



**Registration of a Charge**

Company Name: **MARSHBERRY UK HOLDING LIMITED**

Company Number: **15136781**



XCEVLT1M

Received for filing in Electronic Format on the: **25/10/2023**

**Details of Charge**

Date of creation: **19/10/2023**

Charge code: **1513 6781 0001**

Persons entitled: **FORTRESS CREDIT CORP. AS SECURITY AGENT**

Brief description:

**Contains fixed charge(s).**

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

**Contains negative pledge.**

**Authentication of Form**

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

**Authentication of Instrument**

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

Certified by: **IVANNA BATANOVA**



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

Company number: 15136781

Charge code: 1513 6781 0001

The Registrar of Companies for England and Wales hereby certifies that a charge dated 19th October 2023 and created by MARSHBERRY UK HOLDING LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 25th October 2023 .

Given at Companies House, Cardiff on 27th October 2023

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**

**EXECUTION VERSION**

Date: 19 October 2023

**DEBENTURE**

between

**THE CHARGORS LISTED HEREIN**

as Initial Chargors

and

**FORTRESS CREDIT CORP.**

as Security Agent

and others

I certify that this is a true copy (subject  
only to certain permitted redactions)

Ivanna Batanova  
Kirkland & Ellis International LLP

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## Table of Contents

	<b>Page</b>
1 Interpretation.....	1
2 Covenant to Pay .....	7
3 Charging Provisions.....	7
4 Protection of Security .....	10
5 Representations and Warranties.....	15
6 Continuing Security .....	15
7 Further Assurances.....	16
8 Enforcement of Security .....	16
9 Receivers.....	18
10 Application of Proceeds.....	19
11 Protection of Security Agent and Receiver.....	20
12 Power of Attorney .....	21
13 Protection for Third Parties.....	21
14 Deferral of Chargor rights.....	22
15 Waiver of Defences.....	22
16 Discharge Conditional .....	23
17 Covenant to Release.....	23
18 Ruling Off .....	23
19 Redemption of Prior Charges.....	23
20 Costs and Expenses.....	24
21 Set Off.....	25
22 Changes to Parties.....	25
23 Miscellaneous .....	25
24 Notices .....	26
25 Governing Law and Jurisdiction.....	27
SCHEDULE 1 The Initial Chargors .....	28
SCHEDULE 2 Real Properties .....	29
SCHEDULE 3 Shares .....	30
SCHEDULE 4 The Bank Accounts.....	31
SCHEDULE 5 Intellectual Property.....	31
SCHEDULE 6 Assigned Agreements .....	32
SCHEDULE 7 Forms of Notices.....	33

Table of Contents (Cont.)

	Page
Part 1 Form of Counterparty Notice .....	33
Part 2 Form of Insurance Notice.....	35
Part 3 Form of Bank Account Notice .....	37
SCHEDULE 8 Form of Security Accession Deed .....	39

**This Deed** is made on 19 October 2023

## **PARTIES**

- (1) MARSH BERRY & COMPANY, LLC, an Ohio limited liability company (the “**Borrower**”);
- (2) The companies detailed in Schedule 1, (each an “**Initial Chargor**”); and
- (3) **FORTRESS CREDIT CORP.** as security trustee for itself and the other Secured Parties (the “**Security Agent**”).

It is agreed as follows:

### **1 Interpretation**

#### **1.1 Definitions**

In this Debenture:

“**Assigned Agreements**” means:

- (a) the Insurance Policies; and
- (b) with respect to a Chargor, any other agreements governed by the laws of England and Wales designated as Assigned Agreements (i) in Schedule 6 (*Assigned Agreements*) or in Schedule 5 of any relevant Security Accession Deed or (ii) by the Borrower and the Security Agent;

“**Bank Accounts**” means, with respect to a Chargor, the bank accounts specified in Schedule 4 (*The Bank Accounts*) or in Schedule 3 of any relevant Security Accession Deed and all other current, deposit or other accounts opened or maintained by a Chargor in England and Wales from time to time, including the debt or debts represented thereby and all Related Rights;

“**Charged Property**” means all the assets and undertakings from time to time mortgaged, charged or assigned to or subject to the security created or expressed to be created in favour of the Security Agent by or pursuant to this Debenture and any Security Accession Deeds;

“**Chargor**” means each Initial Chargor together with any person which grants Security over its assets in favour of the Security Agent by executing a Security Accession Deed;

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

“**Group**” means the Borrower and each of its Subsidiaries for the time being;

**“Insurance Notice”** means a notice substantially in the form set out in Part 2 of Schedule 7 (*Forms of Notices*) or in such other form as may be agreed by a Chargor and the Security Agent from time to time;

**“Insurance Policies”** means, with respect to a Chargor, the insurance policies designated as Insurance Policies in Schedule 6 (*Assigned Agreements*) or in Schedule 5 of any relevant Security Accession Deed, and all other policies of insurance governed by the laws of England and Wales and all proceeds of them either now or in the future held by, or written in favour of, a Chargor or in which it is otherwise interested, but excluding any third party liability or public liability insurance and any directors and officers insurance;

**“Intellectual Property”** means with respect to a Chargor, the intellectual property specified in Schedule 5 (*Intellectual Property*) or in Schedule 4 of any relevant Security Accession Deed, or all of its rights, title and interest from time to time in:

- (a) any patents, utility models, trademarks, service marks, designs, business names, copyrights, database rights, design rights, registered designs, domain names, moral rights, inventions, confidential information, trade secrets, knowhow and all other intellectual property rights throughout the world and interests (which may now or in the future subsist), whether registered or unregistered; and
- (b) the benefit of all applications (and all goodwill associated with such applications) and rights to use such assets of a Chargor, including all rights under any agreements relating to the use or exploitation of any such rights, which may now or in the future subsist;

**“Investments”** means:

- (a) any stocks, shares, debentures, securities and certificates of deposit (including the Shares);
- (b) all interests in collective investment schemes; and
- (c) all warrants, options and other rights to subscribe or acquire any of the investments described in paragraphs (a) and (b) above,

in each case whether held directly by or to the order of a Chargor (now or in the future owned by it or (to the extent of its interest) in which or in the future it has an interest) or by any agent, nominee, fiduciary or clearance system on its behalf and all Related Rights (including all rights against any such agent, nominee, fiduciary or clearance system) but excluding any stock, share, debenture, loan stock, security, interest in any investment fund and any other comparable investment held in any member of the Group or other entity which is not incorporated in England and Wales;

**“Liabilities”** means all present and future liabilities and obligations at any time of any member of the Group to any Secured Party under the Loan Documents, both actual and contingent and whether incurred solely or jointly or as principal or surety or in any other capacity together with any of the following matters relating to or arising in respect of those liabilities and obligations:

- (a) any refinancing, novation, deferral or extension;
- (b) any claim for breach of representation, warranty or undertaking or on an event of default or under any indemnity given under or in connection with any document or agreement evidencing or constituting any other liability or obligation falling within this definition;
- (c) any claim for damages or restitution; and
- (d) any claim as a result of any recovery by any Obligor of a Payment on the grounds of preference or otherwise,

and any amounts which would be included in any of the above but for any discharge, non-provability, unenforceability or non-allowance of those amounts in any insolvency or other proceedings.

**“Loan Agreement”** means a credit and security agreement by and among (amongst others) March, Berry & Company, LLC (as Borrower), MarshBerry Holding Company, LLC (as **“Holdings”**), the other Loan Parties from time to time and Fortress Credit Corp. (as Agent, Lead Arranger and as Bookrunner) originally dated as of 10 January 2022 as amended on 8 June 2022, 1 August 2022 and 20 September 2023 (and as further amended from time to time);

**“Material Property”** means any Real Property which:

- (a) is a freehold and/or leasehold property owned or acquired by a Chargor situated in England and Wales specified in Schedule 2 (*Real Properties*) or in Schedule 1 of any relevant Security Accession Deed;
- (b) has a fair market value equal to or in excess of USD 2,000,000 (or its equivalent in another currency or currencies); and
- (c) is not a Short Leasehold Property;

**“Obligor”** means the Borrower, Holdings and the other Loan Parties as defined in the Loan Agreement;

**“Other Debts”** means any book and other debts and monetary claims owing to a Chargor and any proceeds of such debts and claims now or in the future due, owing or payable to it and the benefit of all related negotiable instruments, rights, security, guarantees or indemnities of any kind (including any claims or sums of money deriving from or in relation to any Intellectual Property, any Investment, the proceeds of any Insurance Policy, any court order or judgment, any contract or agreement to which a Chargor is a party and any other assets, property, rights or undertaking of a Chargor);

**“Payment”** means, in respect of any Liabilities (or any other liabilities or obligations), a payment, prepayment, repayment, redemption, defeasance or discharge of those Liabilities (or other liabilities or obligations);

**“Plant and Machinery”** means all plant and machinery, equipment, fittings, installations and apparatus, tools, motor vehicles and all other similar assets (other than any assets that are deemed by law to be immoveable property), wherever they are



situated, which are now, or at any time after the date of this Debenture become, the property of a Chargor;

**“Real Property”** means:

- (a) any freehold and/or leasehold property of a Chargor situated in England and Wales specified in Schedule 2 (*Real Properties*) or in Schedule 1 of any relevant Security Accession Deed;
- (b) such other freehold or leasehold property situated in England and Wales acquired by a Chargor after the date of this Debenture; and/or
- (c) any buildings, fixtures, fittings, fixed plant or machinery from time to time situated on or forming part of such freehold or leasehold property,

and includes all Related Rights;

**“Receiver”** means a receiver or receiver and manager or administrative receiver of the whole or any part of the Charged Property;

**“Related Rights”** means, in relation to any asset:

- (a) the net proceeds of sale of any part of that asset;
- (b) all rights and benefits under any licence, assignment, 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 moneys and proceeds received by or paid or payable in respect of that asset;

**“Secured Obligations”** means the Obligations as defined in the Loan Agreement;

**“Secured Parties”** means the Security Agent, the other Secured Parties as defined in the Loan Agreement and any Receiver;

**“Security”** means any mortgage, charge (fixed or floating), pledge, lien or other security interest securing any obligation of any person and any other agreement entered into for the purpose and having the effect of conferring security or any arrangement having a similar effect;

**“Security Accession Deed”** means a deed executed by a member of the Group substantially in the form set out in Schedule 8 (*Form of Security Accession Deed*);

**“Security Trust Deed”** means an English law governed security trust deed to be entered into between Fortress Credit Corp. (as Security Agent and Agent), Marsh, Berry & Company, LLC (as Borrower) and MarshBerry UK Holding Limited (as Initial Chargor);

**“Shares”** means, in relation to a Chargor, all shares owned by that Chargor in each company which is incorporated in England and Wales, as at the date of its entry into

this Debenture, or Security Accession Deed (as the case may be) and specified in Schedule 3 (*Shares*) and in Schedule 2 of any relevant Security Accession Deed; and

**“Short Leasehold Property”** means a leasehold property held by a Chargor now or in the future under a lease granted at a rack rate which has an unexpired term of 25 years or less at the date of this Deed (or in the case of future acquired leasehold property, at the date of acquisition of such property by the relevant Chargor); and

**“Tangible Moveable Property”** means any fixtures, fittings, plant, machinery, office equipment, computers, vehicles and other chattels situated in England and Wales (excluding any for the time being forming part of any Chargor’s stock in trade or work in progress) and all Related Rights now or in the future.

## 1.2 Construction

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

- (a) an **“agreement”** includes any legally binding arrangement, concession, contract, deed or franchise (in each case whether oral or written);
- (b) an **“amendment”** includes any amendment, supplement, variation, novation, modification, replacement or restatement and **“amend”**, **“amending”** and **“amended”** shall be construed accordingly;
- (c) **“assets”** includes present and future properties, revenues and rights of every description;
- (d) this **“Debenture”** includes, in respect of any Chargor (other than an Initial Chargor), any Security Accession Deed hereto;
- (e) **“including”** means including without limitation and **“includes”** and **“included”** shall be construed accordingly;
- (f) **“losses”** includes losses, actions, damages, claims, proceedings, costs, demands, expenses (including fees) and liabilities and **“loss”** shall be construed accordingly;
- (g) **“person”** includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust or partnership (whether or not having separate legal personality);
- (h) **“regulation”** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation; and
- (i) a **“Chargor”** in relation to any Charged Property is, if that Chargor holds any right, title or interest in that Charged Property jointly with any other Chargor, a reference to those Chargors jointly.

## 1.3 Other References and Interpretation

- (a) In this Debenture, unless a contrary intention appears, a reference to:
  - (i) any Secured Party, Obligor, Chargor or any other person is, where relevant, deemed to be a reference to or to include, as appropriate, that person's (and any subsequent) successors in title, permitted assignees and transferees and, in the case of the Security Agent, any person for the time being appointed as Security Agent or Security Agents in accordance with the Loan Documents;
  - (ii) any Loan Document or other agreement or instrument is to be construed as a reference to that agreement or instrument as amended, novated, varied, released, supplemented, extended, restated or replaced (in each case, however fundamentally), including by way of increase of the facilities or other obligations or addition of new facilities or other obligations made available under them or accession or retirement of the parties to these agreements but excluding any amendment or novation made contrary to any provision of any Loan Document;
  - (iii) any clause or schedule is a reference to, respectively, a clause of and schedule to this Debenture and any reference to this Debenture includes its schedules;
  - (iv) an Event of Default is "**continuing**" if it has not been remedied or waived; and
  - (v) a provision of law is a reference to that provision as amended or re enacted.
- (b) The index to and the headings in this Debenture are inserted for convenience only and are to be ignored in construing this Debenture.
- (c) Words importing the plural shall include the singular and vice versa.
- (d) Unless otherwise defined in this Debenture, words and expressions defined in the Loan Agreement shall have the same meanings when used in this Debenture. In the event of any conflict or inconsistency between the terms of this Debenture and the terms of the Loan Agreement, the Loan Agreement will prevail.
- (e) A person who is not a party to this Debenture has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Debenture.
- (f) The terms of the other Loan Documents and of any side letters between any Chargor and any Secured Party relating to the Secured Obligations are incorporated into each Loan Document to the extent required for any purported disposition of the Real Property contained in this Debenture to be a valid disposition in accordance with Section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.

- (g) The obligations of each Chargor under this Debenture shall be in addition to the covenants for title deemed to be included in this Debenture by virtue of Part 1 of the Law of Property (Miscellaneous Provisions) Act 1994.
- (h) Section 1 of the Trustee Act 2000 shall not apply to the duties of the Security Agent in relation to the trusts created by this Debenture or any other Loan Document.
- (i) This Debenture is intended to take effect as a deed notwithstanding that the Security Agent has executed it under hand only.
- (j) Notwithstanding any other provision of this Debenture, the Security constituted in relation to the trusts created by this Debenture and the exercise of any right or remedy by the Security Agent hereunder shall be subject to the Master Intercompany Note.

## **2 Covenant to Pay**

Each Chargor covenants, as primary obligor and not only as surety, with the Security Agent (for the benefit of itself and the other Secured Parties) that it will pay and discharge each of the Secured Obligations from time to time when they fall due in accordance with the terms of the Loan Documents.

## **3 Charging Provisions**

### **3.1 Fixed Security**

Each Chargor, as continuing security for the payment of the Secured Obligations, charges in favour of the Security Agent with full title guarantee the following assets, both present and future, from time to time owned by it or in which it has an interest:

- (a) by way of first legal mortgage, all Material Property in England and Wales vested in the Chargor on the date on which it becomes a party to this Debenture or a party to any relevant Security Accession Deed; and
- (b) by way of first fixed charge:
  - (i) all other estates, interests, rights and title from time to time in and to any freehold or leasehold property (including that not effectively mortgaged under Clause 3.1(a) above) but excluding any leasehold property that has 25 years or less to run on the lease or has a rack-rent payable in respect thereof together with all buildings and fixtures (including trade fixtures) on that property and all Related Rights;
  - (ii) all of its Investments;
  - (iii) all of its Intellectual Property;
  - (iv) all of its Tangible Moveable Property;
  - (v) all of its Other Debts and all rights and claims against third parties in respect of those Other Debts and all corresponding Related Rights other

than any claims which are otherwise subject to a fixed charge or assignment pursuant to this Debenture;

- (vi) the Bank Accounts and Related Rights;
- (vii) all of its Plant and Machinery; and
- (viii) all of its goodwill and uncalled capital.

### 3.2 Security Assignment

As continuing security for the payment of the Secured Obligations, each Chargor assigns absolutely by way of security with full title guarantee to the Security Agent all its right, title and interest from time to time in and to the Assigned Agreements and all Related Rights, provided that on payment and discharge in full of the Secured Obligations the Security Agent will promptly re-assign the relevant Assigned Agreements to that Chargor (or as it shall direct).

### 3.3 Floating Charge

- (a) As further continuing security for the full payment of the Secured Obligations, each Chargor charges with full title guarantee in favour of the Security Agent (for the benefit of itself and the other Secured Parties) by way of first floating charge all its present and future assets, undertakings and rights not effectively charged under Clause 3.1 (*Fixed Security*) or assigned under Clause 3.2 (*Security Assignment*).
- (b) Paragraph 14 of Schedule B1 to the Insolvency Act 1986 shall apply to the floating charge created pursuant to this Clause 3.3.

### 3.4 Conversion of a Floating Charge

- (a) The Security Agent may, by prior written notice to the relevant Chargor, convert the floating charge created under this Debenture into a fixed charge with immediate effect as regards those assets which it specifies in the notice, if:
  - (i) an Event of Default has occurred and is continuing; or
  - (ii) the Security Agent is of the view (acting reasonably) that it is necessary to do so in order to protect the validity or priority of the Security created in favour of the Security Agent under this Debenture over any assets, where a Chargor creates or purports to create Security over such assets, save where the relevant Chargor is not prohibited from creating such Security under the Loan Documents or where the Security Agent has given prior written consent.
- (b) The floating charge created under this Debenture will automatically (without notice) and immediately be converted into a fixed charge over any asset charged under the floating charge created under this Debenture if:
  - (i) any Chargor creates (or purports to create) any Security over such asset, other than to the extent not prohibited by the Loan Documents or with

the prior consent of the Security Agent acting in accordance with the Loan Documents;

- (ii) any person levies or attempts to levy any attachment, execution or other legal process against assets charged under the floating charge created by this Debenture; or
- (iii) a Chargor is or is deemed to be or is declared for the purposes of any applicable law to be, unable to or admits its inability to pay its debts as they fall due, suspends making payments on any of its debts or, by reason of actual or anticipated financial difficulties, commences negotiations with its creditors generally or any class of them (other than the Secured Parties) for the rescheduling any of its financial indebtedness.

### 3.5 Excluded Property

- (a) Subject to paragraph (b) below, unless otherwise expressly agreed in writing between the relevant Chargor and the Security Agent after the date on which it becomes a party to this Debenture, there shall be excluded from the Security created by Clauses 3.1 (*Fixed Security*) and 3.2 (*Security Assignment*):

- (i) any property, assets or undertaking held by a Chargor under a lease, license, contract or agreement to which any Chargor is a party to the extent that the grant of any Security therein in favour of the Security Agent is prohibited by or in violation of:
  - (A) any law, rule or regulation applicable to such Chargor;
  - (B) a term, provision or condition (including any requirement to obtain the consent of any Governmental Authority or third party, other than a Chargor, and other than any consent which has been obtained) of any such lease, license, contract or agreement;

provided that immediately upon the ineffectiveness, lapse or termination of any such law, rule, regulation, term, provision or condition, the Charged Property shall include, and such Chargor shall be deemed to have granted Security in (and such security interest shall attach), all such rights and interests as if such law, rule, regulation, term, provision or condition had never been in effect;

- (ii) any unregistered Real Property which, if subject to any such Security, would be required to be registered under the Land Registration Act 2002 (provided that such Real Property shall only be excluded for so long as it remains unregistered);
- (iii) any asset or undertaking situated outside of England and Wales; and
- (iv) subject to (i) to (iii) above, any asset or undertaking which is an Excluded Property as defined in the Loan Agreement.

- (b) The provisions of paragraph (a) above shall not apply to any Security created under Clause 3.3 (*Floating Charge*) except in respect of Clause 3.5(a)(i)(A).

#### **4 Protection of Security**

##### **4.1 Real Property: Delivery of Documents of Title**

Each Chargor shall, if requested by the Security Agent, deliver (or procure delivery to the Security Agent of), and the Security Agent shall be entitled to hold and retain, all deeds, certificates and other documents (if any) constituting or evidencing title relating to any Real Property owned by that Chargor as at the date of such request and subject to the Security created by paragraph (a) of Clause 3.1 (*Fixed Security*).

##### **4.2 The Land Registry**

- (a) In the case of any Material Property subject to the Security created by paragraph (a) of Clause 3.1 (*Fixed Security*) acquired by or on behalf of a Chargor after the execution of this Debenture and title to which is or will be registered under the Land Registration Act 2002, that Chargor shall, if requested by the Security Agent, promptly (and in any event within ten (10) Business Days of request) notify the Security Agent in writing of the title number(s) and, contemporaneously with the making of an application to the Land Registry for the registration of that Chargor as the Registered Proprietor of such property, at the request of the Security Agent apply to the Land Registry to enter an agreed notice of any mortgage on the Charges Register of such property. For the avoidance of doubt, the Security Agent shall not be liable to any party for the failure by a Chargor to perfect any Security.
- (b) Each Chargor consents and agrees to an application being made to enter a restriction in the Proprietorship Register of any registered land that is Material Property subject to the Security created by paragraph (a) of Clause 3.1 (*Fixed Security*), using the prescribed Land Registry form and in the following or substantially similar terms:

“No disposition of the registered estate by the proprietor of the registered estate or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction, is to be registered without a written consent signed by the proprietor for the time being of the charge dated [●] in favour of [●] as Security Agent referred to in the charges register.”

##### **4.3 Bank Accounts**

- (a) Each Chargor shall no later than ten (10) Business Days following the date of this Debenture give notice of the charge over its Bank Accounts under this Debenture to the person at which such accounts are maintained in the form set out in Part 3 of Schedule 7 (*Form of Bank Account Notice*).
- (b) Each Chargor shall use reasonable endeavours to procure that each counterparty acknowledges the notice given pursuant to Clause 4.3(a) above by countersigning a copy of it and delivering that copy to the Security Agent provided that, if the relevant Chargor has not been able to obtain

acknowledgment from the relevant bank within twenty (20) Business Days from delivery to the Security Agent its obligation to obtain that acknowledgment shall cease on the expiry of that twenty (20) Business Day period.

- (c) Each Chargor shall, prior to the occurrence of an Event of Default which is continuing, be entitled to receive, withdraw or otherwise deal with or transfer any credit balance from time to time on any Bank Account and shall be entitled to deal with such Bank Account in any manner not prohibited by the Loan Documents.
- (d) Following the occurrence of an Event of Default which is continuing, at any time when there are Secured Obligations outstanding, no Chargor shall be entitled to receive, withdraw or otherwise deal with or transfer any credit balance from time to time on any Bank Account except with the prior consent of the Security Agent.
- (e) The Security Agent shall, following the occurrence of an Event of Default which is continuing, at any time when there are Secured Obligations outstanding, be entitled without notice to apply, transfer or set-off any or all of the credit balances from time to time on any Bank Account charged pursuant to this Debenture in or towards the payment or other satisfaction of all or part of the Secured Obligations in accordance with Clause 10 (*Application of Proceeds*).

#### 4.4 Insurance Policies

- (a) In relation to any Insurance Policy, each Chargor shall no later than ten (10) Business Days following the date of this Debenture duly execute and deliver to the other parties to the Insurance Policy (or procure delivery of) an Insurance Notice.
- (b) Each Chargor shall use reasonable endeavours to procure that each counterparty acknowledges the notice given pursuant to Clause 4.4(a) above by countersigning a copy of it and delivering that copy to the Security Agent provided that, if the relevant Chargor has not been able to obtain acknowledgment from the relevant counterparty within twenty (20) Business Days from the date of delivery to the Security Agent, its obligation to obtain that acknowledgment shall cease on the expiry of that twenty (20) Business Day period.
- (c) Each Chargor shall, if required by the Security Agent following the occurrence of an Event of Default that is continuing, use reasonable endeavours to cause each Insurance Policy held in the name of that Chargor and relating to material assets forming part of the Charged Property to contain (in form and substance reasonably satisfactory to the Security Agent) an endorsement naming the Security Agent as sole loss payee in respect of all claims arising under such policy or policies until such time as the Security Agent notifies the insurer(s) to the contrary.
- (d) Each Chargor shall use reasonable endeavours, if required by the Security Agent (acting reasonably) at any time (but subject to the provisions of any lease of the Charged Property and any other applicable restrictions), deliver to the Security



Agent, and the Security Agent shall be entitled to hold, all Insurance Policies held in the name of that Chargor and relating to material assets forming part of the Charged Property with the Security Agent.

#### 4.5 Assigned Agreements

- (a) Each Chargor will, in respect of an Assigned Agreement (excluding the Insurance Policies), as soon as reasonably practicable and in any event within ten (10) Business Days give notice to the other parties to the Assigned Agreement that it has assigned or charged its right under the relevant agreement to the Security Agent under this Debenture. Such notice will be a Counterparty Notice. Each relevant Chargor shall use reasonable endeavours to procure that such counterparty signs and delivers to the Security Agent an acknowledgement substantially in the form set out in the Counterparty Notice provided that, if the relevant Chargor has not been able to obtain acknowledgment from the relevant bank within twenty (20) Business Days from the date of delivery to the Security Agent, its obligation to obtain that acknowledgment shall cease on the expiry of that twenty (20) Business Day period.
- (b) Each Chargor shall remain liable to perform all its obligations under each Assigned Agreement to which it is a party. Neither the Security Agent, any Receiver nor any delegate appointed by them under this Debenture shall be under any obligation or liability to a Chargor or any other person under or in respect of an Assigned Agreement.
- (c) If requested by the Security Agent at any time following the occurrence of an Event of Default which is continuing, each Chargor shall promptly upon prior written request by the Security Agent deliver to the Security Agent, and the Security Agent shall be entitled to hold, executed copies of each Assigned Agreement to which the Chargor is a party at the date of such request and such other documents relating to the Assigned Agreements as the Security Agent requires.

#### 4.6 Voting and Distribution Rights

- (a) Prior to the occurrence of an Event of Default which is continuing:
  - (i) each Chargor shall be entitled to receive and retain all dividends, distributions and other monies paid or payable on or derived from its Investments; and
  - (ii) each Chargor shall be entitled to take all steps and exercise (or refrain from exercising) all rights, powers and discretion (including voting rights) attaching to its Investments and to deal with, receive, own and retain all assets and proceeds in relation thereto without restriction or condition.
- (b) The Security Agent may, at its discretion, following the occurrence of an Event of Default which is continuing, (in the name of a Chargor or otherwise and without any further consent or authority from any Chargor) but in each case

following notice by the Security Agent to the Chargor consistent with section 11.3 (*Pledged Collateral*) of the Loan Agreement:

- (i) exercise (or refrain from exercising) any voting rights in respect of any Investments (unless the Security Agent has notified the Chargor in writing that it wishes to give up this right);
- (ii) apply all dividends, interest and other monies arising from any Investments in accordance with Clause 10 (*Application of Proceeds*);
- (iii) transfer any Investments into the name of such nominee(s) of the Security Agent as it shall require; and
- (iv) exercise (or refrain from exercising) the powers and rights conferred on or exercisable by the legal or beneficial owner of any Investments (unless the Security Agent has notified the Chargor in writing that it wishes to give up this right),

in such manner and on such terms as is consistent with the Loan Documents, and the proceeds of any such action shall form part of the Charged Property.

- (c) Each Chargor shall within ten (10) Business Days of the date of this Debenture (or as the case may be, the date of its execution of a Security Accession Deed), deliver (or procure delivery) to the Security Agent, and the Security Agent shall be entitled to retain, all of the Investments and any certificates and other documents of title representing the Investments (if any) to which that Chargor (or its nominee(s)) is or becomes entitled together with any other document which the Security Agent may reasonably request (in such form and executed as the Security Agent may reasonably require) with a view to perfecting or improving its security over the Investments or to registering any Investment in its name or the name of any nominee(s).
- (d) Each Chargor will within ten (10) Business Days of the date of this Debenture (or as the case may be, the date of its execution of a Security Accession Deed) deposit with the Security Agent (or as it shall direct) all share certificates relating to the applicable Shares together with stock transfer forms executed in blank and left undated on the basis that the Security Agent shall be able to hold such certificates and stock transfer forms until the Secured Obligations have been paid in full and shall be entitled, at any time following the occurrence of an Event of Default which is continuing, to complete, under its power of attorney given in this Debenture, the stock transfer forms on behalf of the relevant Chargor in favour of itself or such other person as it shall select.

#### 4.7 Intellectual Property

- (a) If requested by the Security Agent at any time, each Chargor shall within ten (10) Business Days of such request by the Security Agent deliver to the Security Agent and the Security Agent shall be entitled to hold such documents relating to that Chargor's Intellectual Property as the Security Agent requires.

- (b) Each Chargor shall, if requested by the Security Agent, execute all such documents and do all such acts (including but not limited to the payment of any applicable registration fees) as the Security Agent may reasonably require to record the interests of the Security Agent in any registers relating to registered Intellectual Property.

#### 4.8 Acknowledgement of Assigned Agreements and Other Debts

By virtue of them being a party of this Debenture (whether as an Initial Chargor or by way of executing a Security Accession Deed), each Chargor shall be deemed to have notice of, and to have acknowledged, any assignment or other Security created under this Debenture (or any Security Accession Deed) over any Assigned Agreements or Other Debts pursuant to which any amounts or other obligations are owed to them by another Chargor.

#### 4.9 PSC Register

- (a) Each Chargor whose shares constitute Charged Property shall promptly:
  - (i) notify the Security Agent if it has issued any warning notice or restrictions notice under Schedule 1B of the Companies Act 2006 in respect of its shares which constitute Charged Property which has not been withdrawn; and
  - (ii) (if applicable) provide to the Security Agent a copy of any such warning notice or restrictions notice.
- (b) Each Chargor whose shares constitute Charged Property shall promptly:
  - (i) notify the Security Agent of its intention to issue any warning notice or restrictions notice under Schedule 1B of the Companies Act 2006 in respect of its shares which constitute Charged Property; and
  - (ii) provide to the Security Agent a copy of any such warning notice or restrictions notice.
- (c) For the purpose of withdrawing any restrictions notice or for any application (or similar) to the court under Schedule 1B of the Companies Act 2006, in each case in connection with an enforcement of security under and in accordance with this Debenture, each Chargor shall provide such assistance as the Security Agent may request in respect of any shares which constitute Charged Property and provide the Security Agent with all information, documents and evidence that it may request in connection with the same.
- (d) Each Chargor shall comply with any notice served on it from any member of the Group pursuant to Part 21A of the Companies Act 2006 (including any timeframe specified in such notice) in respect of which it holds shares charged pursuant to this Debenture.

## **5 Representations and Warranties**

### **5.1 General**

Each Chargor makes the representations and warranties set out in this Clause 5 to the Security Agent.

### **5.2 PSC Representation**

- (a) It has complied with any notice it has received from any member of the Group pursuant to Part 21A of the Companies Act 2006 (including any timeframe specified in such notice) in respect of which it holds shares charged pursuant to this Debenture.
- (b) If its shares constitute Charged Property, it has not issued any warning notice or restrictions notice under Schedule 1B of the Companies Act 2006 and no circumstances exist which entitle such Chargor to issue any such notice.

### **5.3 Repetition**

The representations and warranties in this Clause 5 are deemed to be made by each Chargor by reference to the facts and circumstances then existing on the date of this Debenture and each day on which the representations and warranties contained in the Loan Agreement are repeated.

## **6 Continuing Security**

### **6.1 Continuing Security**

This Security constituted by this Debenture shall remain in full force and effect as a continuing security for the Secured Obligations notwithstanding any intermediate payment, discharge, satisfaction or settlement of all or any part of the Secured Obligations or any other act, matter or thing.

### **6.2 Other Security**

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

### **6.3 Negative Pledge**

Each Chargor undertakes that it will not, and each Chargor will ensure that none of its Subsidiaries will, create or agree to create or permit to subsist any Security on or over the whole or any part of its undertaking or assets (present or future) except for the creation of Security or other transactions not prohibited under the Loan Documents or in respect of which consent from the requisite lenders in accordance with the Loan Agreement has been obtained.

## 7 Further Assurances

### 7.1 General

Each Chargor shall promptly do all such acts or execute (or re-execute) all such documents (including assignments, transfers, mortgages, charges, notices, supplemental agreements and instructions) as the Security Agent or a Receiver may reasonably specify (and in such form as the Security Agent or Receiver (as the case may be) may reasonably require in favour of the Security Agent or its nominee(s)):

- (a) to create, perfect, protect, preserve or improve the Security created or intended to be created under or evidenced by this Debenture (which may include the execution of a mortgage, charge, assignment or other Security over all or any of the assets which are, or are intended to be, the subject of the Security created or intended to be created by this Debenture) or for the exercise of any rights, powers and remedies of the Security Agent or any Receiver or any Secured Party provided by or pursuant to the Loan Documents or by law; and/or
- (b) to facilitate the realisation of the Charged Property following the occurrence of an Event of Default that is continuing.

### 7.2 Security Agent Action

Following an Event of Default which is continuing, the Security Agent or Receiver (as the case may be) may take all such action as is available to it (including the serving of notices and the making of filings and registrations) in relation to the creation, perfection, protection, maintenance or enforcement of any Security conferred on the Security Agent or the Secured Parties by or pursuant to this Debenture or for the exercise of any rights, powers and remedies of the Security Agent or any Receiver or Secured Party provided by or pursuant to the Loan Documents or by law.

## 8 Enforcement of Security

### 8.1 Enforcement Powers

For the purpose of all rights and powers implied or granted by statute, the Secured Obligations are deemed to have fallen due, in respect of the Initial Chargors, on the date of this Debenture, and, in respect of other Chargors, on the date of execution of the Security Accession Deed (the “**Relevant Date**”). The power of sale and other powers conferred by section 101 of the Law of Property Act 1925 and all other enforcement powers conferred by this Debenture shall arise on the Relevant Date and shall be immediately exercisable at any time after an Event of Default has occurred and is continuing when the Security Agent may, without notice to the relevant Chargor or prior authorisation from any court, in its absolute discretion, but at all times in accordance with the terms of the Loan Documents, enforce all or any part of that Security (at the times, in the manner and on the terms it thinks fit) and take possession of and hold or dispose of all or any part of the Charged Property.

## 8.2 Statutory Powers

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

## 8.3 Powers of Leasing

Following the occurrence of an Event of Default which is continuing, the Security Agent may lease, make agreements for leases at a premium or otherwise, accept surrenders of leases and grant options or vary or reduce any sum payable under any leases or tenancy agreements as it thinks fit, without the need to comply with any of the provisions of sections 99 and 100 of the Law of Property Act 1925.

## 8.4 Exercise of Powers

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

## 8.5 Disapplication of Statutory Restrictions

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

## 8.6 Right of Appropriation

- (a) To the extent that any of the Charged Property constitutes “**financial collateral**” and this Debenture and the obligations of the Chargors hereunder constitute a “**security financial collateral arrangement**” (in each case as defined in, and for the purposes of, the Financial Collateral Arrangements (No. 2) Regulations 2003 (SI 2003 No. 3226) (the “**Regulations**”)), the Security Agent shall upon giving prior written notice to the relevant Chargor at any time following the occurrence of an Event of Default which is continuing have the right to appropriate all or any part of such financial collateral in or towards discharge of the Secured Obligations. For this purpose, the parties agree that the value of such financial collateral so appropriated shall be (a) in the case of cash, the amount standing to the credit of each of the Bank Accounts, together with any accrued but unposted interest, at the time the right of appropriation is exercised and (b) in the case of Investments, the market price of such Investments determined by the Security Agent (acting reasonably) by reference to a public index or by a fair valuation opinion provided by an independent reputable, internationally recognised third party firm of professional advisors, and (c) in the case of any other asset, the market value of such financial collateral as

determined by the Security Agent (acting reasonably), including by way of an independent valuation. In each case, the parties agree that the method of valuation provided for in this Debenture shall constitute a commercially reasonable method of valuation for the purposes of the Regulations.

- (b) Where the Security Agent exercises its rights of appropriation and the value of the financial collateral appropriated in accordance with this Clause 8.6 differs from the amount of the Secured Obligations, either (i) the Security Agent must account to the relevant Chargor promptly upon the determination of such value for the amount by which the value of the appropriated financial collateral exceeds the Secured Obligations, or (ii) the relevant Chargor will remain liable to the Secured Parties for any amount by which the value of the appropriate financial collateral is less than the Secured Obligations.

## **9 Receivers**

### **9.1 Appointment of Receiver or Administrator**

- (a) Subject to paragraph (c) below, at any time after an Event of Default has occurred and is continuing, or if so requested by the relevant Chargor, the Security Agent may by writing under hand signed by any officer or manager of the Security Agent, appoint:
  - (i) any person (or persons) to be a Receiver of all or any part of the Charged Property;
  - (ii) appoint two or more Receivers of separate parts of the Charged Property;
  - (iii) remove (so far as it is lawfully able) any Receiver so appointed;
  - (iv) appoint another person(s) as an additional or replacement Receiver(s);  
or
  - (v) appoint one or more persons to be an administrator of the relevant Chargor.
- (b) Section 109(1) of the Law of Property Act 1925 shall not apply to this Debenture.
- (c) Paragraph 14 of Schedule B1 to the Insolvency Act 1986 shall apply to the floating charge created by this Debenture.
- (d) At any time after an Event of Default has occurred and is continuing, the Security Agent shall be entitled to appoint a Receiver save to the extent prohibited by section 72A of the Insolvency Act 1986.

### **9.2 Powers of Receiver**

Every Receiver shall (subject to any restrictions in the instrument appointing him but notwithstanding any winding-up or dissolution of any Chargor) have and be entitled to exercise, in relation to the Charged Property (and any assets of any Chargor which, when got in, would be Charged Property) in respect of which he was appointed, and as

varied and extended by the provisions of this Debenture (in the name of or on behalf of the relevant Chargor or in his own name and, in each case, at the cost of that Chargor):

- (a) all the powers conferred by the Law of Property Act 1925 on mortgagors and on mortgagees in possession and on receivers appointed under that Act;
- (b) all the powers of an administrative receiver set out in Schedule 1 to the Insolvency Act 1986 (whether or not the Receiver is an administrative receiver);
- (c) all the powers and rights of an absolute owner and power to do or omit to do anything which the relevant Chargor itself could do or omit to do; and
- (d) the power to do all things (including bringing or defending proceedings in the name or on behalf of the relevant Chargor) which seem to the Receiver to be incidental or conducive to (i) any of the functions, powers, authorities or discretions conferred on or vested in him or (ii) the exercise of all rights, powers and remedies of the Security Agent under this Debenture (including realisation of all or any part of the Charged Property) or (iii) bringing to his hands any assets of the relevant Chargor forming part of, or which when obtained would be, Charged Property.

### 9.3 Receiver as Agent

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

### 9.4 Removal of Receiver

The Security Agent may by prior written notice remove from time to time any Receiver appointed by it (subject to the provisions of section 45 of the Insolvency Act 1986 in the case of an administrative receivership) and, whenever it may deem appropriate, appoint a new Receiver in the place of any Receiver whose appointment has terminated, for whatever reason.

### 9.5 Remuneration of Receiver

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

### 9.6 Several Receivers

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

## 10 Application of Proceeds

### 10.1 Order of Application



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

## 10.2 Section 109 Law of Property Act 1925

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

## 10.3 Application against Secured Obligations

Subject to Clause 10.1 (*Order of Application*) above, any moneys or other value received or realised by the Security Agent from a Chargor or a Receiver under this Debenture may be applied by the Security Agent to any item of account or liability or transaction forming part of the Secured Obligations to which they may be applicable in any order or manner which the Security Agent may determine.

# 11 Protection of Security Agent and Receiver

## 11.1 No Liability

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

## 11.2 Insurance Proceeds

If an Event of Default has occurred and is continuing, all moneys received by virtue of any insurance maintained or effected in respect of the Charged Property shall be paid to the Security Agent (or, if not paid by the insurers directly to the Security Agent, shall be held on trust for the Security Agent) and shall, at the option of the Security Agent, be applied in replacing or reinstating the assets destroyed, damaged or lost or (except in the case of leasehold premises) in reduction of the Secured Obligations.

## 11.3 Possession of Charged Property

Without prejudice to Clause 11.1 (*No Liability*) above, if the Security Agent or the Receiver enters into possession of the Charged Property, it will not be liable to account as mortgagee in possession in respect of all or any part of the Charged Property or be liable for any loss upon realisation or for any neglect, default or omission in connection with the Charged Property to which a mortgagee or mortgagee in possession might otherwise be liable and may at any time at its discretion go out of such possession.

## 11.4 Delegation

Without prejudice to the rights to and limitations or delegation by the Security Agent permitted under the Loan Documents, following an Event of Default which is continuing and subject to the terms of the Loan Documents, the Security Agent may delegate by power of attorney or in any other manner all or any of the powers, authorities and discretions which are for the time being exercisable by it under this

Debenture to any person or persons upon such terms and conditions (including the power to sub delegate) as it may reasonably and in good faith think fit and the Security Agent may, subject to the terms of the Loan Documents, pass confidential information to any such delegate. The Security Agent will not be liable or responsible to any Chargor or any other person for any losses arising from any act, default, omission or misconduct on the part of any delegate.

#### 11.5 Cumulative Powers

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

### 12 Power of Attorney

Each Chargor, by way of security, on the date of this Debenture (or, as the case may be, the date of its execution of a Security Accession Deed), irrevocably and severally appoints the Security Agent, each Receiver and any person nominated for the purpose by the Security Agent or any Receiver as its attorney (with full power of substitution and delegation) in its name and on its behalf and as its act and deed at any time after the occurrence of an Event of Default which is continuing to execute, seal and deliver (using the company seal where appropriate) and otherwise perfect and do any deed, assurance, agreement, instrument, act or thing which is expressly required to execute and do under the terms of this Debenture, and which it has not done within the time periods set out within this Debenture or a reasonable period of time or which may be required to enable the exercise of any rights or powers conferred on the Security Agent or any Receiver under this Debenture or by law or otherwise for any of the purposes of this Debenture, and each Chargor covenants with the Security Agent and each Receiver to ratify and confirm all such acts or things made, done or executed (or purported to be made, done or executed) by that attorney.

### 13 Protection for Third Parties

#### 13.1 No Obligation to Enquire

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

- (a) the right of the Security Agent or any Receiver to exercise any of the powers conferred by this Debenture has arisen or become exercisable or as to the propriety or validity of the exercise or purported exercise of any such powers; or
- (b) any of the Secured Obligations remain outstanding and/or are due and payable or be concerned with notice to the contrary and the title and position of such a

purchaser or other person shall not be impeachable by reference to any of those matters.

### 13.2 Receipt Conclusive

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

## 14 Deferral of Chargor rights

Until such time as the Secured Obligations have been discharged in full, no Chargor will exercise any rights which it may have by reason of performance by it of its obligations under this Debenture:

- (a) to be indemnified by any Obligor;
- (b) to claim any contribution from any guarantor of any Obligor's obligations under this Debenture; and/or
- (c) 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 Loan Documents or of any other guarantee or Security taken pursuant to, or in connection with, this Debenture by any Secured Parties.

## 15 Waiver of Defences

The obligations of the Chargors under this Debenture will not be affected by an act, omission, matter or thing which, but for this Clause 15, would reduce, release or prejudice any of its obligations under this Debenture (without limitation and whether or not known to it or any Secured Party) including:

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

addition of any new facility under any Loan Document or other document or security;

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

any insolvency or similar proceedings.

## **16 Discharge Conditional**

If any settlement, discharge or release is made by a Secured Party in whole or in part on the basis of any payment, security or other disposition which is avoided or must be restored in insolvency, liquidation, administration or otherwise, without limitation, then the liability of each Chargor under this Debenture will continue or be reinstated as if the settlement, discharge or release had not occurred and any Security the subject of the discharge will continue or be reinstated as if that settlement, discharge or release had not occurred.

## **17 Covenant to Release**

Once all the Secured Obligations have been irrevocably paid in full and none of the Security Agent nor any other Secured Party has any actual or contingent liability to advance further monies to or incur any liability on behalf of any Chargor or any other Obligor under the Loan Documents, the Security Agent shall, at the request and cost of any Chargor, promptly take any action including preparing and delivering all documents and instruments (including any termination or release letter or deed), revoking any powers of attorney and performing all acts or deeds (including returning title documents, share certificates, related stock transfer forms and any other document belonging to the Chargors) which are, in each case, necessary or otherwise requested by the Chargors (acting reasonably) to release or re-assign the Charged Property from the Security constituted by this Debenture.

## **18 Ruling Off**

If the Security Agent or any other Secured Party receives notice or is deemed to have received notice of any subsequent Security or other interest affecting all or any part of the Charged Property or any assignment or transfer of the Charged Property (in each case, except as permitted by the Loan Documents or where consent from the requisite Lenders has been obtained in accordance with the Loan Documents) it may open a new account for the relevant Chargor in its books. If it does not do so then (unless it gives express notice in writing to the contrary to the relevant Chargor), as from the time it receives that notice, all payments made by or on behalf of the relevant Chargor to it (in the absence of any express appropriation to the contrary) shall be treated as having been credited to a new account of the relevant Chargor and not as having been applied in reduction of the Secured Obligations as at the time the relevant notice was received or deemed to have been received.

## **19 Redemption of Prior Charges**

The Security Agent may, at any time after an Event of Default has occurred and is continuing, redeem any prior Security on or relating to any of the Charged Property or

procure the transfer of that Security to itself, and may settle and pass the accounts of any person entitled to that prior Security. Any account so settled and passed shall (subject to any manifest error) be conclusive and binding on each Chargor. Each Chargor will, upon a demand made in writing to it, pay to the Security Agent all principal monies and interest and all losses incidental to any such redemption or transfer.

## **20 Costs and Expenses**

### **20.1 Transaction Expenses**

Each Chargor shall promptly within five (5) Business Days of demand, pay to the Security Agent the amount of all costs and expenses (including legal fees) (together with any applicable VAT) incurred by the Security Agent and any Receiver or Delegate in connection with the negotiation, preparation, printing, execution, syndication and perfection of this Debenture and any other documents referred to in this Debenture.

### **20.2 Amendment Costs**

If a Chargor requests an amendment, waiver or consent under this Debenture in accordance with the Loan Documents, the Chargor shall within five (5) Business Days of demand, reimburse (or procure the reimbursement of) the Security Agent for the amount of all costs and expenses (including legal fees and notarial fees) (together with applicable VAT) incurred by the Security Agent, by any Receiver or Delegate.

### **20.3 Stamp Taxes**

Each Chargor shall pay and, within five (5) Business Days, indemnify the Security Agent against any cost, loss or liability the Security Agent incurs in relation to all stamp duty, registration and other similar Taxes payable in respect of this Debenture.

### **20.4 Interest on Demand**

If a Chargor fails to pay any amount payable by it under this Debenture on its due date, interest shall accrue on the overdue amount (and be compounded with it) from the due date up to the date of actual payment (both before and after judgment and to the extent interest at a default rate is not otherwise being paid on that sum) at the rate which is 1 per cent. per annum over the rate at which the Security Agent was being offered, by leading banks in the London interbank market, deposits in an amount comparable to the unpaid amounts in the currencies of those amounts for any period(s) that the Security Agent may from time to time select.

### **20.5 Enforcement and Preservation Costs**

Each Chargor shall, within five (5) Business Days of demand, pay to the Security Agent the amount of all costs and expenses (including legal fees and together with any applicable VAT) incurred by it in connection with the enforcement of or the preservation of any rights under this Debenture.

## **21 Set Off**

Any Secured Party may, at any time while an Event of Default is continuing, set-off any matured obligation due from any Chargor under the Loan Documents against any matured obligation owed by that Secured Party to that Chargor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Secured Party may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

## **22 Changes to Parties**

### **22.1 Assignment by the Security Agent**

The Security Agent may at any time assign or otherwise transfer all or any part of its rights and obligations under this Debenture in accordance with the Loan Documents. Subject to the terms of the Loan Documents, the Security Agent shall be entitled to disclose such information concerning each Chargor and this Debenture as the Security Agent considers appropriate to any actual or proposed direct or indirect successor or to any person to whom information may be required to be disclosed by any applicable law. None of the rights and obligations of any Chargor under this Debenture shall be capable of being assigned or transferred.

### **22.2 Changes to Parties**

Each Chargor authorises and agrees to changes to parties under Section 12.8 (*Successor Agent and Co-Agents*) of the Loan Agreement and authorises the Security Agent to execute on its behalf any document required to effect the necessary transfer of rights or obligations contemplated by those provisions.

### **22.3 Consent of Chargors**

Each Chargor consents to other members of the Group becoming Chargors by way of execution of a Security Accession Deed and irrevocably appoints the Borrower as its agent for the purpose of executing any Security Accession Deed on its behalf.

## **23 Miscellaneous**

### **23.1 Certificates Conclusive**

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

### **23.2 Counterparts**

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

### 23.3 Invalidity of any Provision

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

### 23.4 Failure to Execute

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

## 24 Notices

### 24.1 Communications in Writing

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

### 24.2 Addresses

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

- (a) in the case of any person which is a party on the date of this Debenture, that identified with its signature below; and
- (b) in the case of each other party, that notified in writing to the Security Agent on or prior to the date on which it becomes a party,

or any substitute address, electronic mail address or department or officer which that party may notify to the Security Agent (or the Security Agent may notify to the other parties, if a change is made by the Security Agent) by not less than five Business Days’ notice.

### 24.3 Delivery

- (a) Any communication or document made or delivered by one person to another under or in connection with this Debenture will only be effective:
  - (i) if by way of electronic mail, when received in legible form; or
  - (ii) if by way of letter, when it has been left at the relevant address or five Business Days after being deposited in the post, postage prepaid, in an envelope addressed to it at that address,

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

- (b) Any communication or document to be made or delivered to the Security Agent will be effective only when actually received by it and then only if it is expressly marked for the attention of the department or officer identified in Clause 24.2 (*Addresses*) (or any substitute department or officer as the Security Agent shall specify for this purpose).

## **25 Governing Law and Jurisdiction**

### **25.1 Governing Law**

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

### **25.2 Jurisdiction**

The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Debenture (including a dispute relating to the existence, validity or termination of this Debenture or the consequences of its nullity or any non-contractual obligation arising out of or in connection with this Debenture (a “**Dispute**”)).

### **25.3 Convenient Forum**

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.

### **25.4 Exclusive Jurisdiction**

This Clause 25 (*Governing Law and Jurisdiction*) is for the benefit of the Security Agent only. As a result and notwithstanding Clause 25.2 (*Jurisdiction*) and Clause 25.3 (*Convenient Forum*), it does not prevent the Security Agent from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Security Agent may take concurrent proceedings in any number of jurisdictions.

In witness whereof this Debenture has been duly executed as a deed on the date first above written.



**SCHEDULE 1**  
**The Initial Chargors**

<b><u>Name of Initial Chargor</u></b>	<b><u>Registered Number</u></b>	<b><u>Registered Address</u></b>
MARSHBERRY UK HOLDING LIMITED	15136781	c/o Stevens & Bolton LLP, Wey House, Farnham Road, Guildford, United Kingdom, GU1 4YD

**SCHEDULE 2**  
**Real Properties**

None as at the date of this Debenture.

**SCHEDULE 3**  
**Shares**

None as at the date of this Debenture.

**SCHEDULE 4**  
**The Bank Accounts**

None as at the date of this Debenture.

**SCHEDULE 5**  
**Intellectual Property**

None as at the date of this Debenture.

## **SCHEDULE 6**

### **Assigned Agreements**

#### **Assigned Agreements**

Agreement for the sale and purchase of the entire issued share capital of OLS IMAS Limited, FH IMAS Limited and JDN IMAS Limited dated 20 September 2023, between, among others, the Sellers (as defined therein), MarshBerry UK Holding Limited (as Buyer) and MarshBerry International, Inc. (as Buyer's Guarantor).

#### **Insurance Policies**

Warranty & Indemnity Insurance policy number KB9940WIA230 issued on 20 September 2023.

**SCHEDULE 7**  
**Forms of Notices**

**Part 1**  
**Form of Counterparty Notice**

To: [insert name and address of counterparty]

Dated: [●]

Dear Sirs

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

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

We further notify you that:

1. Prior to receipt by you of notice in writing from the Security Agent specifying that an Event of Default (as defined in the Debenture) has occurred and is continuing, the Chargor will continue to have the sole right to deal with you in relation to the Agreement (including any amendment, waiver, claim thereunder or termination thereof).
2. Following receipt by you of notice in writing from the Security Agent specifying that an Event of Default has occurred and is continuing (but not at any other time), the Chargor irrevocably authorises you:
  - (a) to pay all monies to which the Chargor is entitled under the Agreement direct to the Security Agent (or as it may direct), and not to the Chargor, promptly following receipt of written instructions from the Security Agent to that effect;
  - (b) to disclose to the Security Agent any information relating to the Agreement which the Security Agent may from time to time request in writing; and
  - (c) otherwise to deal only with the Security Agent in relation to the Agreement.
3. The provisions of this notice may only be revoked or varied with the prior written consent of the Security Agent and the Chargor.
4. Please sign and return the enclosed copy of this notice to the Security Agent (with a copy to the Chargor) by way of confirmation that:
  - (a) you agree to act in accordance with the provisions of this notice;
  - (b) you have not previously received notice (other than any notices which were subsequently irrevocably withdrawn) that the Chargor has assigned its rights

under the Agreement to a third party or created any other interest (whether by way of security or otherwise) in the Agreement in favour of a third party; and

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

The provisions of this notice are governed by English law.

Yours faithfully

for and on behalf of

**[Insert name of Chargor]**

[On acknowledgement copy]

To: *[Insert name and address of Security Agent]*

Copy to: *[Insert name address of Chargor]*

We acknowledge receipt of the above notice and confirm the matters set out in paragraphs 4(a) to (c) above.

---

for and on behalf of

**[Insert name of Counterparty]**

Dated: [●]

**Part 2**  
**Form of Insurance Notice**

To: [insert name and address of insurance company]

Dated: [●]

Dear Sirs

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

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

We further notify you that:

1. The Chargor irrevocably authorises you and instructs you to disclose to the Security Agent any information relating to the Chargor and the Policies that the Security Agent may from time to time request you to provide.
2. Prior to receipt by you of notice in writing from the Security Agent to the contrary, you are authorised to permit the Chargor to deal with you in relation to the Policies (including any amendment, waiver or termination thereof or any claims thereunder).
3. Following receipt by you of notice in writing from the Security Agent specifying that an Event of Default (as defined in the Debenture) has occurred and is continuing the Chargor irrevocably authorises you:
  - (a) to pay all monies to which the Chargor is entitled under the Policies direct to the Security Agent (or as it may direct), and not to the Chargor, promptly following receipt of written instructions from the Security Agent to that effect; and
  - (b) otherwise to deal only with the Security Agent in relation to the Policies.
4. The provisions of this notice may only be revoked or varied with the prior written consent of the Security Agent and the Chargor.
5. Please sign and return the enclosed copy of this notice to the Security Agent (with a copy to the Chargor) by way of confirmation that:
  - (a) you agree to the terms of this notice and to act in accordance with its provisions;
  - (b) you have not previously received notice (other than notices which were subsequently irrevocably withdrawn) that the Chargor has assigned its rights under the Policies to a third party or created any other interest (whether by way of security or otherwise) in the Policies in favour of a third party; and



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

The provisions of this notice are governed by English law.

Yours faithfully

for and on behalf of

*[Insert name of Chargor]*

*[On acknowledgement copy]*

To: *[Insert name and address of Security Agent]*

Copy to: *[Insert name address of Chargor]*

We acknowledge receipt of the above notice and confirm the matters set out in paragraphs 5(a) to (c) above.

---

for and on behalf of

*[Insert name of insurance company]*

Dated: [●]

**Part 3**  
**Form of Bank Account Notice**

To: [insert name and address of account bank]

Dated: [●]

Dear Sirs

Re: [here identify the relevant bank account(s)] (the “**Accounts**”)

We notify you that, [insert name of Chargor] (the “**Chargor**”) has charged to [insert name of Security Agent] (the “**Security Agent**”) by way of fixed charge for the benefit of itself and certain other banks and financial institutions (the “**Secured Parties**”) all its right, title and interest in the Accounts as security for certain obligations owed by the Chargor to the Secured Parties by way of a Debenture dated [●] (the “**Debenture**”).

We further notify you that:

1. The Chargor irrevocably authorises you and instructs you to disclose to the Security Agent any information relating to the Chargor and the Accounts that the Security Agent may from time to time request you to provide.
2. Prior to receipt by you of notice in writing from the Security Agent to the contrary, you are authorised to permit the Chargor to deal with you in relation to the Accounts (including any withdrawal, receipt or transfer of any credit balances from time to time).
3. Following receipt by you of notice in writing from the Security Agent specifying that an Event of Default (as defined in the Debenture) has occurred and is continuing the Chargor irrevocably authorises you:
  - (a) to accept the instructions in such notice and act in accordance with the provisions of such notice until the Security Agent notifies you in writing that the notice is revoked; and
  - (b) otherwise to deal only with the Security Agent in relation to the Accounts.
4. The provisions of this notice may only be revoked or varied with the prior written consent of the Security Agent and the Chargor.
5. Please sign and return the enclosed copy of this notice to the Security Agent (with a copy to the Chargor) by way of confirmation that:
  - (a) you agree to the terms of this notice and to act in accordance with its provisions;
  - (b) you have not previously received notice (other than notices which were subsequently irrevocably withdrawn) that the Chargor has charged its rights, title and interest in the Accounts to a third party or created any other interest (whether by way of security or otherwise) in the Accounts in favour of a third party; and

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

The provisions of this notice are governed by English law.

Yours faithfully

for and on behalf of

*[Insert name of Chargor]*

*[On acknowledgement copy]*

To: *[Insert name and address of Security Agent]*

Copy to: *[Insert name address of Chargor]*

We acknowledge receipt of the above notice and confirm the matters set out in paragraphs 5(a) to (c) above.

---

for and on behalf of

*[Insert name of account bank]*

Dated: [●]

## SCHEDULE 8

### Form of Security Accession Deed

This Security Accession Deed is made on [●]

**Between:**

- (1) [●], a company incorporated in [England and Wales] with registered number [●] (the “**New Chargor**”);
- (2) [●] for itself and as agent for and on behalf of each of the existing Chargors (“the **Borrower**”); and
- (3) [●] as security trustee for itself and the other Secured Parties (the “**Security Agent**”).

**Recital:**

This deed is supplemental to a Debenture dated [●] between, amongst others, the Chargors named therein and the Security Agent, as previously supplemented and amended by earlier Security Accession Deeds (if any) (the “Debenture”).

Now this deed witnesses as follows:

#### **1. Interpretation**

##### **1.1 Definitions**

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

##### **1.2 Construction**

Clauses 1.2 (*Construction*) and 1.3 (*Other References and Interpretation*) of the Debenture will be deemed to be set out in full in this deed, but as if references in those clauses to the Debenture were references to this deed.

#### **2. Accession of New Chargor**

##### **2.1 Accession**

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

##### **2.2 Covenant to pay**

Subject to any limits on its liability specified in the Loan Documents, the New Chargor covenants, as primary obligor and not only as surety, with the Security Agent (for the benefit of itself and the other Secured Parties) that it will pay and discharge each of the Secured Obligations from time to time when they fall due in accordance with the terms of the Loan Documents.

### 2.3 Fixed Security

The New Chargor, as continuing security for the payment of the Secured Obligations, charges in favour of the Security Agent with full title guarantee the following assets, both present and future, from time to time owned by it or in which it has an interest:

- (a) by way of first legal mortgage, all Material Property in England and Wales vested in the New Chargor on the date on which it becomes a party to this Security Accession Deed; and
- (b) by way of first fixed charge:
  - (i) all other estates, interests, rights and title from time to time in and to any freehold or leasehold property (including that not effectively charged under Clause 2.3(a) above) but excluding any leasehold property that has 25 years or less to run on the lease or has a rack-rent payable in respect thereof together with all buildings and fixtures (including trade fixtures) on that property and all Related Rights;
  - (ii) all of its Investments;
  - (iii) all of its Intellectual Property;
  - (iv) all of its Tangible Moveable Property;
  - (v) all of its Other Debts and all rights and claims against third parties in respect of those Other Debts and all corresponding Related Rights other than any claims which are otherwise subject to a fixed charge or assignment pursuant to this Security Accession Deed;
  - (vi) the Bank Accounts and Related Rights;
  - (vii) all of its Plant and Machinery; and
  - (viii) all of its goodwill and uncalled capital.

### 2.4 Security Assignment

As continuing security for the payment of the Secured Obligations, each New Chargor assigns absolutely by way of security with full title guarantee to the Security Agent all its right, title and interest from time to time in and to the Assigned Agreements and all Related Rights, provided that on payment and discharge in full of the Secured Obligations the Security Agent will promptly re-assign the relevant Assigned Agreements to that Chargor (or as it shall direct).

### 2.5 Floating Charge

As further continuing security for the full payment of the Secured Obligations, each New Chargor charges with full title guarantee in favour of the Security Agent (for the benefit of itself and the other Secured Parties) by way of first floating charge all its present and future assets, undertakings and rights not effectively charged by way of

fixed charge under Clause 2.3 (*Fixed Security*) or assigned under Clause 2.4 (*Security Assignment*).

**3. Consent of Existing Chargors**

The existing Chargors agree to the terms of this deed and agree that its execution will in no way prejudice or affect the security granted by each of them under (and covenants given by each of them in) the Debenture.

**4. Construction of Debenture**

The Debenture and this deed shall be read together as one instrument on the basis that references in the Debenture to “this deed” or “this Debenture” will be deemed to include this deed.

**5. Governing Law and Jurisdiction**

This deed and any non-contractual obligations arising out of or in connection with it are governed English law and the parties agree that the courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this deed (including a dispute regarding the existence, validity or termination of this deed or the consequences of its nullity or any non-contractual obligations arising out of or in connection with it).

In witness whereof this deed has been duly executed on the date first above written.

Schedule 1 to Security Accession Deed: Real Properties

<b>Name of Chargor which holds the shares</b>	<b>Name of company issuing shares</b>	<b>Number and class</b>
[•]	[•]	[•]

Schedule 2 to Security Accession Deed: Shares

Name of Chargor which holds the shares	Name of company issuing shares	Number and class
[•]	[•]	[•]



**Schedule 3 to Security Accession Deed: Bank Accounts**

Chargor	Account number	Sort Code	Branch address	Reference

## **Schedule 4 to Security Accession Deed: Intellectual Property**

[●]

Schedule 5 Security Accession Deed: Assigned Agreements

Assigned Agreements

[•]

Insurance Policies

Chargor	Insurer	Policy Number	Type of Risk Insured

Signatories to Security Accession Deed

The New Chargor

EXECUTED as a DEED by )  
[Name of New Chargor] )  
acting by )

\_\_\_\_\_  
[[•] as Director]

\_\_\_\_\_  
[Witness]  
Name:  
Address:  
Occupation:

Notice Details

\_\_\_\_\_  
Address:

Facsimile:  
Address:  
Occupation:

EXECUTED as a DEED by )  
[Name of the Borrower] )  
acting by )

\_\_\_\_\_  
[[•] as Director]

\_\_\_\_\_  
Witness  
Name:  
Address:  
Occupation:

Notice Details

\_\_\_\_\_  
Address:

Facsimile:  
Address:  
Occupation:

**The Security Agent**

SIGNED by )  
[Name of Security Agent] )  
acting by: )

\_\_\_\_\_  
[●] as Authorised Signatory

Notice Details

\_\_\_\_\_  
Address:



Facsimile:  
Address:  
Occupation:

Signatories to Debenture

The Borrower

EXECUTED as a DEED by )  
MARSH, BERRY & COMPANY, LLC )  
acting by )

  
\_\_\_\_\_  
Authorised Signatory Michael Metz

  
\_\_\_\_\_  
Witness  
Name: Vedrana Jurcevic  
Address:   
Occupation: executive assistant

Notice Details

\_\_\_\_\_  
Address: Marsh, Berry & Company, LLC  
28601 Chagrin Boulevard, Suite 400  
Woodmere, Ohio 44122  
Facsimile:  
Address:  
Occupation:

The Chargor

EXECUTED as a DEED by  
MARSHBERRY UK HOLDING LIMITED

[Redacted Signature]

Director Michael Metz

[Redacted Signature]

Witness  
Name: Vedrana Jurcevic  
Address: [Redacted Address]  
Occupation: executive assistant

Notice Details

Address: Marsh, Berry & Company, LLC  
28601 Chagrin Boulevard, Suite 400  
Woodmere, Ohio 44122

Facsimile:  
Address:  
Occupation:

**The Security Agent**

SIGNED by  
**FORTRESS CREDIT CORP.**  
acting by:

Avraham Dreyfuss  
Chief Financial Officer

)  
)  
)



\_\_\_\_\_  
Authorized Signatory

Notice Details

\_\_\_\_\_  
Address: 1345 Avenue of the Americas,  
46th Floor,  
NY NY 10105

Facsimile:  
Address:  
Occupation: