



Registration of a Charge

Company name: **KURT GEIGER LIMITED**

Company number: **00968046**



X35MD760

Received for Electronic Filing: **11/04/2014**

Details of Charge

Date of creation: **08/04/2014**

Charge code: **0096 8046 0006**

Persons entitled: **BURDALE FINANCIAL LIMITED**

Brief description: **A FIRST FIXED CHARGE OVER ALL FREEHOLD AND LEASEHOLD PROPERTY THAT THE COMPANY HAS NOW OR MAY SUBSEQUENTLY ACQUIRE. A FIRST FIXED CHARGE OVER ALL PRESENT AND FUTURE INTELLECTUAL PROPERTY.**

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: **NORTON ROSE FULBRIGHT LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 968046

Charge code: 0096 8046 0006

The Registrar of Companies for England and Wales hereby certifies that a charge dated 8th April 2014 and created by KURT GEIGER LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 11th April 2014 .

Given at Companies House, Cardiff on 11th April 2014

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

Dated 8 April 2014

I certify that, save for material
redacted pursuant to s.859G
of the Companies Act 2006,
this copy instrument is a correct copy
of the original instrument.

Kurt Geiger Limited
(and others as Chargors)

NORTON ROSE FULBRIGHT
Sign & Dated 9 April 2014 ELP

and

Burdale Financial Limited
(as Agent)

Debenture

TABLE OF CONTENTS

1.	Interpretation	3
2.	Covenant to Pay	6
3.	Creation of Fixed Security.....	7
4.	Floating Charge	12
5.	Continuing Security	13
6.	Representations and Warranties	16
7.	Undertakings of Chargor	18
8.	Provisions Relating to Shares	20
9.	Enforcement of Security	22
10.	Receiver	24
11.	Further Assurances	28
12.	Power of Attorney	28
13.	Delegation	29
14.	No Liability as Mortgagee in Possession	29
15.	Protection of Third Parties	29
16.	Stamp Duties	29
17.	Additional Provisions	30
18.	Remedies and Waivers	30
19.	Notices	30
20.	Costs and Expenses	31
21.	Currency of Account.....	31
22.	Assignments, etc.....	32
23.	Set-Off	32
24.	Covenant to Release.....	32
25.	Purchased Receivables	32
26.	Governing Law	32
27.	Counterparts and Effectiveness	33

Schedules.....	34
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Debenture

Dated 8 April 2014

Between

- (1) **The Companies** (if any) identified in Error! Reference source not found. (*The Chargors*) (each a Chargor and together the **Chargors**); and
- (2) **Burdale Financial Limited**, registered in England with number 2656007, as agent and trustee for the Secured Parties (the **Agent**).

Recitals

- (A) The Lenders have agreed to make facilities available on the terms of the Facility Agreement.
- (B) The Chargors enter into this Debenture to secure the repayment and satisfaction of the Secured Obligations.
- (C) The Chargors and the Agent intend that this document take effect as a deed notwithstanding that it may be executed under hand.

It is agreed:

1. INTERPRETATION

1.1 Definitions

In this Debenture the following terms have the meanings given to them in this Clause 1.1, except where the context otherwise requires.

"**Act**" means the Land and Conveyancing Law Reform Act 2009.

"**Blocked Accounts**" means the bank accounts of the Chargors specified as Blocked Accounts in Part IV of Schedule 2 (*Charged Accounts*) and/or such other bank accounts of the Chargors as the Agent may designate or approve.

"**Book Debts**" means (other than in respect of any Non-Vesting Debts or Purchased Receivables):

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

"**Charged Accounts**" means the Blocked Accounts and the Other Accounts.

"**Charged Assets**" means all the assets, rights and property of each Chargor which are the subject of any security constituted or intended to be constituted by this Debenture.

"**CREST**" means the clearance system operated by CRESTCo Limited.

"Excluded Property" has the meaning given to it in Clause 3.16 (*Leasehold Interests Containing Prohibition on Charging*).

"Facility Agreement" means the facility agreement dated on or about the date of this Debenture between the Chargors as Borrowers and/or Guarantors and Burdale Financial Limited as Original Lender, Arranger, Agent and Security Trustee.

"Financial Collateral Assets" means the Shares and Related Rights and all moneys standing from time to time to the credit of each account in each case mortgaged or charged under this Debenture.

"Financial Collateral Regulations" means the European Communities (Financial Collateral Arrangements) Regulations 2010 (SI 626/2010).

"Fixtures" means, in relation to any freehold or leasehold property charged by or pursuant to this Debenture, all fixtures and fittings (including trade fixtures and fittings) and fixed plant and machinery from time to time thereon owned by each Chargor.

"Floating Charge Assets" has the meaning given to it in Clause 4.1 (*Creation of Floating Charge*).

"Insurances" means all contracts and policies of insurance (including, for the avoidance of doubt, all cover notes) of whatever nature which are, from time to time, taken out by or on behalf of each Chargor or (to the extent of such interest) in which each Chargor has an interest.

"Intellectual Property Rights" means all know-how, patents, trademarks, service marks, designs, utility models, business names, domain names, topographical or similar rights, copyrights (including rights in computer software), moral rights, inventions, confidential information and other intellectual property monopoly rights and all 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).

"Issuer" means each company listed in Part III (*Charged Shares*) of Schedule 2 hereto.

"Mortgaged Property" means all real property legally mortgaged or purported to be legally mortgaged pursuant to this Debenture and any other freehold or leasehold property which is or is purported to be the subject of this Debenture.

"Non-Vesting Debts" means any Receivables which are required or purported to be Purchased Receivables pursuant to the Facility Agreement but which do not, for any reason, vest absolutely and effectively in the Agent (as trustee for the Lenders) from time to time.

"Other Accounts" means the bank accounts of the Chargors specified as Other Accounts in Part IV of Schedule 2 (*Charged Accounts*) and/or such other bank accounts of the Chargors as the Agent may designate or approve.

"Planning Acts" means the Planning and Development Acts 2000 to 2011 and the Building Control Acts 1990 and 2007 and any re-enactment, variation or modification of any of those Acts and any orders, regulations or permissions made, issued or granted under or by virtue of those Acts.

"Premises" means all buildings and erections for the time being comprised within the Charged Assets.

"Prescribed Form" means the form of charge set out in Schedule 4 (or such other form of charge as, in the opinion of the Agent, may be required at law to charge registered land).

"Prescribed Form Charge" means a charge in the Prescribed Form entered into or to be entered into by a Chargor in favour of the Agent.

"Realisations Accounts" means each account maintained from time to time by the Agent for the purposes of Clause 9.5 (*Contingencies*) at such branch of the Account Bank as the Agent may from time to time approve (acting on the instructions of the Majority Lenders).

"Receiver" means an administrative receiver, a receiver and manager or other receiver, in either case, appointed pursuant to this Debenture.

"Related Company" means a company which is related within the meaning of section 4(5) of the Companies (Amendment) Act 1990.

"Related Rights" means:

- (a) any dividend or interest paid or payable in relation to any of the Shares;
- (b) any stock, shares, securities, rights, moneys or property accruing or offered at any time, (whether by way of redemption, substitution, exchange, bonus or preference, under option rights or otherwise) to or in respect of any of the Shares or in substitution or exchange for or otherwise derived from any of the Shares; and
- (c) any dividend, interest or other income in respect of any asset referred to in paragraph (b) above.

"Secured Obligations" means all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or in any other capacity whatsoever) of the Obligors to the Secured Parties under the Finance Documents (or any of them).

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

- (a) no Secured Party is under any commitment, obligation or liability (whether actual or contingent) to make advances or provide other financial accommodation to any Borrower under any of the Finance Documents; and
- (b) all the Secured Obligations have been unconditionally and irrevocably paid and discharged in full in cash or the security interests contemplated to be created hereby have been unconditionally and irrevocably released and discharged in full.

"Shares" means the shares (if any) specified in Part III (*Charged Shares*) of Schedule 2 hereto together with any and all other stocks, shares, debentures, bonds or (without limitation) other securities issued by each such Issuer or any Group Company and owned either legally or beneficially at any time now or in the future by each Chargor.

"Uncalled Capital" means any balance per share remaining uncalled upon the shares issued from time to time by any Chargor.

1.2 Interpretation

- (a) Unless expressly defined in this Debenture, capitalised terms defined in Facility Agreement have the same meanings in this Debenture;
- (b) references to **"assets"** shall include revenues and the right thereto and property and rights of every kind, present, future and contingent and whether tangible or intangible (including uncalled share capital);
- (c) the expressions **"hereof, herein, hereunder"** and similar expressions shall be construed as references to this Debenture as a whole (including all Schedules) and shall not be limited to the particular clause or provision in which the relevant expression appears, and references to this Debenture and all like indications shall

include references to this Debenture as supplemented by any other agreement or instrument supplementing or amending this Debenture;

- (d) the word **"including"** when used in this Debenture means **"including without limitation"** except when used in the computation of time periods;
- (e) references to a **"person"** shall be construed as a reference to any person, firm, company, corporation, government, state or agency of a state or any association or partnership (whether or not having separate legal personality) of two or more of the foregoing;
- (f) the word **"system-user"** when used in this Debenture has the meaning given to it in the Companies Act, 1990 (Uncertificated Securities) Regulations, 1996 (S.I. 68/1996);
- (g) references to any of the Finance Documents and any other agreement or instrument shall be construed as a reference to the same as amended, varied, restated, extended, supplemented or novated from time to time (including, where relevant, by any accession agreement);
- (h) unless otherwise specified, references to Clauses and Schedules are references to, respectively, clauses of and schedules to this Debenture;
- (i) words importing the singular shall include the plural and vice versa;
- (j) references (by whatever term, including by name) to the Chargors and the Agent shall, where relevant and subject as otherwise provided in this Debenture, be deemed to be references to or to include, as appropriate, their respective successors, replacements and assigns, transferees and substitutes permitted by the terms of the relevant Finance Documents;
- (k) the headings in this Debenture are for convenience only and shall be ignored in construing this Debenture;
- (l) all references to statutes and other legislation include all re-enactments and amendments of those statutes and that legislation; and
- (m) references to the **"winding-up"**, **"dissolution"** or **"examinership"** of a company or corporation shall be construed so as to include any equivalent or analogous proceedings under the law of the jurisdiction in which a company or corporation is incorporated or any jurisdiction in which a company or corporation carries on business including the seeking of liquidation, winding-up, reorganisation, dissolution, examinership, administration, arrangements, adjustment, protection or relief of debtors.

1.3 Certificates

A certificate of the Agent or any Secured Party setting forth the amount of any Secured Obligation due from each Chargor shall be *prima facie* evidence of such amount in the absence of manifest error.

2. COVENANT TO PAY

2.1 Covenant to Pay

Each Chargor hereby covenants with and undertakes to the Agent that it will pay or discharge each of the Secured Obligations when due in the manner provided for in the Finance Documents.

2.2 Default Interest

Each Chargor agrees to pay interest on any amount not paid when due under this Debenture (after as well as before judgment) in the manner and at the default rate of interest provided under Clause 12.3 (*Default interest*) of the Facility Agreement.

2.3 Covenant to Make Facilities Available

Each Secured Party, by the Agent's execution of this Debenture, hereby covenants with and undertakes to each Chargor, to the intent that each such covenant and undertaking shall be binding on each Lender severally in accordance with Clause 2 (*The Facility*) of the Facility Agreement as if the same applied to this Clause 2.3 *mutatis mutandis*, that each Lender will perform its obligations under the Facility Agreement to make the Facility available to the Borrower on and subject to the terms of the Facility Agreement to the extent (if at all) that the making thereof by such Lender is provided for in the Facility Agreement.

3. CREATION OF FIXED SECURITY

3.1 General

- (a) All the Security:
 - (i) is created by each Chargor in favour of the Agent (as agent and trustee for the Secured Parties);
 - (ii) is given to secure the payment, discharge and performance of all the Secured Obligations; and
 - (iii) is made by each Chargor as legal and beneficial owner of the Charged Assets held by each such Chargor.
- (b) The Agent is holding the benefit of this Debenture on trust for the Secured Parties in accordance with the terms of the Facility Agreement.

3.2 Land

Subject to clause 3.17 (*De Minimis Property*) each Chargor hereby:

- (a) as beneficial owner and also in the case of registered land as registered owner (or the person entitled to be registered as owner) hereby CHARGES by deed all of the property (if any) specified in Part I of Schedule 2 (*Mortgaged Property*) together with all Premises and Fixtures thereon, the proceeds of sale of all or any part thereof and the benefit of any covenants for title given or entered into by any predecessor in title of each Chargor and any moneys paid or payable in respect of such covenants with the payment, performance and discharge to the Agent (as trustee for the Secured Parties) of the Secured Obligations;
- (b) charges by way of first fixed charge, all estates or interests in any freehold, leasehold or other immovable property wherever situated now belonging to it (to the extent that the same are not the subject of a mortgage under paragraph (a) above) and all Premises and Fixtures thereon, the proceeds of sale of all or any part thereof and the benefit of any covenants for title given or entered into by any predecessor in title of each Chargor and any moneys paid or payable in respect of such covenants; and
- (c) by way of first fixed charge (to the extent that the same are not the subject of a mortgage under paragraph (a) or (b) above) all present and future estates or interests in any freehold, leasehold or other immovable property and any rights under any licence or other agreement or document which gives each Chargor a right to occupy or use property, wherever situated, now or hereafter belonging to it and all Premises and Fixtures thereon, all proceeds of sale thereof and the benefit of any covenants for title given or entered into by any predecessor in title of each Chargor and any moneys paid or payable in respect of such covenants.

3.3 Investments and Shares

Each Chargor mortgages and charges and agrees to mortgage and charge:

- (a) the Shares held now or in the future by it and/or any nominee on its behalf, by way of first legal mortgage;
- (b) the Related Rights held now or in the future by it and/or any nominee on its behalf, by way of first legal mortgage; and
- (c) (to the extent they are not effectively mortgaged or charged pursuant to paragraph (a) or (b) above), charges the Shares and the Related Rights and its interest in all shares, stocks, debentures, bonds, warrants, coupons or other securities and investments (including all Cash Equivalents) held now or in the future by it and/or any nominee on its behalf, by way of first fixed charge.

3.4 Dealing prior to Enforcement

Whilst no Event of Default is continuing, each Chargor shall be entitled (notwithstanding the security contemplated to be created hereby) to:

- (a) receive all dividends, interest and income from and any property accruing or in respect of the Charged Assets; and
- (b) exercise, or direct the Agent (or any nominee of the Agent) to exercise, any voting or other rights attached to any of the Charged Assets, provided that if a resolution is proposed which, in the opinion of the Agent (acting reasonably), might reasonably be expected to prejudice the security created under this Debenture in any material respect, then such votes will be exercised by each Chargor only in accordance with the instructions of the Agent,

and the Agent shall, if requested in writing by each Chargor, appoint each Chargor as its proxy to exercise such rights and powers or, insofar as necessary the Agent will comply with or procure that any nominee of the Agent shall comply with such instructions of each Chargor in respect thereof, in either case as soon as reasonably practicable.

3.5 Shares and Related Rights

Any reference in this Debenture to any share, stock, debenture, bond, warrant, coupon or other security or investment includes:

- (a) any right against any clearance system (including any right against CREST or CRESTCo Limited); and
- (b) any right under any custodian or other agreement (including any right which the Chargor may have under any agreement with a system-user relating to the use of that system-user's account with CREST),

in relation to that share, stock, debenture, bond, warrant, coupon or other security or investment.

3.6 Plant and machinery

Each Chargor charges by way of a first fixed charge all plant and machinery now or in the future owned by such Chargor and its interest in any plant and machinery in such Chargor's possession other than any part of such Chargor's stock in trade or work in progress from time to time.

3.7 Computers and vehicles

Each Chargor charges by way of a first fixed charge all computers and vehicles now or in the future owned by such Chargor and its interest in any computers and vehicles in such Chargor's possession other than any part of such Chargor's stock in trade or work in progress from time to time.

3.8 Blocked Accounts

Each Chargor charges by way of fixed charge all of its right, title and interest (if any) in and to the Blocked Accounts and all monies standing to the credit of any the Blocked Accounts and the debts represented by them

3.9 Insurances

Each Chargor charges by way of a first fixed charge all rights, interests and benefits to and in respect of the Insurances and all claims (and proceeds thereof) and returns of premiums in respect thereof to which each Chargor is now or may at any future time become entitled.

3.10 Book debts

Each Chargor charges by way of fixed charge:

- (a) its Book Debts, both uncollected and collected, the proceeds of the same and all monies otherwise due and owing to such Chargor but excluding the Charged Accounts and any amounts standing to the credit of any Charged Account; and
- (b) the benefit of all rights, Security Interests and guarantees of whatsoever nature enjoyed or held by it in relation to anything referred to in paragraph (a) above.

3.11 Non-Vesting Debts

Each Chargor charges by way of fixed charge:

- (a) its Non-Vesting Debts, both uncollected and collected, the proceeds of the same and all monies otherwise due and owing to such Chargor; and
- (b) the benefit of all rights, Security Interests and guarantees of whatsoever nature enjoyed or held by it in relation to anything referred to in paragraph (a) above.

3.12 Intellectual Property

Each Chargor charges by way of a first fixed charge all of its present and future Intellectual Property Rights (including the Intellectual Property Rights, if any, specified in Part II of Schedule 2 (*Intellectual Property Rights*)), subject to any necessary third party's consent to such charge being obtained. To the extent that any such Intellectual Property Rights are not capable of being charged (whether by reason of lack of any such consent as aforesaid or otherwise) and, if the same is required, pending the grant of any such consent as aforesaid or otherwise the charge thereof purported to be effected by this Clause 0 (*Each Chargor* charges by way of fixed charge:

- (a) its Book Debts, both uncollected and collected, the proceeds of the same and all monies otherwise due and owing to such Chargor but excluding the Charged Accounts and any amounts standing to the credit of any Charged Account; and
- (b) the benefit of all rights, Security Interests and guarantees of whatsoever nature enjoyed or held by it in relation to anything referred to in paragraph (a) above.

3.13 Non-Vesting Debts

Each Chargor charges by way of fixed charge:

- (a) its Non-Vesting Debts, both uncollected and collected, the proceeds of the same and all monies otherwise due and owing to such Chargor; and
- (b) the benefit of all rights, Security Interests and guarantees of whatsoever nature enjoyed or held by it in relation to anything referred to in paragraph (a) above.

Intellectual Property) shall operate as an assignment of any and all damages, compensation, remuneration, profit, rent or income which each Chargor may derive therefrom or be awarded or entitled to in respect thereof, as continuing security for the payment, discharge and performance of the Secured Obligations.

3.14 **Uncalled Capital**

Each Chargor charges by way of first legal mortgage such Chargor's present and future Uncalled Capital.

3.15 **Miscellaneous**

Each Chargor charges by way of a first fixed charge:

- (a) any beneficial interest, claim or entitlement of each Chargor to any assets in any pension fund;
- (b) each Chargor's present and future goodwill (including all brand names not otherwise subject to a fixed charge under this Debenture); and
- (c) the benefit of all present and future licences, consents and authorisations (statutory or otherwise) held in connection with each Chargor's business or the use of any of the Charged Assets and the right to recover and receive all compensation which may at any time become payable to it in respect thereof.

3.16 **Leasehold Interests Containing Prohibition on Charging**

- (a) Until the relevant consent has been obtained, there shall be excluded from the charges created by Clause 3 (*Creation of Fixed Security*) any leasehold property held by each Chargor under a lease the terms of which either preclude absolutely each Chargor from creating any charge over its leasehold interest in such property or require the consent of any third party prior to the creation of such charge and such consent has not previously been obtained (each an "**Excluded Property**").
- (b) With regard to each Excluded Property each Chargor undertakes to promptly upon request following the occurrence of an Event of Default under Clause 24.1 of the Facility Agreement which is continuing or following any action by the Agent pursuant to Clauses 24.16(b) through (f) of the Facility Agreement make an application for the consent of the relevant third party to the creation of the relevant charge contained in Clause 3 (*Creation of Fixed Security*) or Clause 11.1 (*Further Assurances*) and use all reasonable endeavours to obtain such consent as soon as possible and keep the Agent informed of the progress of each Chargor's negotiations with such third parties.
- (c) Forthwith, upon receipt of the relevant third party's consent as aforesaid, the relevant Excluded Property shall thereupon stand charged to the Agent pursuant to the relevant terms of Clause 3 (*Creation of Fixed Security*) above and the provisions of Clause 3.18 (*Prescribed Form Charge*) shall apply. If required by the Agent at any time following receipt of such consent, each Chargor will execute a valid legal mortgage in such form as the Agent shall reasonably require.

3.17 **Financial Collateral**

The parties agree and acknowledge that:

- (a) the Financial Collateral Assets constitute financial collateral; and
- (b) this Debenture and the obligations of each Chargor under this Debenture are a security financial collateral arrangement,

(in each case) for the purposes of the Financial Collateral Regulations.

3.18 De Minimis Property

There shall be excluded from the charge created by clause 3.2 (*Land*), any freehold or leasehold property (together with all Premises and Fixtures thereon) (the proceeds of sale of all or any part thereof and the benefit of any covenants for title given or entered into by any predecessor in title of each Chargor and any moneys paid or payable in respect of such covenants) with a fair market value of less than £2,500,000 (or its equivalent in other currencies).

3.19 Prescribed Form Charge

- (a) Each Chargor shall promptly upon its acquisition of interests in any freehold, leasehold or other immovable property situated in Ireland, execute and deliver to the Agent (as trustee for the Secured Parties) one or more charge(s) in the Prescribed Form over so much of such immoveable property owned by it as comprises registered land.
- (b) Each Prescribed Form Charge shall be supplemental to, and shall form part of, this Debenture.
- (c) Any reference in any Prescribed Form Charge to;
 - (i) the "**Mortgage/Debenture** ~~[[of even date]]~~**[dated [•]]**" shall be construed as a reference to this Debenture;
 - (ii) the "**Mortgage Conditions**" shall be construed as a reference to the terms, conditions, covenants and obligations as are set out in this Debenture;
 - (iii) the "**Mortgaged Property**" shall be construed as a reference to that part of any immoveable property as comprises registered land and which is described in such Prescribed Form Charge;
 - (iv) a "**Mortgagor**" shall be construed as a reference to a Chargor; and
 - (v) the "**Secured Party**" shall be construed as a reference to the Agent acting in its capacity as trustee for the Secured Parties.
- (d) Any reference in this Debenture, or in any other document or agreement (including, without limitation, any Finance Document), to this Debenture shall be construed so as to include each Prescribed Form Charge.
- (e) Each Chargor hereby assents to the registration as burdens on the folio of any registered land of which it is the registered owner or, as applicable, the person entitled to be registered as registered owner as well as on the folio of any further registered lands of which it may from time to time become the registered owner or, as applicable, the person entitled to be registered as registered owner, of:
 - (i) the first ranking fixed mortgage and charge created by this Debenture on the said land;

- (ii) on crystallisation of the floating charge created over the Floating Charge Assets on the said land, such crystallised floating charge; and
- (iii) the power of any Receiver appointed under this Debenture to charge the said land.

4. FLOATING CHARGE

4.1 Creation of Floating Charge

Each Chargor, as legal and beneficial owner and by way of a first floating charge, charges in favour of the Agent (as agent and trustee for the Secured Parties) as continuing security for the payment, discharge and performance of the Secured Obligations, all its undertaking, property, assets and rights whatsoever and wheresoever both present and future to the extent such assets have not otherwise been validly and effectively mortgaged or charged pursuant to Clause 3 (*Creation of Fixed Security*) (the "**Floating Charge Assets**").

4.2 Conversion of Floating Charge

- (a) Notwithstanding anything expressed or implied in this Debenture, the Agent may, by notice to each Chargor, convert the floating charge created by Clause 4.1 (*Creation of Floating Charge*) with immediate effect into a fixed charge as regards all or any of the Charged Assets specified in such notice if:
 - (i) an Event of Default has occurred and is continuing;
 - (ii) each Chargor creates or attempts to create any Security over all or any of the Floating Charge Assets save as permitted by the Facility Agreement;
 - (iii) the Agent reasonably considers such Charged Assets to be in danger of being seized or sold under or pursuant to any form of distress, attachment, execution or other legal process or otherwise to be in jeopardy; or
 - (iv) each Chargor fails to comply, or takes or threatens to take any action which in the reasonable opinion of the Agent is likely to result in each Chargor failing to comply, with its obligations under Clause 7.4 (*Restrictions on Dealing*).
- (b) The floating charge hereby created may not be converted into a fixed charge solely by reason of:
 - (i) the obtaining of a moratorium; or
 - (ii) anything done with a view to obtaining a moratorium,

under the Insolvency Act 2000 of England and Wales.
- (c) The floating charge created by Clause 4.1 (*Creation of Floating Charge*) shall (in addition to the circumstances in which the same will occur under general law) automatically be converted into a fixed charge:

- (i) if an administrator or an examiner is appointed or the Agent receives notice of an intention to appoint an administrator or an examiner; or
 - (ii) upon the convening of any meeting of the members of a Chargor to consider a resolution to voluntarily wind up a Chargor (or not to wind up a Chargor); or
 - (iii) upon the presentation of a petition to compulsorily wind up a Chargor; or
 - (iv) upon the presentation of a petition to appoint an examiner to any Chargor or where the protection of the court is sought by a Related Company; or
 - (v) the Registrar of Companies issuing a notice to any Chargor pursuant to either section 11 or section 12 of the Companies (Amendment) Act 1982; or
 - (vi) if there occurs in relation to a Chargor or any of its assets in any country or territory in which it is incorporated or carries on business or to the jurisdiction of whose courts it or any of its assets is subject any event which corresponds in that country or territory with any of those mentioned in paragraphs (i) to (iii) (inclusive) of this Clause 4.2(c); or
 - (vii) if a Chargor fails to comply with its obligations under Clause 7.4 (Restrictions on Dealing).
- (d) Service by the Agent of a notice pursuant to Clause 4.2(a) (*Conversion of Floating Charge*) in relation to any of the Charged Assets shall not be construed as a waiver or abandonment of the Agent's rights to serve similar notices in respect of any other of the Charged Assets or of any other of the rights of the Secured Parties (or any of them) under any Finance Document and shall remove from each Chargor any right which each Chargor has to deal with the relevant assets without the prior written permission (in the case of dealing) of the Agent.

5. CONTINUING SECURITY

5.1 Continuing Security

The security constituted by this Debenture shall be continuing security which shall extend to all the Secured Obligations and shall not be considered as satisfied or discharged by any intermediate payment or settlement of all or any of the Secured Obligations.

5.2 Breaking of Accounts

If for any reason the security constituted hereby ceases to be a continuing security in respect of each Chargor (other than by way of discharge of such security in accordance with the terms of this Debenture or any other Finance Document) or the Agent or any other Secured Party receives, or is deemed to be affected by, notice, whether actual or constructive of any Security affecting the Charged Assets (other than as permitted under this Debenture or any other Finance Document), the Agent may open a new account with or continue any existing account with each Chargor. If the Agent does not open a new account, it shall nevertheless be treated as if it had done so at the date of such cessation or the time when it received or was deemed to have received notice. As from that time all payments made to the Agent will be deemed to be credited or treated as being credited to the new account and the liability of each Chargor in respect of the Secured Obligations relating to it at the date of such cessation or the time when notice was received or deemed received shall remain and shall not be reduced regardless of any payments into or out of any such account.

5.3 Avoided Payments

Where any release or discharge or other arrangement in respect of all or part of the Secured Obligations (or in respect of any security for those Secured Obligations including the security created under this Debenture) is made in reliance on any payment, security or other

disposition which is avoided or must be restored in an insolvency, liquidation or otherwise and whether or not the Agent has conceded or compromised any claim that any payment, security or other disposition will or should be avoided, the liability of each Chargor for the payment of the Secured Obligations and the obligations of each Chargor under this Debenture shall continue as if such release, discharge or other arrangement had not been made.

5.4 Waiver of Defences

The obligations of each Chargor hereunder will not be affected by any act, omission, circumstance, matter or thing which but for this provision would release or prejudice any of its obligations hereunder or prejudice or diminish such obligations in whole or in part, including (whether or not known to each Chargor or the Agent or any other person whatsoever):

- (a) any time, indulgence or waiver granted to, or composition with, any Obligor or any other person; or
- (b) the taking, variation, compromise, exchange, renewal or release of, refusal or neglect to perfect, take up or enforce any rights or remedies against, or any security over assets of any Obligor or any other person or any non-presentment or non-observance of any formality or other requirement in respect of any instruments or any failure to realise the full value of any other security; or
- (c) any incapacity or lack of powers, authority or dissolution or change in the members or status of any Obligor or any other person; or
- (d) any variation (however fundamental and whether or not involving any increase in the liability of any Obligor or any other person thereunder) or replacement of any Finance Document or any other document or security so that references to that Finance Document or other document or security in this Debenture shall include each such variation or replacement; or
- (e) the unenforceability, illegality or invalidity of any obligation of any Obligor or any other person under any Finance Document or of any other security the Agent may hold in respect of the Secured Obligations (or any of them) or otherwise; or
- (f) any postponement, discharge, reduction, non-provability or other similar circumstances affecting any obligation of any Obligor or any other person under any Finance Document resulting from any insolvency, examination, liquidation or dissolution proceedings or from any law, regulation or order or otherwise.

The Agent shall not be concerned to see or investigate the powers or authorities of any Obligor or any of its respective officers or agents, and moneys obtained or Secured Obligations incurred in the purported exercise of such powers or authorities or by any person purporting to be such Obligor shall be deemed to form a part of the Secured Obligations, and "**Secured Obligations**" shall be construed accordingly.

5.5 Immediate Recourse

Neither the Agent nor any Secured Party shall be required to proceed against or enforce any other rights or security it may have or hold in respect of the Secured Obligations or claim payment from any other person before enforcing the security constituted by this Debenture and each Chargor waives any right it may have of first requiring the Agent or any other Secured Party to do so.

5.6 No Competition

Until all the Secured Obligations have been unconditionally and irrevocably discharged in full, any rights (if any) which each Chargor may have:

- (a) to be subrogated to any rights or security of or moneys held, received or receivable by the Agent or any other Secured Party (or any agent or trustee on its behalf) with respect to the Secured Obligations; or
- (b) to be entitled to any right of contribution or indemnity from any other person; or
- (c) to claim, rank, prove or vote as a creditor of such other person or its estate in competition with the Agent or any other Secured Party (or any agent or trustee on its behalf),

shall be exercised by each Chargor only if and to the extent that the Agent so requires and in such manner and upon such terms as the Agent may specify and each 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 Agent for application in accordance with the terms hereof as if such moneys, rights or security were held or received by the Agent under this Debenture.

5.7 Appropriations

Until all the Secured Obligations have been unconditionally and irrevocably paid and discharged in full in cash, the Agent and each Secured Party (or any agent or trustee on its behalf) may:

- (a) refrain from applying or enforcing any other moneys, security or rights held or received by it in respect of the Secured Obligations or apply and enforce the same in such manner and order as it sees fit (whether against the Secured Obligations or otherwise) and each Chargor shall not be entitled to the benefit of the same; and
- (b) hold in a suspense account any moneys received from each Chargor or any other person in respect of the Secured Obligations, without liability to pay interest on those moneys.

5.8 Additional Security

This Debenture is in addition to and shall not in any way be prejudiced by, prejudicial to or affect or merge with any other security now or hereafter held by the Agent or any Secured Party (or any agent or trustee on its behalf) for the Secured Obligations or any of them.

5.9 Security Held by the Chargors

Each Chargor will not without the prior written consent of the Agent hold any security, guarantee, indemnity, bond or other assurance from any other person in respect of each Chargor's liabilities hereunder. Each Chargor will hold any security held by it in breach of this provision on trust for the Agent (as agent and trustee as aforesaid) and shall on request promptly deposit the same and/or charge the same to the Agent in such a manner as the Agent may require as security for due and punctual performance and discharge by each Chargor of the Secured Obligations.

5.10 Remedies Not Exclusive

- (a) The rights and remedies of the Agent and any Receiver provided for in this Debenture:

- (i) may be exercised as often as necessary;
- (ii) are cumulative and not exclusive of any rights or remedies provided by law; and
- (iii) may be waived only in writing and specifically.

Delay in exercising or non-exercise of any such right is not a waiver of that right.

- (b) The Agent may waive any breach by each Chargor of any of its obligations hereunder.

5.11 Protection of the Agent

The Agent shall not be liable in respect of any loss or damage which arises out of the exercise, or the attempted or purported exercise of, or the failure to exercise any of its powers, unless such loss or damage is caused by its gross negligence or wilful default.

6. REPRESENTATIONS AND WARRANTIES

Each Chargor makes each of the representations and warranties set out in this Clause 6 and acknowledges that the Agent and the Secured Parties have entered into the Finance Documents in reliance on those representations and warranties.

6.1 No Filing or Stamp Taxes

Under the laws of Ireland and, where a Chargor is incorporated in a jurisdiction other than Ireland, under the laws of that Chargor's jurisdiction of incorporation, in force at the date hereof, it is not necessary that this Debenture be filed, recorded or enrolled with any court or other authority (save for registration under Section 99 of the Companies Act 1963) or that any stamp, registration or similar tax be paid on or in relation to this Debenture.

6.2 Shares

As at the date hereof:

- (a) each Chargor is and, from and after the date hereof will (subject to the terms of the Facility Agreement) remain the legal and beneficial owner of the Shares and the Related Rights and it or its nominee is and will remain the absolute legal owner of the Shares and the Related Rights and, as legal and beneficial owner, it is able to mortgage and has so mortgaged the Shares and the Related Rights;
- (b) the security created over the Shares and the Related Rights under this Debenture constitutes a first priority security interest over the Shares and the Related Rights;
- (c) the Shares and the Related Rights are within each Chargor's disposition and control and neither the terms of the Shares and the Related Rights nor of the Memorandum and Articles of Association of any Issuer restrict or otherwise limit the right to mortgage, charge or pledge the Shares and the Related Rights in favour of the Agent;
- (d) the Shares are duly authorised, validly issued, fully paid or credited as fully paid and no calls have been made in respect thereof which remain unpaid or can be made in respect thereof in the future;
- (e) except as stated in Clause 3 (*Creation of Fixed Security*), it has not sold or granted any rights of pre-emption over or agreed to sell or grant any right of pre-emption over

or otherwise disposed of or agreed to dispose of the benefit of all or any of its rights, title and interest in and to all or any part of the Shares or Related Rights; and

- (f) the Shares are non-assessable and neither the Shares nor the Related Rights are subject to any options to purchase or similar rights of any person.

6.3 Mortgaged Property

Each Chargor is the sole legal and beneficial owner of all the properties specified in Part I (*Mortgaged Property*) of Schedule 2 and, as at the date of this Debenture, it does not own any other freehold property.

6.4 Intellectual Property Rights

- (a) The Intellectual Property Rights owned by or licensed to each Chargor (including the Intellectual Property Rights specified in Part II (*Intellectual Property Rights*) of Schedule 2) are all of the Intellectual Property Rights registered with the Irish Patents Office, the Community Trade Mark Register and the Registered Community Design Database which are material in the context of its business and which are required to carry on its business as it is being conducted and each Chargor does not, in carrying on its business, infringe any Intellectual Property Rights of any third party except where the failure to have any such rights, either individually or in aggregate, would not reasonably be expected to have a Material Adverse Effect.
- (b) Except as disclosed in writing to the Agent prior to the date hereof, the Intellectual Property Rights owned by or licensed to each Chargor (including the Intellectual Property Rights listed in Part II (*Intellectual Property Rights*) of Schedule 2) are free of any Security (except for any Permitted Security or Security created by or pursuant to this Debenture) and any other rights or interests (including any licences) in favour of third parties.
- (c) None of the Intellectual Property Rights owned by or licensed to each Chargor (including the Intellectual Property Rights listed in Part II (*Intellectual Property Rights*) of Schedule 2) is being infringed and there is no threatened infringement of any such Intellectual Property Right which, in either case, would be reasonably likely to have a Material Adverse Effect.

6.5 Charged Assets

As at the date hereof:

- (a) no Chargor has received notice of any claims in respect of any of the Charged Assets (including the Shares and the Related Rights) which, if adversely determined are reasonably likely to have a Material Adverse Effect have been started, or to the best of the relevant Chargor's knowledge and belief (having made due and careful enquiry) overtly threatened;
- (b) each Chargor is the legal and beneficial owner of the Charged Assets which it purports to charge on the date hereof and, as legal and beneficial owner, is able to mortgage and has so mortgaged such Charged Assets; and
- (c) the Charged Assets are within each Chargor's disposition and control and the terms of the Charged Assets do not (except as contemplated by this Debenture) restrict or otherwise limit the right to transfer, mortgage, charge or pledge the Charged Assets in favour of the Agent.

6.6 Representations and Warranties in the Facility Agreement

Each Chargor repeats the representations and warranties given by it in Clause 20 (*Representations*) of the Facility Agreement.

6.7 Times of Making Representations and Warranties

The representations and warranties set out in this Clause 6 shall be repeated at the times and in the manner specified at Clause 20.19 of the Facility Agreement.

7. UNDERTAKINGS OF CHARGOR

7.1 Duration

The undertakings in this Clause 7 shall remain in force throughout the Security Period.

7.2 Maintenance of Legal Validity

Each Chargor shall obtain, comply with the terms of and do all that is necessary to maintain in full force and effect and if so requested by the Agent (acting reasonably) supply certified copies to the Agent of any authorisations, approvals, licences, registrations and consents required in or by the laws and regulations of Ireland and, to the extent a Chargor is incorporated in a jurisdiction other than Ireland, the laws and regulations of its jurisdiction of incorporation to enable it lawfully to enter into and perform its obligations under this Debenture and to ensure the legality, validity, enforceability or admissibility in evidence of this Debenture.

7.3 Untrue Representations

Each Chargor shall notify the Agent of the occurrence of any event which results in or may reasonably be expected to result in any of the representations and warranties contained in Clause 6 (*Representations and Warranties*) being untrue in any material respect at the time made.

7.4 Restrictions on Dealing

Each Chargor undertakes that, except as permitted under the terms of this Debenture or any other Finance Document it will not:

- (a) create or permit to subsist any Security over all or any of its assets, rights or property other than (i) the Security created pursuant to this Debenture or any other Finance Document or (ii) Permitted Security; or
- (b) lease, sell, transfer, assign or otherwise dispose of or agree to lease, sell, transfer, assign or otherwise dispose of, all or any part of its assets, rights or property, including the Charged Assets or any interest therein.

7.5 Book Debts and Receipts

Each Chargor shall collect and realise its Book Debts and other monies and receipts and, save to the extent that the Agent otherwise agrees in writing:

- (a) pay the proceeds of any Book Debts into a Blocked Account (in the case of each Borrower) or an Other Account (in the case of any other Chargor); and
- (b) in the case of each Borrower, pay the proceeds of any Non-Vesting Debts into a Blocked Account, and
- (c) pending such payment into a Blocked Account or Other Account (as the case may be), hold the proceeds thus realised upon trust for the Agent.

7.6 Blocked Account Arrangements

Each Chargor which is or becomes a Borrower shall in respect of any Blocked Account opened after the date of this Debenture, promptly following the opening of such Blocked Account:

- (a) serve notice upon the bank at which each Blocked Account is opened (in respect of the relevant Blocked Accounts) in substantially the form set out in Part I of Schedule 3 (Forms of Notice to Banks and Acknowledgement); and
- (b) procure the relevant bank returns the acknowledgement in substantially the form set out in Part II of Schedule 3 (*Forms of Notice to Banks and Acknowledgement*) or such other form acceptable to the Agent in its absolute discretion.

7.7 Operation of Blocked Accounts

Until the security constituted by this Debenture is discharged, no Borrower shall be entitled to withdraw the whole or any part of any amount standing to the credit of any Blocked Account and shall not take any action, claim or proceedings against the Agent or any other party for the return or payment to any person of the whole or any part of any amount standing to the credit of any Blocked Account.

7.8 Other Account Arrangements

Each Chargor shall promptly upon the execution of this Debenture or, in respect of any Other Account opened after the date of this Debenture, promptly following the opening of such Other Account:

- (a) serve notice upon the bank at which each Other Account is opened (in respect of the relevant Other Accounts) in substantially the form set out in Part III of Schedule 3 (Forms of Notice to Banks and Acknowledgement); and
- (b) procure the relevant bank returns the acknowledgement in substantially the form set out in Part IV of Schedule 3 (*Forms of Notice to Banks and Acknowledgement*) or such other form acceptable to the Agent in its absolute discretion.

7.9 Operation of Other Accounts

Until notified by the Agent in writing to the contrary, the Chargors shall be entitled to operate the Other Accounts PROVIDED THAT:

- (a) the Other Accounts each retain a credit or zero balance at all times; and
- (b) the Chargors shall not at any time transfer the whole or any part of the amounts standing to the credit of any Other Account to any other bank account other than to another Charged Account or in the ordinary course of business to the extent permitted under the Finance Documents.

7.10 Bank Accounts

Until the security constituted by this Debenture is discharged, no Chargor shall maintain any bank accounts which are not Charged Accounts.

7.11 Intellectual Property Rights

Each Chargor shall:

- (a) take all such steps as may be necessary to preserve and maintain the subsistence and validity of all of its Intellectual Property Rights which are necessary for its business; and

- (b) unless otherwise permitted under the terms of the Finance Documents, not without the prior written consent of the Agent (acting on the instructions of the Majority Lenders):
 - (i) sell, transfer, license or otherwise dispose of all or any part of its Intellectual Property Rights; or
 - (ii) permit any such Intellectual Property Rights which are registered to be abandoned or cancelled, to lapse or to be liable to any claim of abandonment for non-use or otherwise.

7.12 Maintenance of Property

Each Chargor shall (except as otherwise permitted pursuant to the terms of the Facility Agreement):

- (a) **Noting of Interest:** procure that a note of the Agent's interest is endorsed upon all policies of insurance which shall at any time during the subsistence of this security be effected, maintained or held by each Chargor or any person on its behalf pursuant to Clause 23.17 (*Insurance*) of the Facility Agreement;
- (b) **Report on Title:** as soon as reasonably practicable on demand by the Agent (acting reasonably) provide the Agent with a report as to the title of each Chargor to all or any part of any property which is or may become subject to this security which is not de minimis property for the purpose of Clause 3.17 and such other related matters which a prudent mortgagee might seek to have covered in a lawyer's report of this nature.

7.13 Shares

Each Chargor will not take any action whereby the rights attaching to the Shares or the Related Rights are altered or diluted except to the extent permitted by the Agent or any Finance Documents.

7.14 Intellectual Property

In respect of the Intellectual Property Rights specified in Part II (*Intellectual Property Rights*) of Schedule 2 the title to which is registered with the Irish Patents Office and in respect of any other registered trademarks of each Chargor against which this Debenture may be noted, each Chargor shall forthwith file with the Irish Patents Office all forms as may be necessary to register its interest within any applicable time periods.

7.15 Uncalled Capital

- (a) Except as permitted under the terms of this Debenture or any other Finance Document, no Chargor will call up, or receive in advance of calls, any Uncalled Capital and any Uncalled Capital when paid, shall only be applied towards payment of the Secured Obligations to the extent required pursuant to the terms of the Facility Agreement.
- (b) For the avoidance of doubt, the provisions of Clause 7.13(a) (*Uncalled Capital*) are subject to the Borrower's Equity Cure rights pursuant to clause 22.3 of the Facility Agreement.

8. PROVISIONS RELATING TO SHARES

8.1 Deposit of Certificates

Each Chargor shall, as soon as reasonably practicable:

- (a) deposit with the Agent (or as the Agent may direct) all bearer instruments, share certificates and other documents of title or evidence of ownership in relation to the Shares and their Related Rights as are owned by it or in which it has or acquires an interest entitling it to control such documents;
- (b) execute and deliver to the Agent all such stock transfer forms and other documents as may be reasonably requested by the Agent in order to enable the Agent (or its nominee) to be registered as the owner or otherwise to obtain a legal title to the Shares and their Related Rights; and
- (c) at any time following the occurrence of an Event of Default which is continuing, if the Agent so requests, procure that all such stock transfer forms are forthwith registered with the relevant person and that share certificates in the name of the Agent (or such nominee) in respect of the Shares and their Related Rights are forthwith delivered to the Agent.

8.2 Registration on Transfer

Each Chargor hereby authorises the Agent:

- (a) to arrange for any of the Shares and/or Related Rights to be registered in the name of the Agent (or its nominee) in circumstances where the Agent considers that such registration is appropriate in order to protect, perfect or preserve the security created hereby; or
- (b) (under its powers of realisation) upon enforcement of the security created hereby following an Event of Default which is continuing, to transfer or cause the Shares and/or Related Rights to be transferred to and registered in the name of the Agent (or its nominee) or any purchaser or transferee,

and each Chargor undertakes from time to time promptly to execute and sign all transfers, contract notes, powers of attorney and other documents (and to procure the registration of any such transfer of the Shares and/or Related Rights in the relevant shareholders register) that may be required by the Agent in connection therewith.

8.3 Liability to Perform

Notwithstanding anything to the contrary herein contained, each Chargor shall remain liable to observe and perform all of the conditions and obligations assumed by it in respect of the Charged Assets and, without limitation, to pay all calls or other payments that may become due in respect of any of the Charged Assets. Notwithstanding the provisions of Clause 8.6 (Calls), the Agent shall not be required in any manner to perform or fulfil any obligation of each Chargor in respect of the Charged Assets, or to make any payment, or to make any enquiry as to the nature or sufficiency of any payment received by it, or to present or file any claim or take any other action to collect or enforce the payment of any amount to which it may have been or to which it may be entitled hereunder at any time or times.

8.4 Subsequently Acquired Shares

Each Chargor shall, promptly upon it (or any nominee of each Chargor) becoming the registered owner of and receiving share certificates in respect of any Shares and their Related Rights after the date hereof, deliver to the Agent all share certificates in respect thereof together with share transfer documentation in respect of such Shares and their Related Rights duly executed in blank by or on behalf of each Chargor (or such nominee) as appropriate.

8.5 Powers

- (a) At any time after an Event of Default has occurred and is continuing and without any further consent or authority on the part of each Chargor, the Agent may exercise (or refrain from exercising) at its discretion in the name of each Chargor (or the registered holder) in respect of the Shares and/or Related Rights any voting rights and any powers or rights under the terms thereof or otherwise which may be exercised by the person or persons in whose name or names the Charged Assets are registered or who is the holder thereof.
- (b) If the Agent takes any such action as is referred to in paragraph (a) above, it shall give notice to each Chargor as soon as practicable.
- (c) For the purposes of giving effect to this Clause 8.5 (*Powers*) and to the extent that the Shares and/or Related Rights remain registered in the name of each Chargor, each Chargor hereby irrevocably appoints the Agent (or its nominee) as its proxy to exercise all voting and other rights in respect thereof.

8.6 Calls

To the extent that each Chargor fails to comply with its obligations under Clause 8.3 (*Liability to Perform*) the Agent may (if it thinks fit) make such payment on behalf of each Chargor. Any sums so paid by the Agent shall be repayable by each Chargor to the Agent on demand (which demand shall be made promptly following the making of the payment by the Agent) together with interest at the default rate of interest provided under clause 12.3 (*Default interest*) of the Facility Agreement from the date of such payment by the Agent until the date of payment by each Chargor, and pending such repayment shall constitute part of the Secured Obligations.

8.7 Provision of Information

Each Chargor shall send to the Agent, within such time as required of each Chargor under the Facility Agreement, or if not so referenced promptly following receipt by each Chargor, a copy of every balance sheet, profit and loss account, report or other notice, statement or circular sent or delivered by each Issuer to its members.

9. ENFORCEMENT OF SECURITY

9.1 Security Enforceable

The security constituted hereby shall become immediately enforceable at any time after an Event of Default has occurred and is continuing.

9.2 Enforcement

After the security constituted hereby has become enforceable the Agent may enforce all or any part of the security created hereby and exercise any other rights or remedies conferred on it hereunder or by law in such manner as it sees fit and may, without notice to each Chargor and without demand for payment, apply the proceeds of such enforcement in or towards discharge of the Secured Obligations in such order and in such amounts as the Agent sees fit or otherwise in accordance with the terms hereof.

9.3 The Act

- (a) The restrictions on the power of sale contained in section 100 of the Act shall not apply to this Debenture. On or at any time after the occurrence of an Event of Default, the Agent may exercise without further notice to any Chargor and without the restrictions contained in the Act and whether or not it shall have appointed a Receiver, all the powers and rights conferred on mortgagees by the common law and the Act as varied or extended by this Debenture and all the powers and discretions hereby conferred either expressly or by reference on a Receiver.

- (b) The notification requirement contained in section 103(2) of the Act shall not apply to this Debenture.
- (c) Notwithstanding anything to the contrary contained in the Act, the Agent reserves the right to consolidate mortgage securities without restriction.
- (d) No Chargor shall take any action under section 94 of the Act in respect of the Charged Assets, this Debenture or any monies, obligations and/or liabilities hereby covenanted to be paid or discharged.
- (e) The power of leasing conferred upon a mortgagor in possession by section 112 of the Act and the power of accepting the surrender of leases conferred upon a mortgagor in possession by section 114 of the Act and any other powers of leasing, surrendering or accepting surrenders of leases vested in each Chargor shall not be exercisable without the prior consent in writing of the Agent nor shall any Chargor, without the prior consent in writing of the Agent, confer on any person any contractual licence to occupy or any other right or interest in any freehold or leasehold or other immovable property hereby charged or grant any licence or consent to assign, undertake or part with possession or occupation thereof.
- (f) In accordance with section 112(3)(c) of the Act, each Chargor hereby consents to the Agent, while in possession, or any Receiver, leasing all or any part of the Charged Assets, including any part of the Charged Assets consisting of land.
- (g) Notwithstanding anything contained in this Debenture, the exercise by the Agent of the powers and rights conferred on it by virtue of the provisions of Chapter 3 of Part 10 of the Act shall not be subject to any restriction on such exercise contained in section 96(1)(c) of the Act.
- (h) The restrictions on taking possession of mortgaged property contained in section 97 of the Act shall not apply to this Debenture.
- (i) Section 99(1) of the Act shall not apply to this Debenture and any obligations imposed on mortgagees in possession or receivers by virtue of the application of section 99(1) shall not apply to the Agent or any Receiver.
- (j) The restrictions contained in section 108(1) of the Act shall not apply to this Debenture.

9.4 **Statutory Powers**

The powers conferred on mortgagees or receivers by the Act and the Financial Collateral Regulations shall apply to this Debenture except insofar as they are expressly or impliedly excluded and, where there is ambiguity or conflict between the powers contained in the Act, the Financial Collateral Regulations and those contained in this Debenture, those contained in this Debenture shall prevail. For the purposes of all powers implied by statute, the Secured Obligations shall be deemed to have become due and payable on the date hereof. Such powers and rights shall, for the avoidance of doubt, include the right to appropriate all or any part of the Financial Collateral Assets in or towards the satisfaction of the Secured Obligations. For this purpose, the value of such Financial Collateral Assets so appropriated shall be such amount as the Agent so determines having taken into account advice obtained by it from an independent investment or accountancy firm of national standing selected by it.

9.5 **Contingencies**

- (a) If the Agent enforces the security constituted by this Debenture (whether by the appointment of a Receiver or otherwise) at a time when no amounts are due under any of the Finance Documents (but at a time when amounts may become so due), the Agent (or such Receiver) may pay the proceeds of any recoveries effected by it into such number of Realisations Accounts as it considers appropriate.

- (b) The Agent (or such Receiver) may (subject to the payment of any claims having priority to the security constituted by this Debenture) withdraw amounts standing to the credit of the Realisations Accounts to:
 - (i) meet all costs, charges and expenses incurred and payments made by the Agent (or such Receiver) in the course of such enforcement;
 - (ii) pay remuneration to the Receiver as and when the same becomes due and payable;
 - (iii) satisfy the Secured Obligations as and when the same become due and payable; and
 - (iv) amounts standing to the credit of each Realisations Account shall bear interest at such rate as the Agent may agree with the Account Bank with which such Realisations Account is maintained as being a fair market rate.

in each case, together with interest thereon (after, as well as before, judgment and payable on demand) at the default rate of interest provided under Clause 12.3 (*Default interest*) of the Facility Agreement from the date the same become due and payable until the date the same are unconditionally and irrevocably paid and discharged in full.

10. RECEIVER

10.1 Appointment of Receiver

- (a) At any time after the security constituted by this Debenture becomes enforceable in accordance with its terms or if an application is made for the appointment of or notice is given of intention to appoint an administrator, liquidator or examiner in respect of a Chargor or if requested by a Chargor, the Agent may without further notice appoint under seal or in writing under its hand any person to be a Receiver of all or any part of the Charged Assets.
- (b) Such an appointment over part only of the Charged Assets shall not preclude the Agent from making any subsequent appointment of the same or another Receiver over any part of the Charged Assets over which an appointment has not been previously made.
- (c) A Receiver shall be deemed at all times and for all purposes to be the agent of any Chargor in respect of which he is appointed and such Chargor shall be solely responsible for his acts or defaults and for the payment of his remuneration and the Receiver shall at no time act as agent for the Agent.
- (d) Neither the Agent nor any Receiver shall be liable to account as a mortgagee in possession in respect of all or any part of the Charged Assets or be liable for any loss upon realisation or for any neglect or default of any nature whatsoever in connection with all or any part of the Charged Assets to which a mortgagee in possession might as such be liable.

10.2 Powers of Receiver

- (a) Every Receiver appointed in accordance with Clause 10.1 (*Appointment of Receiver*) shall have and be entitled to exercise all of the powers set out in paragraph (b) of this Clause 10.2 in addition to those conferred from time to time on receivers by statute and in the case of the powers conferred by the Act without the restrictions contained in the Act and, in addition, power on behalf and at the cost of each Chargor (notwithstanding liquidation or administration of such Chargor) to do or omit to do anything which such Chargor could do or omit to do in relation to the Charged Assets or any part thereof. If at any time there is more than one Receiver of all or any part of

the Charged Assets, each such Receiver may (unless otherwise stated in any document appointing him) exercise all of the powers conferred on a Receiver under this Debenture individually and separately from each other Receiver.

- (b) The powers referred to in the first sentence of paragraph (a) of this Clause 10.2 above are:
- (i) enter upon, take possession of, collect and get in all or any of the Charged Assets, exercise in respect of the Shares and the Related Rights all voting or other powers or rights available to a registered holder thereof in such manner as he may think fit and bring, defend or discontinue any proceedings (including proceedings for the winding up of such Chargor) or submit to arbitration in the name of such Chargor or otherwise as may seem expedient to him;
 - (ii) carry on, manage, develop, reconstruct, amalgamate or diversify the business of such Chargor or any part thereof or concur in so doing, lease or otherwise acquire and develop or improve or demolish properties or other assets without being responsible for loss or damage;
 - (iii) raise or borrow any money (including money for the completion with or without modification of any building in the course of construction and any development or project in which such Chargor was engaged) from or incur any other liability to the Agent or others on such terms with or without security as he may think fit and so that any such security may be or include an encumbrance on the whole or any part of the Charged Assets ranking in priority to this security or otherwise;
 - (iv) sell by public auction or private contract, let, surrender or accept surrenders, grant licences or otherwise dispose of or deal with all or any of the Charged Assets or concur in so doing in such manner for such consideration and generally on such terms and conditions as he may think fit (including conditions excluding or restricting the personal liability of the Receiver or the Agent) with full power to convey, let, surrender, accept surrenders or otherwise transfer or deal with such Charged Assets in the name and on behalf of such Chargor or otherwise and so that the covenants and contractual obligations may be granted and assumed in the name of and so as to bind such Chargor if he shall consider it necessary or expedient so to do; any such sale, lease or disposition may be for cash, debentures or other obligations, shares, stock, securities or other valuable consideration and be payable immediately or by instalments spread over such period as he shall think fit and so that any consideration received or receivable shall ipso facto forthwith be and become charged with the payment of all Secured Liabilities; plant, machinery and fixtures may be severed and sold separately from the premises containing them and the Receiver may apportion any rent and the performance of any obligations affecting the premises sold without the consent of such Chargor;
 - (v) promote, procure the formation or otherwise acquire the share capital of any body corporate with a view to such body corporate purchasing, leasing, licensing or otherwise acquiring interests in all or any of the Charged Assets or otherwise, arrange for companies to trade or cease to trade and to purchase, lease, licence or otherwise acquire all or any of the Charged Assets on such terms and conditions whether or not including payment by instalments secured or unsecured as he may think fit;
 - (vi) make any arrangement or compromise or enter into or cancel any contracts which he shall think expedient;

- (vii) make and effect such repairs, renewals, improvements or other alterations to the Charged Assets or any part thereof as he may think fit;
- (viii) demolish all or any part of any buildings, structures or fixtures and fittings in and on any land, immoveable or real property;
- (ix) maintain, renew, take out or increase insurances of whatever type (including indemnity insurance) for such amounts and on such terms as he may think fit;
- (x) appoint managers, agents, officers, and employees for any of such purposes or to guard or protect the Charged Assets at such salaries and commissions and for such periods and on such terms as he may determine and dismiss the same;
- (xi) make or require the directors of such Chargor to make calls, conditionally or unconditionally, on the members of such Chargor in respect of uncalled capital and enforce payment of any call so made by action (in the name of such Chargor or the Receiver as may be thought fit) or otherwise;
- (xii) without any consent by or notice to such Chargor, exercise on behalf of such Chargor all the powers and provisions conferred on a landlord or a tenant by any legislation from time to time in force relating to rents or otherwise in respect of any part of the Charged Assets but without any obligation to exercise any of such powers and without any liability in respect of powers so exercised or omitted to be exercised;
- (xiii) without any consent or notice by or to such Chargor, exercise for and on behalf of such Chargor and in the name of such Chargor all powers and rights of such Chargor relevant to and necessary to effect the registration with the Property Registration Authority of the crystallisation of the floating charge created over the Floating Charge Assets and/or the appointment of a Receiver hereunder;
- (xiv) settle, arrange, compromise and submit to arbitration any accounts, claims, questions or disputes whatsoever which may arise in connection with the business of such Chargor or the Charged Assets or any part thereof or in any way relating to the security constituted by this Debenture, bring, take, defend, compromise, submit to and discontinue any actions, suits, arbitrations or proceedings whatsoever whether civil or criminal in relation to the matters aforesaid, enter into, complete, disclaim, abandon or disregard, determine or rectify all or any of the outstanding contracts or arrangements of such Chargor in any way relating to or affecting the Charged Assets or any part thereof and allow time for payment of any debts either with or without security as he shall think expedient;
- (xv) redeem any prior encumbrance and settle and agree the accounts of the encumbrancer; any accounts so settled and agreed shall (subject to any manifest error) be conclusive and binding on such Chargor and the money so paid shall be deemed an expense properly incurred by the Receiver;
- (xvi) generally, at his option, use the name of such Chargor in the exercise of all or any of the powers hereby conferred;
- (xvii) apply for, seek, negotiate and renew (whether on the same or different terms) any authorisation, consent, approval, permission, resolution, licence, exemption, filing, notarisation or registration (including any planning permissions and retention of planning permission) necessary or desirable in the opinion of the Receiver for the purposes of or in connection with the Charged Assets or the conduct of such Chargor's business or trade;

- (xviii) transfer all or any part of the Charged Assets to any other Chargor or body corporate, whether or not formed or acquired for the purpose;
- (xix) sell, license or otherwise dispose of any Intellectual Property the subject of the security constituted by this Debenture in consideration of a royalty or other periodical payment;
- (xx) exercise, or permit such Chargor or any nominees of such Chargor to exercise, any powers or rights incidental to the ownership of the Charged Assets or any part thereof in such manner as he may think fit;
- (xxi) take any and all steps or other action (including legal proceedings) for the purposes of enforcing, protecting or preserving any contractual rights forming part of the Charged Assets;
- (xxii) sign any document, execute any deed and do all such other acts and things that such Chargor is entitled or permitted (in each case, whether expressly or implicitly) to sign, execute or do by law or under its memorandum and articles of association and other constitutive documents;
- (xxiii) conduct investigations, sampling, site studies and testing in respect of all or any part of the Charged Assets and take any and all remedial and removal action as he thinks fit or as required by law;
- (xxiv) to the extent permitted by law, and without prejudice to any other right or power conferred on him by this Debenture, exercise all or any of the rights and powers conferred on statutory receivers under Schedule 1 of the National Asset Management Agency Act 2009 (as if references therein to NAMA were references to the Agent); and
- (xxv) sign any document, execute any deed and do all such other acts and things as may be considered by him to be incidental or conducive to any of the matters or powers aforesaid or to the realisation of the Agent's security and use the name of such Chargor for all the above purposes.

10.3 Removal and Remuneration

The Agent may from time to time by writing under its hand (subject to any requirement for an order of the court in the case of an administrative receiver) remove any Receiver appointed by it and may, whenever it may deem it expedient, appoint a new Receiver in the place of any Receiver whose appointment may for any reason have terminated and may from time to time fix the remuneration of any Receiver appointed by it. Section 108(7) of the Act shall not apply to the commission and/or remuneration of a Receiver appointed pursuant to this Debenture.

10.4 Agent May Exercise Powers of Receiver

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 implied) upon a Receiver may be exercised by the Agent at any time after the security constituted by this Debenture has become enforceable in relation to the whole of such Charged Assets or any part thereof without first appointing a Receiver of such property or any part thereof or notwithstanding the appointment of a Receiver of such property or any part thereof.

10.5 Application of Proceeds

- (a) Any moneys received by the Agent or by any Receiver appointed by it pursuant to this Debenture and/or under the powers hereby conferred shall, after the security hereby constituted shall have become enforceable, but subject to the payment of any claims having priority to the security constituted by this Debenture and to the Agent's and such Receiver's rights under Clauses 9.5 (*Contingencies*) and 10.2 (*Powers of*

Receiver), be applied against the amounts due and payable under the Finance Documents in accordance with the provisions of Clause 13 (*Proceeds of Enforcement*) of the Intercreditor Deed.

- (b) The provisions of clause 10.5(a) shall take effect as and by way of variation to the provisions of sections 106(3), 107 and 109 of the Act which provisions as so varied and extended shall be deemed incorporated herein and as regards section 109 as if they related to a receiver of the Charged Assets and not merely a receiver of the income thereof.

11. FURTHER ASSURANCES

11.1 Further assurances

Each Chargor shall, at its own expense from time to time, execute and give all such assurances and do all acts and things as the Agent may require or consider desirable under the laws of any jurisdiction governing the Charged Assets to enable the Agent to perfect or protect the security intended to be created hereby over the Charged Assets or any part thereof or to facilitate the sale of the Charged Assets or any part thereof or the exercise by the Agent of any of the rights, powers, authorities and discretions vested in it or any Receiver of the Charged Assets or any part thereof or any such delegate or sub-delegate as aforesaid, including to facilitate vesting all or part of such assets in the name of the Agent or in the names of its nominee, agent or any purchaser. To that intent, without prejudice to the generality of the foregoing and subject to the terms and conditions set out in the other Clauses of this Debenture, each Chargor shall execute all transfers, sales, dispositions and appropriations (whether to the Agent or otherwise) and shall give all notices, orders and directions and make all registrations which the Agent may (in its absolute discretion) consider expedient.

Without prejudice to the generality of Clause 11.1 but subject to the other terms and conditions of this Debenture, each Chargor will forthwith at the request of the Agent execute a legal mortgage, charge or other security at any time over all or any of the Charged Assets subject to or intended to be subject to the security constituted by this Debenture in such form as the Agent may require but containing terms no more onerous than those in this Debenture.

12. POWER OF ATTORNEY

12.1 Appointment

Each Chargor hereby, by way of security and in order more fully to secure the performance of its obligations hereunder, irrevocably appoints the Agent and every Receiver of the Charged Assets (or any part thereof) appointed hereunder and any person nominated for the purpose by the Agent or any Receiver in writing under hand by an officer of the Agent or any Receiver severally as its attorney and on its behalf and in its name or otherwise to execute and do all such assurances, acts and things which each Chargor is required to do under the covenants and provisions contained in this Debenture (including to make any demand upon or to give any notice or receipt to any person owing moneys to each Chargor and to execute and deliver any charges, legal mortgages, assignments or other security and any transfers of securities) and generally in its name and on its behalf to exercise all or any of the powers, authorities and discretions conferred by or pursuant to this Debenture or by statute on the Agent or any such Receiver, delegate or sub-delegate and (without prejudice to the generality of the foregoing) to seal and deliver and otherwise perfect any deed, assurance, agreement, instrument or act which it may reasonably deem proper in or for the purpose of exercising any of such powers, authorities and discretions *provided that* the power of attorney granted pursuant to this Clause 12.1 shall not be exercisable until the occurrence of an Event of Default which is continuing.

12.2 Ratification

Each Chargor hereby ratifies and confirms and agrees to ratify and confirm whatever any such attorney as is mentioned in Clause 12.1 (*Appointment*) shall do or purport to do in the exercise or purported exercise of all or any of the powers, authorities and discretions referred to in such Clause 12.1 (*Appointment*).

13. DELEGATION

The Agent or any Receiver appointed hereunder 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 Agent or such Receiver under this Debenture in relation to the Charged Assets or any part thereof. Any such delegation may be made upon such terms (including power to sub-delegate) and subject to such regulations as the Agent or such Receiver may think fit. Neither the Agent nor any Receiver shall be in way liable or responsible to each Chargor for any loss or damage arising from any act, default, omission or misconduct on the part of any such delegate or sub-delegate.

14. NO LIABILITY AS MORTGAGEE IN POSSESSION

Neither the Agent nor its nominee nor any Receiver shall by reason of entering into possession of the Charged Assets or any of them be liable to account as mortgagee in possession or be liable for any loss on realisation or for any default or omission for which a mortgagee in possession might otherwise be liable. Every Receiver duly appointed by the Agent under the powers set forth herein shall be deemed to be the agent of each Chargor for all purposes and shall as such agent for all purposes be deemed to be in the same position as a Receiver duly appointed by a mortgagee under the Law of Property Act 1925. Each Chargor alone shall be responsible for each Receiver's contracts, engagements, acts, omissions, defaults and losses and for all liabilities incurred by him and neither the Agent nor the Receiver shall incur any liability therefor (either to each Chargor or to any other person whatsoever) or for any other reason whatsoever other than for their gross negligence or wilful default.

15. PROTECTION OF THIRD PARTIES

- (a) No buyer, mortgagor, mortgagee or other person or company dealing with a Receiver or the Agent shall be concerned to enquire whether any Event of Default has occurred or whether any power exercised or purported to be exercised by him or it has become exercisable or whether any money is due on the security constituted by this Debenture or as to the propriety or regularity of any sale by or other dealing with such Receiver or the Agent but any such sale or dealing shall be deemed to be within the powers hereby conferred and to be valid and effectual accordingly and all the protection to buyers contained in sections 104, 105 and 106(1) of the Act shall apply to any person purchasing from or dealing with a Receiver or the Agent.
- (b) The receipt of the Agent or any Receiver shall be an absolute and conclusive discharge to a buyer and shall relieve him of any obligation to see to the application of any monies paid to or by the direction of the Agent or any Receiver.
- (c) In Clause 15(a) "**buyer**" includes any person acquiring for money or money's worth, any lease of, or encumbrance over, or any other interest or right whatsoever in relation to, the Charged Assets.

16. STAMP DUTIES

Each Chargor shall pay and, forthwith on demand, indemnify the Agent against any liability it incurs in respect of any stamp, registration and similar tax which is or becomes payable in connection with the entry into, performance or enforcement of this Debenture.

17. ADDITIONAL PROVISIONS

17.1 Redemption of Prior Mortgages

The Agent may, at any time after the security constituted hereby has become enforceable, redeem any prior Security against the Charged Assets or any part thereof or procure the transfer thereof 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 each Chargor. All principal moneys, interest, costs, charges and expenses of and incidental to such redemption and transfer shall be paid by each Chargor to the Agent on demand.

17.2 Provisions Severable

- (a) If a provision of this Debenture is, or but for this Clause 17.2 would be, held to be illegal, invalid or unenforceable, in whole or in part, in any jurisdiction the provision shall be ineffective to the extent of such illegality, invalidity or unenforceability without rendering the remaining provisions of this Debenture illegal, invalid or unenforceable, and any such illegality, invalidity or unenforceability in any jurisdiction shall not invalidate or render invalid or unenforceable such provisions in any other jurisdiction.
- (b) If a provision of this Debenture is held to be illegal, invalid or unenforceable, in whole or in part and paragraph (a) of this Clause 17.2 cannot be used to make it legal, valid and enforceable, either party to this Debenture may require the other party to enter into a deed under which that other party undertakes in the terms of the original provision, but subject to such amendments as are necessary or required in order to make the provision legal, valid and enforceable. No party will be obliged to enter into a deed that would increase its liability beyond that contained in this Debenture had all its provisions been legal, valid and enforceable.

17.3 Potentially Avoided Payments

If the Agent considers that an amount paid to the Agent or any Secured Party under any Finance Document is capable of being avoided or otherwise set aside on the liquidation or administration of the person by whom such amount is paid, then for the purposes of this Debenture, such amount shall be regarded as not having been paid.

17.4 Variation

This Debenture shall not be varied except by an agreement in writing between the parties of even date herewith or later.

18. REMEDIES AND WAIVERS

A delay in exercising, or failure to exercise, any right or remedy under this Debenture does not constitute a waiver of such or other rights or remedies and does not operate to prevent the exercise or enforcement of any such right or remedy. No single or partial exercise of any right or remedy under this Debenture prevents further exercise of such or other rights or remedies. The rights, powers and remedies provided in this Debenture are cumulative and not exclusive of any rights and remedies provided by law. The Agent may, in connection with the exercise of its powers, join or concur with any person in any transaction scheme or arrangement whatsoever. A waiver given or consent granted by the Agent under this Debenture will be effective only if given in writing and then only in the instance and for the purpose for which it is given.

19. NOTICES

19.1 Communications in Writing

A notice, other communication or document given under this Debenture shall be valid if delivered in accordance with the terms of Clause 35 (*Notices*) of the Facility Agreement.

20. COSTS AND EXPENSES

20.1 Costs and Expenses

Each Chargor shall, on demand of the Agent, reimburse to the Agent all costs and expenses (including legal fees), and any VAT thereon, incurred by the Agent in connection with the negotiation, preparation, execution, modification, amendment, release and/or preservation of any of its rights under this Debenture.

20.2 Indemnity

Each Chargor shall indemnify the Agent on demand against any and all costs, claims, losses, expenses (including reasonable legal fees) and liabilities, and any VAT thereon, which the Agent may properly incur as a result of the occurrence of any Event of Default or the exercise by the Agent of any of its rights and powers under this Debenture.

20.3 Interest

The amounts payable under Clauses 20.1 (*Costs and Expenses*) and 20.2 (*Indemnity*) above shall bear interest (compounded monthly) at the default rate of interest provided under Clause 12.3 (*Default interest*) of the Facility Agreement (payable as well after as before judgment), from the dates on which they were paid or incurred by the Agent to the date of payment thereof by each Chargor.

20.4 Survivorship

This Clause 20 shall survive in full force and effect notwithstanding any release of security or disposal of any Charged Asset or the termination of this Debenture or the resignation or termination of the Agent.

21. CURRENCY OF ACCOUNT

21.1 Currency of Account

All payments hereunder shall be made in immediately available funds in the currency and to the account specified by the Agent in the corresponding demand.

21.2 Currency Conversion

If notwithstanding Clause 21.1 (*Currency of Account*) any monies are received or held by the Agent in a currency other than that specified in such demand, such monies may be converted into the currency specified in the demand issued by the Agent pursuant to Clause 21.1 (*Currency of Account*) to cover the Secured Obligations in that other currency at the spot rate of exchange quoted by a bank selected by the Agent (acting reasonably) then prevailing for purchasing that other currency with the existing currency.

21.3 No Discharge

No payment to the Agent (whether under any judgment or court order or otherwise) shall discharge the obligation or liability of each Chargor unless and until the Agent shall have received payment in full in the currency in which the obligation or liability was incurred and to the extent that the amount of any such payment shall on actual conversion into such currency fall short of such obligation or liability expressed in that currency the Agent shall have a further separate cause of action against each Chargor to recover the amount of the shortfall.

21.4 Currency Indemnity

If any sum due from each Chargor under this Debenture or any order or judgment given or made in relation hereto has to be converted from the currency (the "first currency") in which the same is payable hereunder or under such order or judgment into another currency (the "second currency") for the purpose of (1) making or filing a claim or proof against each Chargor; (2) obtaining an order or judgment in any court or other tribunal; or (3) enforcing any order or judgment given or made in relation hereto, each Chargor shall indemnify and hold harmless the Agent from and against any loss suffered or incurred as a result of any discrepancy between (A) the rate of exchange used for such purpose to convert the sum in question from the first currency into the second currency and (B) the rate or rates of exchange at which the Agent may in the ordinary course of business purchase the first currency with the second currency upon receipt of a sum paid to it in satisfaction, in whole or in part, of any such order, judgment, claim or proof.

22. ASSIGNMENTS, ETC.

22.1 The Agent

The Agent may assign and transfer all of its respective rights and obligations hereunder to a replacement Agent appointed in accordance with the terms of the Facility Agreement. Upon such assignment and transfer taking effect, the replacement Agent shall be and be deemed to be acting as Agent for the Secured Parties for the purposes of this Debenture in place of the old Agent.

22.2 Each Chargor

Each Chargor shall not be entitled to transfer or assign all or any of its rights or obligations in respect of this Debenture without the prior written consent of the Agent.

23. SET-OFF

Where an Event of Default has occurred and is continuing unwaived, the Agent may (but shall not be obliged to) set off any obligation which is due and payable by each Chargor and unpaid against any obligation (whether or not matured) owed by the Agent to each Chargor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Agent may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off. If either obligation is unliquidated or unascertained, the Agent may set off in an amount estimated by it in good faith to be the amount of that obligation.

24. COVENANT TO RELEASE

Upon the expiry of the Security Period or as otherwise permitted under the terms of the Facility Agreement (but not otherwise), the Agent shall (or procure that its nominees shall), at the request and cost of each Chargor, execute and do all such deeds, acts and things as may be necessary to release the Charged Assets from the security constituted hereby including the payment of any moneys standing to the credit of the Realisations Accounts to each Chargor. The Agent shall not be bound to return the identical shares which were deposited, held or transferred and each Chargor shall accept shares of the same class and denomination.

25. PURCHASED RECEIVABLES

Where any Receivables are sold to the Agent by a Borrower under the terms of the Facility Agreement, such Receivables shall upon title to them passing to the Agent under the terms of the Facility Agreement stand released from the security created by this Deed.

26. GOVERNING LAW

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

27. COUNTERPARTS AND EFFECTIVENESS

27.1 Counterparts

This Debenture may be executed in any number of counterparts, each of which when executed and delivered constitutes an original of this Debenture, but all the counterparts shall together constitute one and the same agreement.

27.2 Effectiveness

This Debenture shall come into effect as a Deed on the date set forth above.

IN WITNESS WHEREOF this Debenture has been executed as a Deed by the parties hereto on the date stated at the beginning of this Debenture.

SCHEDULE 1
The Chargors

Name of Chargor	Registration number (or equivalent, if any) Original Jurisdiction
Kurt Geiger Limited	00968046 (England and Wales)
Kurt Geiger Ireland Limited	446264 (Ireland)

SCHEDULE 2
PART I
Mortgaged Property

NONE AS AT THE DATE OF THIS DEBENTURE

SCHEDULE 2
PART II
Intellectual Property Rights

Owner	IP Right	Mark	Class - Goods/ Services	Trade Mark No.
Kurt Geiger Limited	Irish Trademark	KURT GEIGER	14, 18, 25, 35	224412 (in the process of proceeding to trademark number 114007)

SCHEDULE 2

PART III
Charged Shares

Chargor	Company Name	Type of Share	Number of Shares
Kurt Geiger Limited	Kurt Geiger Ireland Limited	ordinary	1

SCHEDULE 2

PART IV
Charged Accounts

Blocked Accounts

None specified.

Other Accounts

Chargor	Bank	Sort Code	Account No.	Currency
Kurt Geiger Ireland Limited	Bank of Ireland	[REDACTED]	[REDACTED]	EURO

SCHEDULE 3
Forms of Notice to Banks and Acknowledgement

PART I- Blocked Account Notice
[On Headed Notepaper of relevant Chargor]

[Date]

[Bank]

[Branch]

Attention: []

Dear Sirs,

- 1 We hereby give you notice that by debenture dated [●], we have charged to Burdale Financial Limited (the Agent) by way of first fixed charge all our rights, title, interest and benefit in and to the following account(s) held with yourselves and all amounts standing to the credit of such account from time to time:

Account No. [●], sort code [●]

Account No. [●], sort code [●]

[Repeat as necessary]

(the Blocked Account(s)).

- 2 Please acknowledge receipt of this letter by returning a copy of the attached letter on your own headed notepaper with a receipted copy of this notice forthwith, to the Agent at Burdale Financial Limited, 5th Floor, Bow Bells House, 1 Bread Street, London EC4M 9BE, Attention: [●].

Yours faithfully

.....
for and on behalf of
[the relevant Chargor]

-

PART II- Blocked Account Acknowledgement
[On the Headed Notepaper of Bank]

[Date]

Burdale Financial Limited (the Agent)
5th Floor
Bow Bells House
Bread Street
London EC4M 9BE

Attention: Portfolio Manager – Kurt Geiger

Dear Sirs,

[Name of Chargor] (Company)

- 1 We refer to the notice, received today from the Company with respect to the fixed charge which it has granted to the Agent over the Blocked Account(s) (the Notice).
- 2 Terms not defined in this letter shall have the meanings given to them in the Notice.
- 3 We hereby acknowledge that the Company has charged to the Agent by way of a first fixed charge all of its rights, title, interest and benefit in and to the Blocked Account.
- 4 We hereby irrevocably undertake to you that until receipt by us of notice from you confirming that you no longer have any interest in the Blocked Account we shall:
 - (a) not exercise any right of combination, consolidation, merger or set-off which we may have in respect of, or otherwise exercise any other right which we may have to apply any monies from time to time standing or accruing to the credit of the Blocked Account save for fees and charges payable to us for the operation of the Blocked Account;
 - (b) promptly notify you of any renewal, renumbering or redesignation of any and all of the Blocked Account;
 - (c) promptly send to you copies with respect to all the Blocked Account of all statements and, if requested by you, copies of all credits, debits and notices given or made by us in connection with such account;
 - (d) not permit or effect any withdrawal or transfer from the Blocked Account by or on behalf of the Company save for withdrawals and transfers requested by you in writing to us pursuant to the terms of this letter;
 - (e) comply with all instructions received by us from you from time to time with respect to the conduct of the Blocked Account provided that such instructions are given in accordance with the terms of this letter;
 - (f) comply with all instructions received by us from you from time to time with respect to the movement of funds from the Blocked Account provided that:
 - (i) all instructions are received in writing, by facsimile, to us at facsimile number [●], attention: [●]; and
 - (ii) all instructions must be received by 2pm if they are to be complied with on the same Business Day. Instructions received outside such hours will be complied

with on the next Business Day following such receipt. Facsimile instructions will be deemed received at the time of transmission;

- (iii) all instructions are given in compliance with the mandate entered into by you stipulating who may give instructions to us; and
- (g) to the extent that an instruction is given which would in our opinion cause the Blocked Account to become overdrawn, transfer the outstanding balance in the account;
- (h) [(subject to paragraph 4(h) below) effect the following transaction on a daily basis unless we receive written notice to the contrary in accordance with paragraph 4(f) above: the cleared balance of the Blocked Account will be transferred into the account at [Bank] account number [●], being an account in your name designated the [the relevant Borrower] Loan Account attn. [●].];
- (i) not be obliged to comply with any instructions received from you or undertake the transactions set out in paragraph 4(g)) where:
 - (i) due to circumstances not within our direct control we are unable to comply with such instructions; and
 - (ii) that to comply with such instructions will breach a Court Order or be contrary to applicable law,

and in each case we shall give notice thereof to the Company and the Agent as well as reasons why we cannot comply with such instructions; and

- (j) not be responsible for any loss caused to you or to the Company in the event that we are unable to comply with any instructions due to circumstances set out in paragraph 4(h), and in any event, we shall not be liable for any consequential, special, secondary or indirect loss of or damage to goodwill, profits or anticipated savings (however caused).
- 5 You acknowledge that we are obliged to comply with the terms of this letter and that we have no notice of the particulars of the charge granted to you by the Company other than as set out in the Notice and this letter. You further acknowledge that subject to the terms of this letter we shall not be liable to you in any respect if the Company operates the Blocked Account in breach of any agreement entered into by the Company with you.
- 6 We note that, for the purposes of this letter, all notices, copy notices, advices and correspondence to be delivered to you shall be effectively delivered if sent by facsimile to you at number [●] or by post at the address at the top of this letter, in both cases marked for the attention of the [●].

This letter is governed by and shall be construed in accordance with the laws of Ireland.

Yours faithfully

.....
for and on behalf of
[Bank]

We hereby acknowledge and accept the terms of this letter

.....
for and on behalf of
Burdale Financial Limited

PART III- Other Accounts Notice
[On Headed Notepaper of relevant Chargor]

[Date]

[Bank]

[Branch]

Attention: []

Dear Sirs,

- 1 We hereby give you notice that by a debenture dated [●], we have charged to Burdale Financial Limited (the Agent) all our rights, title, interest and benefit in and to the following account(s) held with yourselves and all amounts standing to the credit of such account from time to time:

Account No. [●], sort code [●]

Account No. [●], sort code [●]

[Repeat as necessary]

(the Charged Account(s)).

- 2 Please acknowledge receipt of this letter by returning a copy of the attached letter on your own headed notepaper with a receipted copy of this notice forthwith, to the Agent at Burdale Financial Limited, 5th Floor, Bow Bells House, 1 Bread Street, London EC4M 9BE, Attention: [●].

Yours faithfully

.....
for and on behalf of
[the relevant Chargor]

PART IV- Other Accounts Acknowledgement
[On the Headed Notepaper of Bank]

[Date]

Burdale Financial Limited (the Agent)
5th Floor
Bow Bells House
Bread Street
London EC4M 9BE

Attention: Portfolio Manager – Kurt Geiger

Dear Sirs,

[Name of Chargor] (Company)

- 1 We refer to the notice, received today from the Company with respect to the charge which it has granted to you over the Charged Accounts (the Notice).
- 2 Terms not defined in this letter shall have the meanings given to them in the Notice.
- 3 We hereby acknowledge that the Company has charged to you all of its rights, title, interest and benefit in and to the Charged Accounts.
- 4 We hereby irrevocably undertake to you that until receipt by us of notice from you confirming that you no longer have any interest in the Charged Accounts we shall:
 - (a) not exercise any right of combination, consolidation, merger or set-off which we may have in respect of, or otherwise exercise any other right which we may have to apply any monies from time to time standing or accruing to the credit of the Charged Accounts save for fees and charges payable to us for the operation of the Charged Accounts;
 - (b) promptly notify you of any renewal, renumbering or redesignation of any and all of the Charged Accounts;
 - (c) upon request from you send to you copies with respect to all the Charged Accounts of all statements together with copies of all credits, debits and notices given or made by us in connection with such account;
 - (d) permit or effect any withdrawal or transfer from the Charged Accounts in accordance with the Chargor's mandate with us until we receive notice from you terminating the Chargor's right to operate the Charged Accounts;
 - (e) comply with all instructions received by us from you from time to time with respect to the conduct of the Charged Accounts provided that such instructions are given in accordance with the terms of this letter;
 - (f) comply with all instructions received by us from you from time to time with respect to the movement of funds from the Charged Accounts provided that:
 - (i) all instructions are received in writing, by facsimile, to us at facsimile number [●], attention: [●]; and
 - (ii) all instructions must be received by 2pm if they are to be complied with on the same Business Day. Instructions received outside such hours will be complied

with on the next Business Day following such receipt. Facsimile Instructions will be deemed received at the time of transmission; and

- (iii) to the extent that an instruction is given which would in our opinion cause any Charged Account to become overdrawn we will transfer the cleared balance in the account.

(g) we shall not be obliged to comply with any instructions received from you where:

- (i) due to circumstances not within our direct control we are unable to comply with such instructions; and
- (ii) that to comply with such instructions will breach a Court Order or be contrary to applicable law;

and in each case we shall give notice thereof to you and the Company as well as reasons why we cannot comply with such instructions;

- (h) in the event that we are unable to comply with any instructions due to circumstances set out in paragraph (g) we shall not be responsible for any loss caused to you or to the Company and in any event we shall not be liable for any consequential, special, secondary or indirect loss of or damage to goodwill, profits or anticipated savings (however caused); and
- (i) you acknowledge that we are obliged to comply with the terms of this letter and that we have no notice of the particulars of the charge granted to you by the Company other than as set out in the Notice and this letter. You further acknowledge that subject to the terms of this letter we shall not be liable to you in any respect if the Company operates the Charged Accounts in breach of any agreement entered into by the Chargor with you.

5 We are irrevocably authorised by you to follow any instructions received from you in relation to the Charged Accounts from any person that we reasonably believe is an authorised officer of the Agent, without further inquiry as to the Agent's right or authority to give such instructions and we shall be fully protected in acting in accordance with such instructions.

This letter is governed by and shall be construed in accordance with the laws of Ireland.

Yours faithfully

.....

for and on behalf of
[Bank]

We hereby acknowledge and accept the terms of this letter

.....
for and on behalf of
Burdale Financial Limited

Schedule 4

(Prescribed Form Charge)

(Registered Land)

FORM 52

Specific charge for present and future advances arising on the creation of a commercial mortgage or debenture, (rules 52, 105)

LAND REGISTRY

SPECIFIC CHARGE

Date: [•]	
Secured Party: [•]	
Mortgagor: [•]	
Mortgaged Property subject to specific charge: The property comprised Folio [•] County [•] ALL THAT the property known as [•]. <i>(use a continuation sheet if necessary)</i>	
Mortgage Conditions: This Mortgage incorporates the Mortgage Conditions in Mortgage/Debenture of even date ¹ , between the parties herein, as if they were set out in this Mortgage in full. The term "Secured Liabilities" has the meaning given in the Mortgage Conditions.	
SPECIFIC CHARGE: As security for the payment and discharge of the Secured Liabilities, the Mortgagor as beneficial owner (and also in the case of registered land as registered owner or as the person entitled to be registered as registered owner) hereby charges in favour of the Secured Party the Mortgaged Property with the payment of the Secured Liabilities, and assents to the registration of this charge as a burden on the Mortgaged Property. The Mortgagor acknowledges that the charge hereby created forms one transaction with the security created in the aforesaid Mortgage/Debenture of even date ² for payment of the Secured Liabilities.	
Signatures:	
Signed and Delivered as a deed:	Present when the common seal of the mortgagor was affixed hereto and this deed was delivered ³ :

¹ Amend as appropriate - insert the date of the Debenture if it is executed on a different date to the Prescribed Form Charge

² Amend as appropriate - insert the date of the Debenture if it is executed on a different date to the Prescribed Form Charge

³ Please ensure that the Mortgagor executes the appropriate execution block.

_____ Signature of witness:	_____ Signature of witness:
_____ Name of witness:	_____ Name of witness:
_____ Address of witness:	_____ Address of witness:
_____ Occupation of witness:	_____ Occupation of witness:
Note - For execution and the attestation of the execution of a charge - see Rules 54 and 55.	

SIGNATORIES


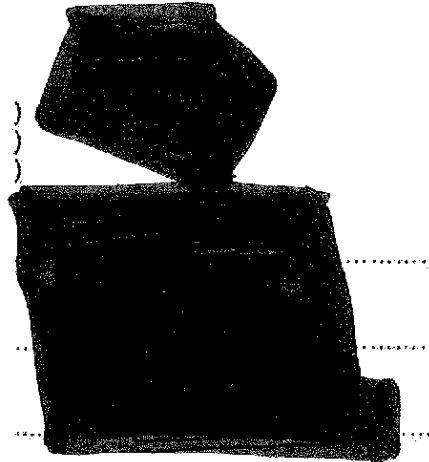
The Chargors

Executed as a deed by
Kurt Gelger Limited
acting by a Director in the presence of:

Signature of witness:

Name of witness:

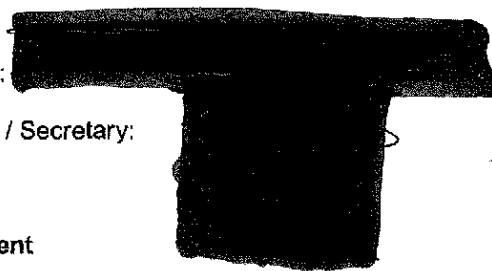
Address:



Present when the common seal of
Kurt Gelger Ireland Limited was affixed
To this deed and this deed was
Delivered:

Director:

Director / Secretary:



The Agent

BURDALE FINANCIAL LIMITED

By:

Name:

Title:



SIGNATORIES

The Chargors

Executed as a deed by
Kurt Geiger Limited
acting by a Director in the presence of:

)
)
)

Signature of witness:

.....

Name of witness:

.....

Address:

.....

Present when the common seal of
Kurt Geiger Ireland Limited was affixed
To this deed and this deed was
Delivered:

.....

Director:

Director / Secretary:

The Agent

BURDALE FINANCIAL LIMITED

By:

Name:

Title:

