufficiency of any payment received by it pursuant to this Debenture.
- (c) The provisions of Clause 12 (*Book Debts*) shall apply to the Assigned Agreements except that references to Book Debts shall instead be to Assigned Agreements.

## **14. INVESTMENTS**

### **14.1 Acquisition**

The Chargor shall promptly notify the Security Trustee of its acquisition of, or agreement to acquire, any Investment with an aggregate value or for an aggregate consideration of over €200,000 or the equivalent in another currency.

### **14.2 Documents**

The Chargor shall, unless it has already done so prior to the date of this Debenture (whether pursuant to the terms of the First Ranking Debenture or otherwise):

- (a) except to the extent the Security Trustee notifies the Chargor from time to time to the contrary, deposit with the Security Trustee, or as it directs, all certificates representing its Investments; and
- (b) execute and/or deliver to the Security Trustee such other documents relating to its Investments, including transfers of Investments executed in blank, as the Security Trustee requires.

### **14.3 Voting Before Enforcement**

Subject to Clause 14.4 (*Voting After Enforcement*), the Chargor shall be entitled to exercise or direct the exercise of the voting and other rights attached to any Investment as it sees fit provided that:

- (a) it does so for a purpose not inconsistent with any Finance Document; and
- (b) the exercise of or failure to exercise those rights would not have an adverse effect on the value of the relevant Investment or the Secured Assets and would

not otherwise prejudice the interests of any Finance Party under any Finance Document.

#### **14.4 Voting After Enforcement**

At any time after the occurrence of an Enforcement Event:

- (a) the Security Trustee or the Receiver shall be entitled to exercise or direct the exercise of the voting and other rights attached to any Investment in such manner as it or he sees fit; and
- (b) the Chargor shall comply or procure the compliance with any directions of the Security Trustee or the Receiver in respect of the exercise of those rights and shall promptly execute and/or deliver to the Security Trustee or the Receiver such forms of proxy as it or he requires with a view to enabling such person as it or he selects to exercise those rights.

#### **14.5 Power of Attorney**

If any Investment of the Chargor is not held in the Chargor's name, the Chargor shall promptly deliver to the Security Trustee an irrevocable power of attorney, expressed to be given by way of security and executed as a deed by the person in whose name that Investment is held. That power of attorney shall appoint the Security Trustee and each Receiver as the attorney of the holder and shall be in such form as the Security Trustee requires.

#### **14.6 Communications**

- (a) The Chargor shall:
  - (i) promptly, and in any event within three Business Days of receipt by it (or its nominee), with respect to any notice (including any Warning Notice or Restrictions Notice) issued under Part 21A, Schedule 1A or Schedule 1B of the CA 2006 in respect of any of its Investments; or
  - (ii) within three Business Days of receipt of a written request from the Security Trustee (acting reasonably), with respect to any other circular, notice, report, set of accounts, deliverable or other communication in respect of any of its Investments received by it (or its nominee) in its capacity as shareholder,provide to the Security Trustee a copy of that notice, deliverable or other communication.
- (b) The Chargor shall promptly, and in any event within three Business Days of making such change:
  - (i) notify the Security Trustee of any change that it makes to its PSC Register (if it is required to maintain one); and

- (ii) provide to the Security Trustee a copy of its updated PSC Register in such form, and containing such information, as is required by applicable law.
- (c) Unless it is required to exercise such right in order to satisfy its obligations under applicable law, the Chargor shall not exercise its right to issue a Warning Notice or Restrictions Notice under paragraph 1 of Schedule 1B to the CA 2006 in respect of any Relevant Interests held by any person in the Chargor. If the Chargor is required to exercise such right in order to satisfy its obligations under applicable law, it will not do so without first having regard to the effect of such Warning Notice or Restriction Notice on the rights of the Secured Parties and shall, to the extent possible, exercise such right or take any other reasonable action, in a manner which would not be adverse to the interests of the Secured Parties.
- (d) The Chargor shall not make any application to the court under Schedule 1B to the CA 2006 in respect of any Relevant Interests, whether such Relevant Interests are held by it or held by any person with respect to it, without first consulting with the Security Trustee and, in any event, shall not make any such application in a manner which would be adverse to the interests of the Secured Parties.
- (e) The Chargor shall provide reasonable assistance to the Security Trustee with any application to the court that it makes under Schedule 1B to the CA 2006 in respect of any Relevant Interests, whether such Relevant Interests are held by it or held by any person with respect to it, and provide the Security Trustee with all information, documents and evidence that it may reasonably request in connection with the same, in each case, to the extent permitted by applicable law.
- (f) The Chargor authorises the Security Trustee to:
  - (i) comply with the terms of any notice that it receives under section 790D of the CA 2006; and
  - (ii) (on behalf of the Chargor) respond to any notice that the Chargor receives under section 790D or 790E of the CA 2006, where the Chargor has failed to comply with the terms of that notice within the timeframe specified in that notice,

and, **provided that** any information disclosed by the Security Trustee is limited to what is required to comply with any such notice as a matter of the CA 2006, the Chargor waives any breach of clause 38 (Confidential Information) of the Senior Facilities Agreement and any breach of clause 38 (*Confidential Information*) of the Mezzanine Facilities Agreement that may occur as a result of the Security Trustee taking any action under this paragraph (f).

## **15. INTELLECTUAL PROPERTY RIGHTS**

### **15.1 Documents**

The Chargor shall promptly execute and/or deliver to the Security Trustee such documents relating to its Intellectual Property Rights as the Security Trustee requires.

### **15.2 Operations Before an Enforcement Event**

Notwithstanding the fixed charge created by Clause 3 (*Fixed Charges*), the Chargor shall prior to the occurrence of an Enforcement Event be entitled to deal with its Intellectual Property Rights in the course of its business (including, without limitation, allowing its Intellectual Property Rights to lapse if no longer material to its business), subject to the terms of the Finance Documents.

### **15.3 Operations After an Enforcement Event**

On the occurrence of an Enforcement Event, the Chargor shall not be entitled to deal with its Intellectual Property Rights in the course of its business (including, without limitation, allowing its Intellectual Property Rights to lapse if no longer material to its business), except with the prior consent of the Security Trustee.

### **15.4 Maintenance**

Subject to Clauses 15.2 (*Operations Before an Enforcement Event*) and 15.3 (*Operations After an Enforcement Event*) above, the Chargor shall take all necessary action to safeguard, maintain in full force and effect and preserve its ability to enforce its present and future ownership and rights in connection with all Intellectual Property Rights used in or necessary for the conduct of its business from time to time, including:

- (a) paying all renewal fees and other outgoings relating to all Registered Intellectual Property Rights held by it;
- (b) performing and complying with all laws and obligations to which it is subject as registered proprietor, beneficial owner, user, licensor or licensee of any such Intellectual Property Rights;
- (c) obtaining registrations for Intellectual Property Rights where registration is desirable in order to preserve and/or validate the Intellectual Property Rights or interests of the Chargor; and
- (d) commencing and diligently undertaking the prosecution of infringement actions or oppositions where appropriate against third parties where failure to do so would compromise the Intellectual Property Rights of the Chargor.

### **15.5 Grant**

Without prejudice to Clause 9.5 (*Negative Pledge and Disposals*), the Chargor shall not grant any exclusive registered user agreement or exclusive licence in relation to any of its present or future Intellectual Property Rights.

## **15.6 Intellectual Property Secured**

Despite any other Clause in this Debenture, no Security or other Security Interest is granted over any Intellectual Property Rights of the Chargor that is incapable of being secured under the terms of the contract, arrangement or licensing agreement constituting the Intellectual Property Rights.

## **16. REAL PROPERTY**

### **16.1 Acquisition**

The Chargor shall promptly notify the Security Trustee of its acquisition of, or agreement to acquire, any Real Property which is material to the business of the Chargor or the Group.

### **16.2 Documents**

To the extent relevant, the Chargor shall deposit with the Security Trustee, and the Security Trustee shall be entitled to hold, all title deeds and documents relating to the Chargor's present and future Real Property.

### **16.3 Existing Real Property**

In the case of the Chargor's existing Real Property in England and Wales, the Chargor shall:

- (a) promptly apply to the Land Registry for first registration of that Real Property (where that Real Property is not already registered at the Land Registry) and registration of the Chargor as proprietor of that Real Property;
- (b) promptly apply to the Land Registry to register the first legal mortgage created by paragraph (a) of Clause 3 (*Fixed Charges*) and all other Security;
- (c) promptly submit to the Land Registry the duly completed Form RXI requesting a restriction in the form specified by the Security Trustee to be entered on the register of the title to that Real Property in respect of the Security created by paragraph (a) of Clause 3 (*Fixed Charges*); and
- (d) promptly pay all appropriate registration fees,

or, if the Security Trustee gives notice to the Chargor that the Security Trustee will submit the relevant forms to the Land Registry, the Chargor shall promptly provide the Security Trustee with all duly completed forms reasonably requested by the Security Trustee and all appropriate registration fees.

### **16.4 Future Real Property**

In the case of the Chargor's future Real Property in England and Wales, the Chargor shall:

- (a) promptly apply to the Land Registry for first registration of that Real Property (where that Real Property is not already registered at the Land Registry) and registration of the Chargor as proprietor of that Real Property;
- (b) promptly apply to the Land Registry to register the first fixed charge created by paragraph (b) of Clause 3 (*Fixed Charges*);
- (c) promptly apply to the Land Registry requesting a restriction in the form specified by the Security Trustee to be entered on the register of the title to that Real Property in respect of the Security created by paragraph (b) of Clause 3 (*Fixed Charges*); and
- (d) promptly pay all appropriate registration fees,

or, if the Security Trustee gives notice to the Chargor that the Security Trustee will submit the relevant forms to the Land Registry, the Chargor shall promptly provide the Security Trustee with all duly completed forms reasonably requested by the Security Trustee and all appropriate registration fees.

#### **16.5 Unregistered Real Property**

In the case of the Chargor's Real Property in England and Wales, both present and future, which is not registered at the Land Registry and is not required to be so registered, the Chargor will promptly apply to register this Debenture and the Security at the Land Charges Registry if the title deeds and documents are not deposited with the Security Trustee.

#### **16.6 Legal Charge**

As security for the Liabilities, the Chargor shall promptly execute and deliver to the Security Trustee such legal charge of such of its Real Property from time to time in England and/or Wales as the Security Trustee requires. The Chargor shall promptly apply to the Land Registry for registration of any such legal charge in the same way as set out in paragraphs (a) to (d) of Clause 16.3 (*Existing Real Property*), unless the Security Trustee gives notice to the Chargor in relation to registration of such legal charge in the same way as set out in Clause 16.3 (*Existing Real Property*) or the Land Charges Register for registration of any such legal charge in the same way as set out in Clause 16.5 (*Unregistered Real Property*), as the case may be.

#### **16.7 Title Information Document**

On completion of the registration of any Security pursuant to this Clause 16, the Chargor shall promptly supply to the Security Trustee a certified copy of the relevant Title Information Document issued by HM Land Registry.

#### **16.8 Compliance with Obligations**

The Chargor shall comply in all material respects with any covenants, stipulations, conditions, licences, consents and any other statutory, regulatory or contractual obligations relating to its Real Property or its use, including those requiring payment of sums in respect of its Real Property.



## **16.9 Leases**

The Chargor shall:

- (a) comply in all material respects with all obligations imposed on it, and enforce the due observance and performance of all material obligations of all other persons of which it has the benefit, under any lease of Real Property (which shall include, for the avoidance of doubt, service of any notice of charge required by any terms of any lease);
- (b) not exercise any power to determine or extend, or accept the surrender of, any lease of Real Property of which it is the lessor; and
- (c) not exercise any of the powers of leasing or agreeing to lease any Real Property vested in or conferred on mortgagors by the general law.

## **16.10 Notices**

The Chargor shall produce to the Security Trustee within seven days of receipt by it a copy of every material communication made in connection with any of its Real Property and comply with the reasonable instructions of the Security Trustee in relation to any such communication.

## **17. INSURANCES**

### **17.1 Documents**

The Chargor shall promptly execute and/or deliver to the Security Trustee a copy of such insurance policies effected by it and the related premium receipts, and of such other documents relating to the Insurances, as the Security Trustee requires.

### **17.2 Maintenance of Insurances**

The Chargor shall maintain such Insurances in respect of its Secured Assets, in respect of such risks as are normally maintained by prudent companies carrying on similar businesses. If the Security Trustee so requires, those Insurances (and any other insurances in respect of such risks as the Security Trustee reasonably requires) shall be maintained with such insurers, in such amounts and on such terms as the Security Trustee reasonably requires.

### **17.3 Enforceability**

The Chargor shall not do or omit to do or permit to be done or omitted anything which might render any such Insurance void, voidable or unenforceable

### **17.4 Lender May Insure**

If the Chargor fails on demand to produce copies of insurance policies, premium receipts and such other evidence as the Security Trustee requires which prove to the satisfaction of the Security Trustee that the Chargor is complying with Clause 17.2 (*Maintenance of Insurances*), the Security Trustee may (at the Chargor's expense) arrange such insurances of the assets of the Chargor or any of them as it thinks fit.

## **18. FURTHER ASSURANCE**

The Chargor shall promptly do all such things as the Security Trustee may require to enable the Security Trustee to perfect, preserve or protect the Security or the priority of the Security or to exercise any of the rights conferred on the Security Trustee or the Secured Creditors by this Debenture or by law and to that intent the Chargor shall execute all such instruments, deeds and agreements (on terms no more onerous than the terms of this Debenture), obtain all consents, approvals and other authorisations necessary to create legally and validly, without any breach of contract or duty, the fixed charges and to effect the assignments envisaged under Clauses 3 (*Fixed Charges*) and 4 (*Assignments*) respectively, and shall give all such notices and directions as the Security Trustee may consider expedient. The obligations of the Chargor under this Clause 18 (*Further Assurance*) are in addition to the covenants for further assurance deemed to be included by virtue of the Law of Property (Miscellaneous Provisions) Act 1994.

## **19. POWER TO REMEDY**

Without prejudice to the Security Trustee's rights under (i) Clause 9 (*General Undertakings*), and (ii) clause 24.3 (*Other obligations*) of the Senior Facilities Agreement (and clause 24.3 (*Other obligations*) of the Mezzanine Facilities Agreement), if the Chargor fails to comply with any of its obligations in relation to any of its assets under this Debenture, or the Security Trustee reasonably considers that the Chargor has failed to comply with any such obligations, the Security Trustee may, if it thinks fit (but without any obligation) take such steps as it deems appropriate to remedy such failure (including, without limitation, the carrying out of repairs, the putting in place of insurance or the payment of costs, charges or other expenses) and the Chargor will co-operate with and will grant the Security Trustee or its agents or contractors such access as the Security Trustee may require to the relevant assets or otherwise in order to facilitate the taking of such steps.

## **20. ENFORCEMENT OF SECURITY**

### **20.1 Security Enforceable**

The Security shall become immediately enforceable if an Enforcement Event has occurred.

### **20.2 Enforcement**

At any time after the Security has become enforceable, the Security Trustee may in its absolute discretion enforce all or any part of the Security and exercise any of the rights conferred on it by this Debenture or by law at such times and in such manner as it thinks fit.

### **20.3 Rights of the Chargor on Enforcement**

Upon the Security becoming enforceable, the Chargor may not, without the prior written consent of the Security Trustee, withdraw any monies from any Account, compromise, compound, vary, discharge, postpone or release any of its rights to receive monies or otherwise waive any rights of action in relation thereto or do or

omit to do anything which may delay or prejudice the full recovery thereof other than, save to the extent the Security Trustee otherwise instructs the Chargor in writing, granting extensions to normal trade credit in accordance with its reasonable and, in the circumstances then prevailing, prudent management of its debtors on a normal commercial basis.

#### **20.4 Power of Sale**

At any time after the Security has become enforceable, the Security Trustee may (without notice to the Chargor) sell or otherwise dispose of the Secured Assets or any of them and shall be entitled to apply the proceeds of such sale or other disposal in paying the costs of such sale or disposal and thereafter in or towards the discharge of the Secured Obligations or otherwise as provided for in this Debenture.

#### **20.5 Statutory Powers**

For the purposes of all powers implied by statute, the Secured Obligations shall be deemed to have become due and payable on the date of this Debenture.

#### **20.6 Law of Property Act**

Sections 93 and 103 of the Law of Property Act 1925 shall not apply to this Debenture or to any exercise by the Security Trustee of its right to consolidate mortgages or its power of sale. The statutory powers of leasing conferred on the Security Trustee shall be extended so as to authorise the Security Trustee to lease, make agreements for leases, accept surrenders of leases and grant such options as the Agent shall think fit and without the need to comply with any of the provisions of Sections 99 and 100 of the Law of Property Act 1925, and Clause 20.2 (*Enforcement*) shall operate as a variation and extension of Section 101 of such Act.

#### **20.7 Appropriation of Financial Collateral**

To the extent that the Secured Assets constitute "financial collateral" and this Debenture constitutes a "security financial collateral arrangement" (as defined in the Financial Collateral Arrangements (No) Regulations 2003 (SI 2003 No. 3226)), the Security Trustee may appropriate all or any part of the Secured Assets in or towards satisfaction of the Secured Obligations, the value of the property so appropriated being the amount standing to the credit of the relevant Account (where the property is the benefit of an Account) or (in any other case) such amount as the Security Trustee shall determine in a commercially reasonable manner.

### **21. ADMINISTRATORS AND RECEIVERS**

#### **21.1 Appointment of Administrator**

At any time after the Security has become enforceable, the Security Trustee may appoint an administrator pursuant to the power contained in paragraph 14 of Schedule B1 to the Insolvency Act 1986.

## **21.2 Appointment of Receivers**

At any time after the Security has become enforceable or if the Chargor requests it to do so, the Security Trustee may, by written instrument and without notice to the Chargor, appoint any one or more persons as Receiver of such part of the Secured Assets as may be permitted by law.

## **21.3 Status of Receivers**

Each Receiver shall:

- (a) be entitled to act individually as well as jointly with any other person appointed as Receiver; and
- (b) for all purposes be deemed to be the agent of the Chargor (and no Receiver shall at any time act as agent for the Security Trustee) and shall as such agent be deemed to be in the same position as a Receiver duly appointed by a mortgagee under the Law of Property Act 1925.

## **21.4 Powers of a Receiver**

- (a) Every Receiver appointed pursuant to Clause 21.2 (*Appointment of Receivers*) shall have and be entitled to exercise all of the powers set out in paragraph (b) below in addition to (i) all the powers conferred by the Law of Property Act 1925 (as extended by this Debenture) on any receiver appointed under such Act and (ii) (whether or not such Receiver is an administrative receiver) all the powers of an administrative receiver set out in Schedule 1 to the Insolvency Act 1986.
- (b) The powers referred to in the first sentence of paragraph (a) above are:
  - (i) to take immediate possession of, get in and collect all or any part of the Secured Assets over which he is appointed;
  - (ii) to carry on the business of the Chargor insofar as it relates to the Secured Assets over which he is appointed as it may think fit, including the entering into of contracts and the repudiation, rescission or variation of any contract to which the Chargor is a party, and the acquisition or hiring of assets;
  - (iii) to make and effect all repairs and insurances and do all other acts which the Chargor might do in the ordinary course of its business or is obliged to do under the terms of this Debenture whether for the protection or for the improvement of the Secured Assets over which he is appointed and to commence and/or complete any building operations on the Chargor's Real Property over which he is appointed and to apply for and maintain any planning permissions, building regulation approvals and any other permissions, consents or licences, in each case as it may in his absolute discretion think fit;
  - (iv) to appoint, discharge and vary the terms of employment or other engagement of managers, officers, agents, accountants, servants,

workmen and others for the purposes of this Debenture upon such terms as to remuneration or otherwise as it may think proper;

- (v) for the purpose of exercising any of the powers, authorities and discretions conferred on it by or pursuant to this Debenture and/or of defraying any costs, charges, losses or expenses (including remuneration) which shall be incurred by it in the exercise thereof or for any other purpose, to raise and borrow money either unsecured or on the security of all or any part of the Secured Assets over which he is appointed either in priority to the Security or otherwise and generally on such terms and conditions as it may think fit and no person lending such money shall be concerned to enquire as to the propriety or purpose of the exercise of such power or to see to the application of any money so raised or borrowed;
- (vi) to sell, lease, exchange, grant options or licences over, convert into money and realise or otherwise deal with, all or any part of the Secured Assets over which he is appointed by public auction or private contract and generally in such manner and on such terms as it shall think proper. Without prejudice to the generality of the foregoing, it may do any of these things for a consideration consisting of cash, debentures or other obligations, shares, stock or other valuable consideration and any such consideration may be payable in a lump sum or by instalments spread over such period as it may think fit. Fixtures, other than landlord's fixtures, may be severed and sold separately from the property containing them without the consent of the Chargor;
- (vii) to let all or any part of the Real Property over which he is appointed for such term and at such rent (with or without a premium) as it may think proper and to accept a surrender of any lease or tenancy thereof on such terms as it may think fit (including the payment of money to a lessee or tenant on a surrender);
- (viii) to settle, adjust, refer to arbitration, compromise and arrange any claims, accounts, disputes, questions and demands with or by any person who is or claims to be a creditor of the Chargor or relating in any way to the Secured Assets over which he is appointed or any part thereof;
- (ix) to bring, prosecute, enforce, defend and abandon any actions, suits and proceedings in relation to the Secured Assets over which he is appointed or any part thereof as may seem to it to be expedient;
- (x) to give valid receipts for all moneys and execute all assurances and things which it may think proper or desirable for realising the Secured Assets over which he is appointed;
- (xi) to form a Subsidiary or Subsidiaries of the Chargor (whether by acquisition or otherwise) and to supervise and manage the same and to transfer or otherwise dispose to any such Subsidiary all or any part of the Secured Assets over which he is appointed;

- (xii) to make or require the directors of the Chargor to make calls upon the holders of share capital in the Chargor and to enforce payment of any unpaid calls as it sees fit;
- (xiii) to enter into or otherwise grant guarantees, indemnities or otherwise incur obligations in respect of the liabilities of third parties and to make payments due in relation to the same;
- (xiv) to delegate its powers in accordance with this Debenture;
- (xv) to lend money or advance credit to any customer of the Chargor;
- (xvi) to purchase or acquire by leasing, hiring, licensing or otherwise (for such consideration and on such terms as he may think fit) any assets which he considers necessary or desirable for the carrying on, improvement, realisation or other benefit of any of the Security Assets or the business of the Chargor;
- (xvii) to make any payment and incur any expenditure which the Security Trustee is, by this Debenture, expressly or impliedly authorised to make or incur;
- (xviii) to do all such other acts and things as it may consider desirable or necessary for realising all or any part of the Secured Assets over which he is appointed or incidental or conducive to any of the matters, powers or authorities conferred on a Receiver under or by virtue of this Debenture; to exercise in relation to all or any part of the Secured Assets over which he is appointed all such powers, authorities and things as it would be capable of exercising if it were the absolute beneficial owner of the same; and to use the name of the Chargor for all or any of such purposes; and
- (xix) to use the name of the Chargor for any of the purposes set out in paragraphs (i) to (xviii) inclusive above.

## **21.5 Removal and Remuneration**

- (a) The Security Trustee may whenever it may deem it expedient (and so far as it is lawfully able), by written instrument (i) remove any Receiver appointed by it and (ii) appoint a new Receiver in the place of any Receiver whose appointment has been terminated and may from time to time fix the remuneration of any Receiver appointed by it without the limitations imposed by Section 109 of the Law of Property Act 1925.
- (b) The Chargor shall be solely responsible for the payment of the remuneration of any Receiver appointed pursuant to this Debenture.

## **21.6 Security Trustee's Rights**

To the fullest extent permitted by law, all or any of the powers, authorities and discretions which are conferred by this Debenture (either expressly or impliedly) upon a Receiver in respect of the Secured Assets may, after the Security has become

enforceable, be exercised by the Security Trustee in relation to the whole or any part of the Secured Assets irrespective of whether or not a Receiver of all or any part of such Secured Assets has been appointed.

## **22. APPLICATION OF PROCEEDS**

Any moneys held or received by the Security Trustee or by any Receiver under or pursuant to this Debenture shall be applied by the Security Trustee or by such Receiver in accordance with the terms of the Intercreditor Agreement.

## **23. POWER OF ATTORNEY**

### **23.1 Appointment**

- (a) By way of security for the performance of its obligations under this Debenture, the Chargor irrevocably appoints the Security Trustee and any Receiver (and their respective delegates and sub-delegates) to be its attorney acting severally (or jointly with any other such attorney or attorneys) and on its behalf and in its name or otherwise to do any and every thing which the Chargor is obliged to do (but has not done) under the terms of this Debenture or in order to exercise the rights conferred on it by or pursuant to this Debenture or by law.
- (b) The power of attorney conferred on the Security Trustee and each Receiver shall continue, notwithstanding the exercise by the Security Trustee of any right of appropriation pursuant to Clause 20.7 (*Appropriation of Financial Collateral*).

### **23.2 Ratification**

The Chargor ratifies and confirms and agrees to ratify and confirm whatever any attorney appointed under this Debenture shall do in its capacity as such.

## **24. PROTECTION OF SECURITY TRUSTEE AND RECEIVERS**

### **24.1 No Liability as Mortgagee in Possession**

Neither the Security Trustee nor any Receiver shall, by reason of it or such Receiver entering into possession of all or any part of the Secured Assets or taking any action permitted by this Debenture, be liable to account as mortgagee in possession or otherwise be liable for any loss of any kind or for any default or omission for which a mortgagee in possession might be liable.

### **24.2 Receivers and Mortgagees**

Each Receiver and the Security Trustee shall be entitled to all the rights, powers, privileges and immunities conferred by the Law of Property Act 1925 (as extended by this Debenture) on mortgagees and receivers when such receivers have been duly appointed thereunder and the Chargor shall be responsible for the Security Trustee's and each Receiver's contracts, engagements, acts, omissions, defaults and losses and for all liabilities incurred by either of them and none of the Secured Creditors shall incur any liability therefor (either to the Chargor or to any other person).

### **24.3 Security Trustee**

- (a) The provisions set out in the Intercreditor Agreement shall govern the rights, duties and obligations of the Security Trustee under this Debenture.
- (b) The Security Trustee shall not owe any fiduciary duties to the Chargor.
- (c) Notwithstanding any other provision of this Debenture, in acting under and in accordance with this Debenture the Security Trustee is entitled to seek instructions from the Instructing Group (or by the Majority Mezzanine Lenders, to the extent that they are entitled to give instructions to the Security Trustee) in accordance with the provisions of the Intercreditor Agreement at any time, and where it so acts on the instructions of the Instructing Group (or by the Majority Mezzanine Lenders, to the extent that they are entitled to give instructions to the Security Trustee), the Security Trustee shall not incur any liability to any person for so acting.
- (d) The powers conferred on the Security Trustee hereunder are solely to protect the interests of the Secured Parties in the Security and shall not impose any duty upon the Security Trustee or any Secured Party to exercise any such powers.

### **25. PROTECTION OF THIRD PARTIES**

No purchaser, mortgagee or other person or company dealing with the Security Trustee or any Receiver or the agents of any of them shall have any need to enquire whether the Secured Obligations have become due and payable, or whether any power which the Security Trustee or any Receiver is purporting to exercise has become exercisable or whether any of the Secured Obligations remains outstanding nor to have regard to the application of any money paid to the Security Trustee or to such Receiver.

### **26. DELEGATION BY SECURITY TRUSTEE**

The Security Trustee may at any time and from time to time delegate by power of attorney or in any other manner to any person or persons all or any of the powers, authorities and discretions which are for the time being exercisable by the Security Trustee under this Debenture in relation to all or any part of the Secured Assets. Any such delegation may be made upon such terms (including power to sub-delegate) and subject to such regulations as the Security Trustee may think fit. The Security Trustee shall not be in any way liable or responsible to the Chargor for any loss or damage arising from any act, default, omission or misconduct on the part of any such delegate or sub-delegate.

### **27. REDEMPTION OF PRIOR MORTGAGES**

The Security Trustee may, at any time after the Security has become enforceable and subject to the First Ranking Debenture and the First Ranking Fixed and Floating Security Document, redeem any prior encumbrance over all or any part of the Secured Assets or procure the transfer of such encumbrance to itself and may settle and pass the accounts of the prior mortgagee, chargee or encumbrancer. Any accounts so



settled and passed shall be conclusive and binding on the Chargor. All principal moneys, interest, costs, charges and expenses of and incidental to such redemption and transfer shall be paid by the Chargor to the Security Trustee on demand.

## **28. RELEASE OF THE SECURITY**

### **28.1 Release of Secured Assets**

After the end of the Security Period, the Security Trustee shall, at the request and cost of the Chargor, execute all such documents and do such other things as may be required to release the Secured Assets from the Security and procure the reassignment to the Chargor of the property and assets assigned to the Security Trustee pursuant to this Debenture, in each case subject to Clause 35.2 (*Potentially Avoided Payments*) and without recourse to or any representation or warranty by or from the Security Trustee.

### **28.2 Reassignment of Intellectual Property Rights**

All Intellectual Property Rights assigned to the Security Trustee under paragraph (c) of Clause 4.1 (*Assignments*) shall, at the end of the Security Period, be re-assigned unconditionally to the Chargor and this Clause 28.2 (*Reassignment of Intellectual Property Rights*) shall operate as an assignment of such Intellectual Property Rights effective as of the date of the end of the Security Period.

## **29. PAYMENTS**

### **29.1 No Set-Off**

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

### **29.2 Manner of Payment**

Each payment made by the Chargor under this Debenture shall be paid in the manner required by the Security Trustee.

## **30. COSTS AND EXPENSES**

### **30.1 Transaction Costs**

The Chargor shall within five Business Days of demand of the Security Trustee reimburse the Security Trustee on a full indemnity basis for all reasonable costs and expenses (including legal fees), and any VAT thereon, incurred by, or any remuneration payable to, the Security Trustee in connection with the negotiation, preparation, execution and perfection of this Debenture and the implementation of the arrangements contemplated in this Debenture.

### **30.2 Preservation and Enforcement Costs**

The Chargor shall, within three Business Days of demand of the Security Trustee, reimburse each Secured Creditor on a full indemnity basis for all costs and expenses

(including legal fees) incurred in or in connection with the preservation and/or enforcement of any of the rights of such Secured Creditor under this Debenture.

### **30.3 Taxes**

The Chargor shall promptly pay all stamp, registration, documentary and other taxes, including any penalties, fines, supplements, surcharges or interest relating to such taxes, to which this Debenture or any judgment given in connection with this Debenture is or at any time may be subject and shall within three Business Days of demand of the Security Trustee indemnify each Secured Creditor against any liabilities, costs, claims and expenses (including legal fees) resulting from any failure to pay or any delay in paying any such tax.

### **30.4 Value Added Tax**

Clause 14.7 (*Value added tax*) of the Senior Facilities Agreement and clause 14.7 (*Value added tax*) of the Mezzanine Facilities Agreement (in each case, with any necessary consequential amendments) shall apply also to any amount payable under any Finance Document to any Receiver or delegate.

## **31. ASSIGNMENTS AND TRANSFERS**

### **31.1 The Chargor's Rights**

None of the rights and benefits of the Chargor under this Debenture shall be capable of being assigned or transferred and the Chargor undertakes not to seek to assign or transfer all or any of such rights and benefits.

### **31.2 The Security Trustee's Rights**

The Security Trustee may assign or transfer all or any of its rights and benefits under this Debenture without the consent of the Chargor.

## **32. REMEDIES AND WAIVERS**

No failure by the Security Trustee to exercise, nor any delay by the Security Trustee in exercising, any right or remedy under this Debenture shall operate as a waiver thereof nor shall any single or partial exercise of any such right or remedy prevent any further or other exercise thereof or the exercise of any other such right or remedy.

## **33. SET-OFF**

### **33.1 Right to Set-Off**

Each Secured Creditor may set off its rights in respect of any Secured Obligation which is due and payable against any liability (whether or not due and payable) of such Secured Creditor to the Chargor, regardless of the place of payment, booking branch or currency of either obligation, and may in order to do so convert, at such time it considers appropriate, an amount in one currency into an amount in another currency at such rate of exchange as is then available to it.

### **33.2 No Obligation**

No Secured Creditor shall be obliged to exercise any right given to it by Clause 33.1 (*Right to Set-Off*).

## **34. CHANGES TO PARTIES**

### **34.1 Transfer by the Security Trustee**

The Security Trustee may at any time assign or otherwise transfer all or any part of its rights under this Security Agreement to any successor appointed in accordance with the Finance Documents.

### **34.2 Changes to parties**

The Chargor agrees to be bound by the terms of clauses 25 (*Changes to the Lenders*) to clause 27 (*Changes to the Obligors*) (inclusive) of the Senior Facilities Agreement, clauses 25 (*Changes to the Lenders*) to clause 27 (*Changes to the Obligors*) of the Mezzanine Facility Agreement and clause 17 (*Changes to the Parties*) of the Intercreditor Agreement and authorises the Security Trustee to execute on its behalf any document the Security Trustee considers necessary or desirable in relation to the creation, perfection or maintenance of the Transaction Security and any transfer or assignment contemplated by such provisions.

## **35. ADDITIONAL PROVISIONS**

### **35.1 Partial Invalidity**

If at any time any provision of this Debenture is or becomes illegal, invalid or unenforceable in any respect or any or all of the Security is or becomes ineffective in any respect under the law of any jurisdiction, such illegality, invalidity, unenforceability or ineffectiveness shall not affect:

- (a) the legality, validity or enforceability of the remaining provisions of this Debenture or the effectiveness in any other respect of such Security; or
- (b) the legality, validity or enforceability of such provision or the effectiveness of such Security under the laws of any other jurisdiction.

### **35.2 Potentially Avoided Payments**

If the Security Trustee determines that an amount paid to a Secured Creditor under any Finance Document is capable of being avoided, reduced or otherwise set aside on the liquidation or administration of the person by whom such amount was paid, then for the purposes of this Debenture, such amount shall be regarded as not having been paid and the liability of the Chargor under this Debenture and the Security shall continue.

### **35.3 Currency Conversion**

In order to apply any sum held or received by the Security Trustee or a Receiver in or towards payment of the Secured Obligations, the Security Trustee or such Receiver

may purchase an amount in another currency and the rate of exchange to be used shall be that at which, at such time as it considers appropriate, the Security Trustee or such Receiver is able to effect such purchase.

#### **35.4 Currency Indemnity**

Clause 16.1 (*Currency indemnity*) of the Senior Facilities Agreement and clause 16.1 (*Currency indemnity*) of the Mezzanine Facilities Agreement shall apply to this Debenture as if set out in full except that references in that clause to "the Arranger and each other Secured Party" being indemnified by an Obligor shall be amended to read "the Arranger, each other Secured Party, any Receiver, delegate or Administrator" and references to "Obligor" shall be substituted with the "Company".

#### **35.5 Rights Cumulative**

The rights and remedies provided by this Debenture are cumulative and not exclusive of any rights or remedies provided by law.

#### **35.6 Unfettered Discretion**

Any liberty or power which may be exercised or any determination which may be made under this Debenture by the Security Trustee or any Receiver may, subject to the terms and conditions of the Intercreditor Agreement, be exercised or made in its absolute and unfettered discretion without any obligation to give reasons.

### **36. NOTICES**

#### **36.1 Communications in Writing**

Each communication to be made under this Debenture shall be made in writing and, unless otherwise stated, shall be made by fax or letter.

#### **36.2 Giving of Notice**

Any communication or document to be made or delivered by one person to another pursuant to this Debenture shall (unless that other person has by 15 days' written notice to the other specified another address or fax number) be made or delivered to that other person at the address or fax number identified with its signature or other form of execution below and shall be deemed to have been made or delivered when despatched (in the case of any communication made by fax) or (in the case of any communication made by letter) when left at that address or (as the case may be) five days after being deposited in the post postage prepaid in an envelope addressed to the intended recipient at that address.

#### **36.3 Notices to the Security Trustee**

Any communication or document to be made or delivered to the Security Trustee shall be effective only when received by the Security Trustee and then only if it is expressly marked for the attention of the department or officer identified with the Security Trustee's signature below or such other department or officer as the Security Trustee shall from time to time specify for this purpose.

### **37. THE LAND REGISTRY**

In respect of the Real Property specified in Part 1 of Schedule 1 (*Real Property*) the title to which is registered at the Land Registry and in respect of any other registered title(s) against which this Debenture may be noted, the Chargor hereby undertakes to make or procure that there is made a due and proper application to the Land Registry (with the Security Trustee's consent as proprietor of the relevant registered charge):

- (a) for a restriction in the following terms to be entered on the Proprietorship Register relating thereto:

"No disposition or dealing of the registered estate by the proprietor of the registered estate or by the proprietor of any registered charge is to be registered without a written consent signed by the proprietor for the time being of the charge dated [•] 2016 in favour of Wilmington Trust (London) Limited referred to in the charges register or, if appropriate, signed on such proprietor's behalf by its secretary or conveyancer";

- (b) to enter a note of the obligation to make further advances by the Secured Creditors on the charges register of any registered land forming part of the Secured Assets; and
- (c) to note this Debenture on the charges register.

### **38. INDEMNITIES SEPARATE**

Each indemnity in each Finance Document shall:

- (a) constitute a separate and independent obligation from the other obligations in that or another Finance Document;
- (b) give rise to a separate and independent cause of action;
- (c) apply irrespective of any indulgence granted by any Finance Party;
- (d) continue in full force and effect despite any judgment, order, claim or proof for a liquidated amount in respect of any Liability or any other judgment or order; and
- (e) apply whether or not any claim under it relates to any matter disclosed by the Chargor or otherwise known to any Finance Party.

### **39. GOVERNING LAW**

This Debenture, and any non-contractual obligations arising out of or in connection with it, shall be governed by, and construed in accordance with, English law.

#### 40. **ENFORCEMENT**

##### *Jurisdiction of English Courts*

- (a) The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Debenture (including a dispute regarding the existence, validity or termination of this Debenture or the consequences of its nullity or any non-contractual obligations arising out of or in connection with this Debenture) (a "**Dispute**") (whether arising in contract, tort or otherwise).
- (b) The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes between them and, accordingly that they will not argue to the contrary.
- (c) This Clause 40 (*Enforcement*) is for the benefit of the Secured Creditors only. As a result, no Secured Creditor shall be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Secured Creditors may take concurrent proceedings in any number of jurisdictions.

#### 41. **COUNTERPARTS AND EFFECTIVENESS**

##### 41.1 **Counterparts**

This Debenture may be executed in counterparts and both such counterparts taken together shall be deemed to constitute one and the same instrument.

##### 41.2 **Effectiveness**

This Debenture shall take effect and be delivered as a deed on the date on which it is stated to be made.

**IN WITNESS WHEREOF** this Debenture has been executed as a deed by the Chargor and has been signed on behalf of the Security Trustee.

**SCHEDULE 1**  
**DETAILS OF CERTAIN ASSETS**

**PART 1**  
**REAL PROPERTY**

None at the date of the Debenture.

**PART 2**  
**REGISTERED INTELLECTUAL PROPERTY RIGHTS**

None at the date of the Debenture.

**PART 3**  
**SHARES**

None at the date of the Debenture.

**PART 4**  
**ASSIGNED ACCOUNTS**

None at the date of the Debenture.

**PART 5**  
**INTERCOMPANY LOAN AGREEMENTS**

None at the date of the Debenture.

**PART 6**  
**INSURANCES**

<b>Policy Type</b>	<b>Policy Number</b>	<b>Insurer</b>	<b>Insurance Company Address</b>	<b>Underwriter Name</b>	<b>Underwriter Email Address</b>	<b>Underwriter Phone Number</b>
Property Business Interruption /	0042705835	AIG Europe Limited	4 <sup>th</sup> Floor, 201 Deansgate, Manchester M3 3NW	Mark Knowles	mark.knowles@aig.com	0161 952 8598
Motor	BV22665 015	Allianz Insurance plc	One Piccadilly Gardens, Manchester M60 3YG	Jim Butterworth	jim.butterworth@allianz.co.uk	0161 836 5747
Engineering	NZ/11027 658	Allianz Insurance plc	3 <sup>rd</sup> Floor, One Piccadilly Gardens, Manchester M60 3YG	Paula Raftery	Paula.raftery@allianz.co.uk	01483 265912
PAT	0015902472	AIG Europe Limited	Embassy House, 5 <sup>th</sup> Floor, 60 Church Street, Birmingham B3 2DJ	Sarah Blocksidge	sarah.blocksidge@aig.com	0121 234 0862
Computer	RSAP995 3027200	Royal & Sun Alliance	17 York Street, Manchester M2 3RS	Lucy McManus	lucy.mcmanus@uk.rsagroup.com	0161 235 3176

**SCHEDULE 2**  
**FORMS OF NOTICE AND ACKNOWLEDGEMENT OF ASSIGNMENT**

**PART 1**  
**FORM OF NOTICE TO INSURERS**

To: [insert name and address of insurance company]

Dated: [•]

Dear Sirs

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

We notify you that pursuant to and subject to the terms of a Debenture dated [•] October 2016, ALcontrol Tribology Limited (the "**Company**") has assigned to Wilmington Trust (London) Limited (the "**Security Trustee**") for the benefit of itself and certain other banks and financial institutions (the "**Finance Parties**") all its right, title and interest in the Policies as security for certain obligations owed by the Company to the Finance Parties.

We further notify you that:

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

Please confirm your receipt of this notice and your acknowledgement of the matters and instructions set out above by signing and dating the Acknowledgement of Assignment set out on the enclosed copy of this notice, and returning the same to the Security Trustee with a copy to ourselves.

The provisions of this notice, and any non-contractual obligations arising out of or in connection with it, are governed by and construed in accordance with English law.

Yours faithfully

---

for and on behalf of  
ALcontrol Tribology Limited



***[On acknowledgement copy]***

To:               Wilmington Trust (London) Limited  
                    Third Floor  
                    1 King's Arms Yard  
                    London EC2R 7AF

Copy to:       ALcontrol Tribology Limited  
                    Units 7 and 8 Hawarden Business Park  
                    Manor Road (off Manor Lane)  
                    Hawarden  
                    Deeside  
                    Flintshire CH5 3US

## Schedule

### Relevant Insurance Policies

*[List All Policies in respect of which notice given]*

**PART 2**  
**FORM OF ACKNOWLEDGMENT OF ASSIGNMENT**

*[To be printed only on the copy of the Notice of Assignment given]*

To:     Wilmington Trust (London) Limited as Security Trustee  
          Third Floor  
          1 King's Arms Yard  
          London EC2R 7AF

Attention:

Dear Sirs

We hereby acknowledge receipt of a notice in the terms set out above (the "**Notice**"). We hereby confirm that:

- (a)     we agree to act in accordance with the provisions of the Notice;
- (b)     after receipt of written notice in accordance with paragraph 2 of the Notice, we will pay all monies to which the Company is entitled under the Policies direct to the Security Trustee (and not to the Company) unless the Security Trustee otherwise agrees in writing;
- (c)     we will not cancel or otherwise allow the Policies to lapse without giving the Security Trustee not less than 14 days' written notice;
- (d)     we have not received notice that the Company has assigned its rights under the Policies to a third party or created any other interest (whether by way of security or otherwise) in the Policies in favour of a third party; and
- (e)     we have not claimed or exercised nor do you have any outstanding right to claim or exercise against the Company, any right of set-off, counterclaim or other right relating to the Policies.

The provisions of this notice, and any non-contractual obligations arising out of or in connection with it, are governed by and construed in accordance with English law.

Yours faithfully

.....  
(Authorised signatory)

**[INSURER]**

Date:

**PART 3**  
**FORM OF NOTICE TO BANK WITH WHOM ACCOUNT MAINTAINED**

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

Dated: [•]

Dear Sirs

**Re: The ALcontrol Group of Companies - Security over Bank Accounts**

We notify you that pursuant to and subject to the terms of a Debenture dated [•] October 2016, ALcontrol Tribology Limited (the "**Company**") assigned to Wilmington Trust (London) Limited (the "**Security Trustee**") for the benefit of itself and certain other banks and financial institutions all their right, title and interest in and to the monies from time to time standing to the credit of the accounts identified in the schedule to this notice (the "**Accounts**") and to all interest (if any) accruing on the Accounts.

We irrevocably authorise and instruct you:

1. to hold all monies from time to time standing to the credit of the Accounts to the order of the Security Trustee and to pay all or any part of those monies to the Security Trustee (or as it may direct) promptly following receipt of written instructions from the Security Trustee to that effect;
2. may continue to deal with the Company in relation to the Accounts until you receive written notice to the contrary from the Security Trustee. Thereafter the Company will cease to have any right to deal with you in relation to the Accounts and therefore from that time you should deal only with the Security Trustee; and
3. to disclose to the Security Trustee any information relating to the Company and the Accounts which the Security Trustee may from time to time request you to provide.

We also advise you that the provisions of this Notice may only be revoked or varied with the prior written consent of the Security Trustee.

Please acknowledge receipt of this notice by signing and dating the acknowledgement printed on the enclosed copy of this Notice and returning it to the Security Trustee, with a copy to ourselves.

By countersigning this notice the Security Trustee confirms that the Company may make withdrawals from the Accounts until such time as the Security Trustee shall notify you (with a copy to the Company) in writing that their permission is withdrawn. That permission may be withdrawn or modified by the Security Trustee in its absolute discretion at any time.

The provisions of this notice, and any non-contractual obligations arising out of or in connection with it, are governed by and construed in accordance with English law.

Yours faithfully

for and on behalf of  
ALcontrol Tribology Limited

### Schedule

Account Description	Account Number	Sort Code

**PART 4**  
**FORM OF ACKNOWLEDGEMENT OF ASSIGNMENT**

*[To be printed only on copy of the Notice of Assignment given]*

To     Wilmington Trust (London) Limited  
         as Security Trustee  
         Third Floor  
         1 King's Arms Yard  
         London EC2R 7AF  
         Attention:

Dear Sirs

We hereby acknowledge receipt of a notice in the terms set out above (the "**Notice**"). We confirm that:

- (a)     we agree to act in accordance with the provisions of the Notice;
- (b)     we have not received notice that the Company has assigned its rights to the monies standing to the credit of the Accounts or otherwise granted any security or other interest over those monies in favour of any third party;
- (c)     we will not exercise any right to combine accounts or any rights of set-off or lien or any similar rights in relation to the monies standing to the credit of the Accounts, except for the netting of credit and debit balances pursuant to current account netting arrangements previously approved in writing by the Security Trustee; and
- (d)     we have not claimed or exercised, nor do we have outstanding any right to claim or exercise against the Company, any right of set-off, counter-claim or other right relating to the Accounts.

The provisions of this notice, and any non-contractual obligations arising out of or in connection with it, are governed by and construed in accordance with English law.

Yours faithfully

.....

For and on behalf of [•]

By:

Date:

**PART 5**  
**FORM OF NOTICE TO COUNTERPARTIES (OTHER THAN INSURERS) OF**  
**ASSIGNMENT AGREEMENTS**

To: [insert name and address of counterparty] Dated: [•]

Dear Sirs

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

We notify you that pursuant to and subject to the terms of a second ranking Debenture dated [•] October 2016, ALcontrol Tribology Limited (the "**Company**") has assigned to Wilmington Trust (London) Limited (the "**Security Trustee**") for the benefit of itself and certain other banks and financial institutions (the "**Finance Parties**") all its right, title and interest in the Agreement as security for certain obligations owed by the Company to the Finance Parties.

We further notify you that:

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

Please acknowledge receipt of this notice by signing and dating the acknowledgement printed on the enclosed copy of this Notice and returning it to the Security Trustee, with a copy to ourselves.

The provisions of this notice, and any non-contractual obligations arising out of or in connection with it, are governed by and construed in accordance with English law.

Yours faithfully

---

for and on behalf of  
ALcontrol Tribology Limited

**[On acknowledgement copy]**

To:               Wilmington Trust (London) Limited  
Third Floor  
1 King's Arms Yard  
London EC2R 7AF

Copy to:       ALcontrol Tribology Limited  
Units 7 and 8 Hawarden Business Park  
Manor Road (off Manor Lane)  
Hawarden  
Deeside  
Flintshire CH5 3US



**PART 6**  
**FORM OF ACKNOWLEDGEMENT OF ASSIGNMENT**

*[To be printed only on copy of the relevant Notice of Assignment given]*

To:   Wilmington Trust (London) Limited  
      as Security Trustee  
      Third Floor  
      1 King's Arms Yard  
      London EC2R 7AF

Attention:

Dear Sirs

We acknowledge receipt of a notice in the terms set out above (the "**Notice**"). We confirm that:

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

The provisions of this notice, and any non-contractual obligations arising out of or in connection with it, are governed by and construed in accordance with English law.

Yours faithfully

.....

For and on behalf of [•]

By:

Date:

## SIGNATORIES

### THE CHARGOR

Signed as a deed by **ALCONTROL  
TRIBOLOGY LIMITED**  
acting by:



Director

Name of Director: *PETER BREAM*

in the presence of:



Witness

Name of Witness: *SIMON GIBBI*

Address of Witness:

*33 EAST END  
WEEDON  
HP22 4NJ*

Occupation of Witness:

*DIRECTOR*

Address: Units 7 and 8 Hawarden Business  
Park Manor Road (off Manor Lane)  
Hawarden  
Deeside  
Flintshire CH5 3US

Attention: Peter Bream

Fax: +44 (0) 1244 528701

**THE SECURITY TRUSTEE**

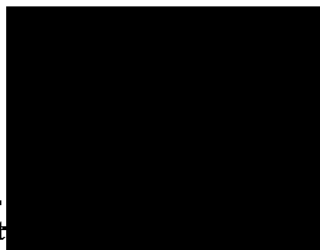
Signed as a deed by Sajada Afzal as  
attorney for

**WILMINGTON TRUST (LONDON)  
LIMITED**

under a power of attorney dated

2016, in the presence of:

...  
-At



**Paul Barton  
Director**

.....  
Witness



**Sajada Afzal  
Vice President**

Name of Witness:

Third Floor  
1 King's Arms Yard  
London  
EC2R 7AF

Address of Witness:

Occupation of Witness:

Address: Third Floor  
1 King's Arms Yard  
London EC2R 7AF

Attention: Sajada Afzal

Fax: +44 (0) 20 7397 3601