



Registration of a Charge

Company name: **DENBY USA LIMITED**

Company number: **03112680**



XA2VHSU2

Received for Electronic Filing: **21/04/2021**

Details of Charge

Date of creation: **16/04/2021**

Charge code: **0311 2680 0009**

Persons entitled: **VALCO GP IV LIMITED**

Brief description:

Contains fixed charge(s).

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

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

Certification statement: **I CERTIFY THAT THE ELECTRONIC COPY INSTRUMENT
DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION
IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by: **WRIGHT HASSALL LLP**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 3112680

Charge code: 0311 2680 0009

The Registrar of Companies for England and Wales hereby certifies that a charge dated 16th April 2021 and created by DENBY USA LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 21st April 2021 .

Given at Companies House, Cardiff on 22nd April 2021

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

16 April

2021

DENBY USA LIMITED

and

**VALCO GP IV LIMITED acting as
general partner of VALCO CAPITAL
PARTNERS IV LIMITED
PARTNERSHIP**

DEBENTURE

THIS DEED IS SUBJECT TO THE INTERCREDITOR
DEED (AS DEFINED IN THIS DEED)

Wright Hassall LLP
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CV34 6BF

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THIS DEED is dated

16 April

2021

PARTIES

- (1) **DENBY USA LIMITED** incorporated and registered in England and Wales with company number 03112680 whose registered office is at Denby Pottery, Denby, Derbyshire, DE5 8NX (the **Guarantor**).
- (2) **VALCO GP IV LIMITED** incorporated and registered in England & Wales with company number 13025373 whose registered office is at 84 Grosvenor Street, London, W1K 3JZ acting as the general partner of **VALCO CAPITAL PARTNERS IV LIMITED PARTNERSHIP** incorporated and registered in the England & Wales with number LP021409 whose registered office is at 84 Grosvenor Street, London, W1K 3JZ (**Valco**).

BACKGROUND

- (A) Valco has agreed, and may from time to time further agree, to provide loan facilities on a secured basis to the Borrower and to one or more affiliates of the Borrower (including the Guarantor), being the Guarantors under the Cross-Corporate Guarantee together with the Borrower.
- (B) Under this deed, the Guarantor provides security to Valco of its liabilities under any Agreement to which it is party and under the Cross-Corporate Guarantee.

AGREED TERMS

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

Terms defined in the Agreement shall, unless otherwise defined in this deed, have the same meaning in this deed. In addition, the following definitions apply in this deed.

Administrator: an administrator appointed to manage the affairs, business and property of the Guarantor pursuant to clause 10.3.

Agreements: the facility agreement dated on or around the date of this deed between the Borrower and Valco for the provision of a term loan facility of £7,315,000 (in order to provide working capital and service existing indebtedness) together with any other working capital or other facility agreement from time to time by which Valco agrees to advance funds to any of the Guarantors.

Book Debts: all present and future book and other debts, and monetary claims due or owing to the Guarantor, and the benefit of all security, guarantees and other rights of any nature enjoyed or held by the Guarantor in relation to any of them.

Borrower: Denby Holdings Limited incorporated and registered in England and Wales with company number 06760049 whose registered office is at Denby Pottery, Denby, Derbyshire, DE5 8NX.

Borrower's Group: the companies detailed in Schedule 1.

Cross-Corporate Guarantee: the cross-corporate guarantee dated on or around the date of this deed and made between (1) the Borrower (2) Burgess and Leigh Limited (3) Denby Potteries Limited (4) Denby Brands Limited (5) the Guarantor (6) The Denby Pottery Company Limited (7) Denby Retail Limited (8) Denby Korea Limited and (9) Valco guaranteeing the liabilities of the Guarantors from time to time outstanding to Valco under the Agreements.

Default Rate: 5% per month.

Delegate: any person appointed by Valco or any Receiver pursuant to clause 15 and any person appointed as attorney of Valco, Receiver or Delegate.

Equipment: all present and future stock, equipment, plant, machinery, tools, vehicles, furniture, fittings, installations and apparatus and other tangible moveable property for the time being owned by the Guarantor, including any part of it and all spare parts, replacements, modifications and additions.

Financial Collateral: has the meaning given to that expression in the Financial Collateral Regulations.

Financial Collateral Regulations: the Financial Collateral Arrangements (No 2) Regulations 2003 (*SI 2003/3226*).

Guarantors: the Guarantor and the other persons described as "Guarantors" in the Cross-Corporate Guarantee.

Insurance Policy: each contract and policy of insurance effected or maintained by the Guarantor from time to time in respect of its assets or business (including, without limitation, any contract or policy of insurance relating to the Properties or the Equipment).

Intellectual Property: the Guarantor's present and future patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, goodwill and the right to sue for passing off, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Intercreditor Deed: the intercreditor deed dated on or around the date of this deed and made between, amongst others, PNC Business Credit (a trading style of PNC Financial Services UK Ltd), the Guarantor and Valco, as supplemented, varied, amended and/or restated from time to time.

Investments: all present and future certificated stocks, shares, loan capital, securities, bonds and investments (whether or not marketable) for the time being owned (at law or in equity) by the Guarantor, including any:

- (a) dividend, interest or other distribution paid or payable in relation to any of the Investments; and

- (b) right, money, shares or property accruing, offered or issued at any time in relation to any of the Investments by way of redemption, substitution, exchange, conversion, bonus, preference or otherwise, under option rights or otherwise.

LPA 1925: the Law of Property Act 1925.

Permitted Security: shall mean:

- a) Borrower and Guarantor in favour of the Governor and Company of the Bank of Scotland;
- b) Borrower and Guarantor in favour of PNC Business Credit a trading style of PNC Financial Services UK Limited;
- c) Borrower and Guarantor in favour of Paul Mc Gowan as security trustee.

Properties: all freehold and leasehold properties (whether registered or unregistered) and all commonhold properties, now or in the future (and from time to time) owned by the Guarantor, or in which the Guarantor holds an interest, and Property means any of them.

Receiver: a receiver, receiver and manager or administrative receiver of any or all of the Secured Assets appointed by Valco under clause 13.

Secured Assets: all the assets, property and undertaking for the time being subject to the Security created by, or pursuant to, this deed (and references to the Secured Assets shall include references to any part of them).

Secured Liabilities: all present and future monies, obligations and liabilities of the Guarantor to Valco, whether actual or contingent and whether owed jointly or severally, as principal or surety or in any other capacity, (including under or in connection with any Agreement to which the Guarantor is party, the Cross-Corporate Guarantee or this deed), together with all interest (including, without limitation, default interest) accruing in respect of those monies, obligations or liabilities.

Security Financial Collateral Arrangement: has the meaning given to that expression in the Financial Collateral Regulations.

Security: any mortgage, charge (whether fixed or floating, legal or equitable), pledge, lien, assignment by way of security or other security interest securing any obligation of any person, or any other agreement or arrangement having a similar effect.

Security Period: the period starting on the date of this deed and ending on the date on which Valco is satisfied that all the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full and no further Secured Liabilities are capable of being outstanding.

1.2 Interpretation

In this deed:

- 1.2.1 a reference to a **person** shall include a reference to an individual, firm, company, corporation, partnership, unincorporated body of persons, government, state or agency of a state or any association, trust, joint venture or consortium (whether or not having separate legal personality);

- 1.2.2 a reference to a party shall include that party's successors, permitted assigns and permitted transferees and this deed shall be binding on, and enure to the benefit of, the parties to this deed and their respective personal representatives, successors, permitted assigns and permitted transferees;
- 1.2.3 a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time;
- 1.2.4 a reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision;
- 1.2.5 a reference to **this deed** (or any provision of it) or to any other agreement or document referred to in this deed is a reference to this deed, that provision or such other agreement or document as amended (in each case, other than in breach of the provisions of this deed) from time to time;
- 1.2.6 a reference to **assets** includes present and future properties, undertakings, revenues, rights and benefits of every description; and
- 1.2.7 A reference to **continuing** in relation to an Event of Default means an Event of Default that has not yet been remedied or waived.

1.3 **Clawback**

If Valco considers that an amount paid by the Guarantor in respect of the Secured Liabilities is capable of being avoided or otherwise set aside on the liquidation or administration of the Guarantor or otherwise, then that amount shall not be considered to have been irrevocably paid for the purposes of this deed.

1.4 **Nature of security over real property**

A reference in this deed to a charge or mortgage of or over any Property includes:

- 1.4.1 all buildings and fixtures and fittings (including trade and tenant's fixtures and fittings) that are situated on or form part of that Property at any time;
- 1.4.2 the proceeds of the sale of any part of that Property and any other monies paid or payable in respect of or in connection with that Property;
- 1.4.3 the benefit of any covenants for title given, or entered into, by any predecessor in title of the Guarantor in respect of that Property, and any monies paid or payable in respect of those covenants; and
- 1.4.4 all rights under any licence, agreement for sale or agreement for lease in respect of that Property.

1.5 **Nature of security over investments**

A reference in this deed to any share, stock, debenture or other security or investment includes:

- 1.5.1 any dividend, interest or other distribution paid or payable in respect of that share, stock, debenture or other security or investment;
- 1.5.2 any right, money, shares or property accruing, offered or issued at any time in relation to that share, stock, debenture or other security or investment by way of redemption, substitution, exchange, conversion, bonus, preference or otherwise, under option rights or otherwise.

1.6 Law of Property (Miscellaneous Provisions) Act 1989

For the purposes of section 2 of the Law of Property (Miscellaneous Provisions) Act 1989, the terms of the Agreement and of any side letters between any parties in relation to the Agreement are incorporated into this deed.

1.7 Intercreditor Deed

This deed is subject to the terms of the Intercreditor Deed and in the event of any inconsistency between the terms of this deed and the Intercreditor Deed the terms of the Intercreditor Deed shall prevail.

2. COVENANT TO PAY

The Guarantor shall, on demand, pay to Valco and discharge the Secured Liabilities when they become due.

3. GRANT OF SECURITY

3.1 Legal mortgage

As a continuing security for the payment and discharge of the Secured Liabilities, the Guarantor with full title guarantee charges to Valco, by way of first legal mortgage, each Property.

3.2 Fixed charges

As a continuing security for the payment and discharge of the Secured Liabilities, the Guarantor with full title guarantee charges to Valco by way of first fixed charge:

- 3.2.1 all Properties acquired by the Guarantor in the future;
- 3.2.2 all present and future interests of the Guarantor not effectively mortgaged or charged under the preceding provisions of this clause 3 in, or over, freehold or leasehold property;
- 3.2.3 all present and future rights, licences, guarantees, rents, deposits, contracts, covenants and warranties relating to each Property;

- 3.2.4 all licences, consents and authorisations (statutory or otherwise) held or required in connection with the Guarantor's business or the use of any Secured Asset, and all rights in connection with them;
- 3.2.5 all its present and future goodwill;
- 3.2.6 all its uncalled capital;
- 3.2.7 all the Equipment;
- 3.2.8 all the Intellectual Property;
- 3.2.9 all the Book Debts;
- 3.2.10 all the Investments;
- 3.2.11 all monies from time to time standing to the credit of its accounts with any bank, financial institution or other person, together with all other rights and benefits accruing to or arising in connection with each account (including, but not limited to, entitlements to interest);
- 3.2.12 all its rights in respect of each Insurance Policy, including all claims, the proceeds of all claims and all returns of premium in connection with each Insurance Policy, to the extent not effectively assigned under clause 3.3; and
- 3.2.13 all its rights in respect of all agreements, instruments and rights relating to the Secured Assets, to the extent not effectively assigned under clause 3.3.

3.3 Assignment

As a continuing security for the payment and discharge of the Secured Liabilities, the Guarantor with full title guarantee assigns to Valco absolutely, subject to a proviso for reassignment on irrevocable discharge in full of the Secured Liabilities:

- 3.3.1 all its rights in each Insurance Policy, including all claims, the proceeds of all claims and all returns of premium in connection with each Insurance Policy; and
- 3.3.2 the benefit of all agreements, instruments and rights relating to the Secured Assets.

3.4 Floating charge

As a continuing security for the payment and discharge of the Secured Liabilities, the Guarantor with full title guarantee charges to Valco, by way of first floating charge, all the undertaking, property, assets and rights of the Guarantor at any time not effectively mortgaged, charged or assigned pursuant to clause 3.1 to clause 3.3 inclusive.

3.5 Qualifying floating charge

Paragraph 14 of Schedule B1 to the Insolvency Act 1986 applies to the floating charge created by clause 3.4.

3.6 Automatic crystallisation of floating charge

The floating charge created by clause 3.4 shall automatically and immediately (without notice) convert into a fixed charge over the assets subject to that floating charge if:

3.6.1 the Guarantor:

- (a) creates, or attempts to create, without the prior written consent of Valco, Security or a trust in favour of another person over all or any part of the Secured Assets (except as expressly permitted by the terms of this deed or the Agreement); or
- (b) disposes, or attempts to dispose of, all or any part of the Secured Assets (other than Secured Assets that are only subject to the floating charge while it remains uncrystallised);

3.6.2 any person levies (or attempts to levy) any distress, attachment, execution or other process against all or any part of the Secured Assets; or

3.6.3 a resolution is passed or an order is made for the winding-up, dissolution, administration or re-organisation of the Guarantor.

3.7 Crystallisation of floating charge by notice

The Lender may, in its sole discretion, at any time and by written notice to the Guarantor, convert the floating charge created under this deed into a fixed charge as regards any part of the Secured Assets specified by Valco in that notice.

3.8 Assets acquired after any floating charge has crystallised

Any asset acquired by the Guarantor after any crystallisation of the floating charge created under this deed that, but for that crystallisation, would be subject to a floating charge under this deed, shall (unless Valco confirms otherwise to the Guarantor in writing) be charged to Valco by way of first fixed charge.

4. LIABILITY OF THE GUARANTOR

4.1 Liability not discharged

The Guarantor's liability under this deed in respect of any of the Secured Liabilities shall not be discharged, prejudiced or affected by:

- 4.1.1 any security, guarantee, indemnity, remedy or other right held by, or available to, Valco that is, or becomes, wholly or partially illegal, void or unenforceable on any ground;

4.1.2 Valco renewing, determining, varying or increasing any facility or other transaction in any manner or concurring in, accepting or varying any compromise, arrangement or settlement, or omitting to claim or enforce payment from any other person; or

4.1.3 any other act or omission that, but for this clause 4.1, might have discharged, or otherwise prejudiced or affected, the liability of the Guarantor.

4.2 Immediate recourse

The Guarantor waives any right it may have to require Valco to enforce any security or other right, or claim any payment from, or otherwise proceed against, any other person before enforcing this deed against the Guarantor.

5. REPRESENTATIONS AND WARRANTIES

5.1 Representations and warranties

The Guarantor makes the representations and warranties set out in this clause 5 to Valco.

5.2 Ownership of Secured Assets

The Guarantor is the sole legal and beneficial owner of the Secured Assets.

5.3 No Security

The Secured Assets are free from any Security other than the Permitted Security and the Security created by this deed.

5.4 Times for making representations and warranties

The representations and warranties set out in clauses 5.2 and 5.3 are made by the Guarantor on the date of this deed and are deemed to be repeated on each day of the Security Period with reference to the facts and circumstances existing at the time of repetition.

5.5 Investments

5.5.1 The Investments are fully paid and are not subject to any option to purchase or similar rights.

5.5.2 No constitutional document of an issuer of an Investment, not any other agreement:

(a) restricts or inhibits any transfer of the Investments on creation or enforcement of the security constituted by this deed; or

(b) contains any rights of pre-emption in relation to the Investments.

5.5.3 The Guarantor has complied with all notices relating to all or any of the Investments received by it pursuant to sections 790D and 790E of the Companies Act 2006.

5.5.4 No warning notice has been issued under paragraph 1(2) of Schedule 1B of the Companies Act 2006, and no restrictions notice has been issued under paragraph 1(3) of Schedule 1B of the Companies Act 2006, in respect of all or any of the Investments.

6. GENERAL COVENANTS

6.1 Negative pledge and disposal restrictions

The Guarantor shall not at any time, except with the prior written consent of Valco:

6.1.1 create, purport to create or permit to subsist any Security on, or in relation to, any Secured Asset other than any Security created by this deed or any Permitted Security;

6.1.2 sell, assign, transfer, part with possession of, or otherwise dispose of in any manner (or purport to do so), all or any part of, or any interest in, the Secured Assets (except, in the ordinary course of business, Secured Assets that are only subject to an uncrystallised floating charge); or

6.1.3 create or grant (or purport to create or grant) any interest in the Secured Assets in favour of a third party.

6.2 Preservation of Secured Assets

The Guarantor shall not do, or permit to be done, any act or thing that would or might depreciate, jeopardise or otherwise prejudice the security held by Valco, or materially diminish the value of any of the Secured Assets or the effectiveness of the security created by this deed.

6.3 Title documents

The Guarantor shall, as so required by Valco, deposit with Valco and Valco shall, for the duration of this deed be entitled to hold:

6.3.1 all deeds and documents of title relating to the Secured Assets; and

6.3.2 all Insurance Policies.

6.4 Insurance

6.4.1 The Guarantor shall insure and keep insured, the Secured Assets with a reputable insurance company or underwriters against all risks usually insured against by persons carrying on a business such as that carried on by it and such

other risks as Valco may from time to time reasonably require (to include public liability and third party liability insurance).

6.4.2 The Guarantor shall ensure that any such insurance shall be on such terms as are reasonably acceptable to Valco.

6.4.3 The Guarantor shall promptly pay all premiums in respect of each Insurance Policy and do all other things necessary to keep that policy in full force and effect.

6.4.4 All monies payable under any Insurance Policy at any time (whether or not the security constituted by this deed has become enforceable) shall be applied in making good or recouping expenditure in respect of the loss or damage for which those monies are received, or after the security constituted by this deed has become enforceable and if Valco so directs, in or towards discharge or reduction of the Secured Liabilities.

6.5 Notices to be given by the Guarantor

The Guarantor shall, immediately upon request by Valco from time to time, give notice of the Security constituted by this deed in such form as Valco may require to any counterparty to any agreement that is subject to Security pursuant to either clause 3.2.13 or clause 3.3.2, the insurer under any Insurance Policy and any bank or other institution with whom the Guarantor holds an account, and the Guarantor shall use best endeavours to procure that the recipient of any such notice provides an acknowledgement thereof in a form and substance satisfactory to Valco promptly following receipt thereof.

7. PROPERTY COVENANTS

7.1 Maintenance

The Guarantor shall keep all premises and fixtures and fittings on each Property in good and substantial repair and condition.

7.2 Inspection

The Guarantor shall permit Valco, any Receiver and any person appointed by either of them to enter on and inspect any Property on reasonable prior notice.

7.3 Property information

The Guarantor shall inform Valco promptly of any acquisition by the Guarantor of, or contract made by the Guarantor to acquire, any freehold, leasehold or other interest in any property.

8. INVESTMENTS COVENANTS

8.1 Deposit of title documents

8.1.1 The Guarantor shall, if requested in writing by Valco to do so, immediately deliver to Valco, or as Valco may direct, all stock or share certificates and other documents of title or evidence of ownership relating to any Investments owned by the Guarantor at that time.

8.1.2 At the same time as depositing documents with Valco, or as Valco may direct, in accordance with clause 8.1.1, the Guarantor shall also deposit with Valco, or as Valco may direct:

(a) all stock transfer forms relating to the relevant Investments duly completed and executed by or on behalf of the Guarantor, but with the name of the transferee, the consideration and the date left blank; and

(b) any other documents (in each case duly completed and executed by or on behalf of the Guarantor) that Valco may request to enable it or any of its nominees, or any purchaser or transferee, to be registered as the owner of, or otherwise obtain a legal title to, or to perfect its security interest in any of the relevant Investments,

so that Valco may, at any time and without notice to the Guarantor, complete and present those stock transfer forms and other documents to the issuer of the Investments for registration.

8.2 Pre-emption rights and restrictions on transfer

The Guarantor shall:

8.2.1 obtain all consents, waivers, approvals and permissions that are necessary, under the articles of association (or otherwise) of an issuer of any Investments, for the transfer of the Investments to Valco or its nominee, or to a purchaser on enforcement of the security constituted by this deed; and

8.2.2 procure the amendment of the share transfer provisions (including, but not limited to, deletion of any pre-emption provisions) under the articles of association, other constitutional document or otherwise of each issuer of the Investments in any manner that Valco may require in order to permit the transfer of the Investments to Valco or its nominee, or to a purchaser on enforcement of the security constituted by this deed.

8.3 Dividends and voting rights before enforcement

8.3.1 Before the security constituted by this deed becomes enforceable, the Guarantor may retain and apply for its own use all dividends, interest and other monies paid or payable in respect of the Investments and, if any are paid or payable to Valco or any of its nominees, Valco will hold all those dividends, interest and other monies received by it for the Guarantor and will pay them to the Guarantor promptly on request.

8.3.2 Before the security constituted by this deed becomes enforceable, the Guarantor may exercise all voting and other rights and powers in respect of the Investments or, if any of the same are exercisable by Valco or any of its nominees, to direct in writing the exercise of those voting and other rights and powers provided that:

- (a) it shall not do so in any way that would breach any provision of the Agreement or this deed or for any purpose inconsistent with the Agreement or this deed; and
- (b) the exercise of, or the failure to exercise, those voting rights or other rights and powers would not, in Valco's opinion, have an adverse effect on the value of the Investments or otherwise prejudice Valco's security under this deed.

8.3.3 The Guarantor shall indemnify Valco against any loss or liability incurred by Valco (or its nominee) as a consequence of Valco (or its nominee) acting in respect of the Investments at the direction of the Gurantor.

8.3.4 The Lender shall not, by exercising or not exercising any voting rights or otherwise, be construed as permitting or agreeing to any variation or other change in the rights attaching to or conferred by any of the Investments that Valco considers prejudicial to, or impairing the value of, the security created by this deed.

8.4 Dividends and voting rights after enforcement

8.4.1 After the security constituted by this deed has become enforceable:

- (a) All dividends and other distributions paid in respect of the Investments and received by the Guarantor shall be held by the Guarantor on trust for Valco; and
- (b) all voting and other rights and powers attaching to the Investments may be exercised by, or at the direction of, Valco and the Guarantor shall, and shall procure that its nominees shall, comply with any directions Valco may give, in its absolute discretion, concerning the exercise of those rights and powers.

8.5 Calls on investments

Notwithstanding the security created by this deed, the Guarantor shall promptly pay all calls, instalments and other payments that may be or become due and payable in respect of all or any of the Investments. The Guarantor acknowledges that Valco shall not be under any liability in respect of any such calls, instalments or other payments.

8.6 No alteration of constitutional documents or rights attaching to investments

The Guarantor shall not, without the prior written consent of Valco amend, or agree to the amendment of:

8.6.1 the memorandum or articles of association, or any other constitutional documents, of any issuer of the Investments that is not a public company; or

8.6.2 the rights or liabilities attaching to, or conferred by, all or any of the Investments.

8.7 Preservation of Investments

The Guarantor shall ensure (as far as it is able to by the exercise of all voting rights, powers of control and other means available to it) that any issuer of any of the investments (that is not a public company) shall not:

8.7.1 Consolidate or subdivide any of the Investments, or re-organise, exchange, repay or reduce its share capital in any way;

8.7.2 Issue any new shares or stock; or

8.7.3 Refuse to register any transfer of any of the Investments that may be lodged with it for registration by, or on behalf of, Valco or the Guarantor in accordance with this deed.

9. EQUIPMENT COVENANTS

9.1 Maintenance of Equipment

The Guarantor shall:

9.1.1 maintain the Equipment in good and serviceable condition (except for expected fair wear and tear) in compliance with all relevant manuals, handbooks, manufacturer's instructions and recommendations and maintenance or servicing schedules;

9.1.2 at its own expense, renew and replace any parts of the Equipment when they become obsolete, worn out or damaged with parts of a similar quality and of equal or greater value; and

9.1.3 not permit any Equipment to be:

(a) used or handled other than by properly qualified and trained persons; or

(b) overloaded or used for any purpose for which it is not designed or reasonably suitable.

10. INTELLECTUAL PROPERTY COVENANTS

10.1 The Guarantor shall take all necessary action to safeguard and maintain present and future rights in, or relating to, the Intellectual Property including (without limitation) by

observing all covenants and stipulations relating to those rights, and by paying all applicable renewal fees, licence fees and other outgoings.

10.2 The Guarantor shall use all reasonable efforts to register applications for the registration of any Intellectual Property, and shall keep Valco informed of all matters relating to each such registration.

10.3 The Guarantor shall not permit any Intellectual Property to be abandoned, cancelled or to lapse.

11. POWERS OF VALCO

11.1 Lender has Receiver's powers

To the extent permitted by law, any right, power or discretion conferred by this deed on a Receiver may, after the security constituted by this deed has become enforceable, be exercised by Valco in relation to any of the Secured Assets whether or not it has taken possession of any Secured Assets and without first appointing a Receiver or notwithstanding the appointment of a Receiver.

11.2 New accounts

11.2.1 If Valco receives, or is deemed to have received, notice of any subsequent Security, or other interest, affecting all or part of the Secured Assets, Valco may open a new account for the Guarantor in Valco's books. Without prejudice to Valco's right to combine accounts, no money paid to the credit of the Guarantor in any such new account shall be appropriated towards, or have the effect of discharging, any part of the Secured Liabilities.

11.2.2 If Valco does not open a new account immediately on receipt of the notice, or deemed notice, under clause 11.2.1, then, unless Valco gives express written notice to the contrary to the Guarantor, all payments made by the Guarantor to Valco shall be treated as having been credited to a new account of the Guarantor and not as having been applied in reduction of the Secured Liabilities, as from the time of receipt or deemed receipt of the relevant notice by Valco.

11.3 Appointment of an Administrator

11.3.1 The Lender may, without notice to the Guarantor, appoint any one or more persons to be an Administrator of the Guarantor pursuant to Paragraph 14 of Schedule B1 of the Insolvency Act 1986 if the security constituted by this deed becomes enforceable.

11.3.2 Any appointment under this clause 11.3 shall:

(a) be in writing signed by a duly authorised signatory of Valco; and

- (b) take effect, in accordance with paragraph 19 of Schedule B1 of the Insolvency Act 1986.

11.3.3 The Lender may apply to the court for an order removing an Administrator from office and may by notice in writing in accordance with this clause 11.3 appoint a replacement for any Administrator who has died, resigned, been removed or who has vacated office upon ceasing to be qualified.

11.4 Further advances

The Lender covenants with the Guarantor that it shall perform its obligations to make advances to the Guarantor under the Agreement (including any obligation to make available further advances).

12. WHEN SECURITY BECOMES ENFORCEABLE

The security constituted by this deed shall become immediately enforceable if the Guarantor defaults under its repayment obligations under the Agreement.

13. ENFORCEMENT OF SECURITY

13.1 Enforcement powers

13.1.1 For the purposes of all powers implied by statute, the Secured Liabilities are deemed to have become due and payable on the date of this deed.

13.1.2 The power of sale and other powers conferred by section 101 of the LPA 1925 (as varied or extended by this deed) shall be immediately exercisable at any time after the security constituted by this deed has become enforceable under clause 122.

13.1.3 Section 103 of the LPA 1925 does not apply to the security constituted by this deed.

13.2 Extension of statutory powers of leasing

The statutory powers of leasing and accepting surrenders conferred on mortgagees under the LPA 1925 and by any other statute are extended so as to authorise Valco and any Receiver, at any time after the security constituted by this deed has become enforceable, whether in its own name or in that of the Guarantor, to:

13.2.1 grant a lease or agreement to lease;

13.2.2 accept surrenders of leases; or

13.2.3 grant any option of the whole or any part of the Secured Assets with whatever rights relating to other parts of it,

whether or not at a premium and containing such covenants on the part of the Guarantor, and on such terms and conditions (including the payment of money to a lessee or tenant on a surrender) as Valco or Receiver thinks fit without the need to comply with any of the restrictions imposed by sections 99 and 100 of the LPA 1925.

13.3 No liability as mortgagee in possession

Neither Valco, any Receiver, any Delegate nor any Administrator shall be liable, by reason of entering into possession of a Secured Asset or for any other reason, to account as mortgagee in possession in respect of all or any of the Secured Assets, nor shall any of them be liable for any loss on realisation of, or for any act, neglect or default of any nature in connection with, all or any of the Secured Assets for which a mortgagee in possession might be liable as such.

13.4 Right of appropriation

13.4.1 To the extent that:

- (a) the Secured Assets constitute Financial Collateral; and
- (b) this deed and the obligations of the Guarantor under it constitute a Security Financial Collateral Arrangement,

Valco shall have the right, at any time after the security constituted by this deed has become enforceable, to appropriate all or any of those Secured Assets in or towards the payment or discharge of the Secured Liabilities in any order that Valco may, in its absolute discretion, determine.

13.4.2 The value of any Secured Assets appropriated in accordance with this clause shall be:

- (a) in the case of cash, the amount standing to the credit of each of the Guarantor's accounts with any bank, financial institution or other person, together with all interest accrued but unposted, at the time the right of appropriation is exercised; and
- (b) in the case of Investments, the price of those Investments at the time the right of appropriation is exercised as listed on any recognised market index or determined by any other method that Valco may select (including independent valuation).

13.4.3 The Guarantor agrees that the methods of valuation provided for in this clause are commercially reasonable for the purposes of the Financial Collateral Regulations.

14. RECEIVER

14.1 Appointment

At any time after the security constituted by this deed has become enforceable, or at the request of the Guarantor, Valco may, without further notice, appoint by way of deed, or otherwise in writing, any one or more persons to be a Receiver of all or any part of the Secured Assets.

14.2 Removal

The Lender may, without further notice (subject to section 45 of the Insolvency Act 1986 in the case of an administrative receiver), from time to time, by way of deed, or otherwise in writing, remove any Receiver appointed by it and may, whenever it thinks fit, appoint a new Receiver in the place of any Receiver whose appointment may for any reason have terminated.

14.3 Remuneration

The Lender may fix the remuneration of any Receiver appointed by it without the restrictions contained in section 109 of the LPA 1925, and the remuneration of the Receiver shall be a debt secured by this deed, to the extent not otherwise discharged.

14.4 Power of appointment additional to statutory powers

The power to appoint a Receiver conferred by this deed shall be in addition to all statutory and other powers of Valco under the Insolvency Act 1986, the LPA 1925 or otherwise, and shall be exercisable without the restrictions contained in sections 103 and 109 of the LPA 1925 or otherwise.

14.5 Power of appointment exercisable despite prior appointments

The power to appoint a Receiver (whether conferred by this deed or by statute) shall be, and remain, exercisable by Valco despite any prior appointment in respect of all or any part of the Secured Assets.

14.6 Agent of the Guarantor

Any Receiver appointed by Valco under this deed shall be the agent of the Guarantor and the Guarantor shall be solely responsible for the contracts, engagements, acts, omissions, defaults, losses and remuneration of that Receiver and for liabilities incurred by that Receiver. The agency of each Receiver shall continue until the Guarantor goes into liquidation and after that the Receiver shall act as principal and shall not become the agent of Valco.

15. POWERS OF RECEIVER

15.1 General

15.1.1 Any Receiver appointed by Valco under this deed shall, in addition to the powers conferred on it by statute, have the powers set out in clause 15.2 to clause 15.19.

15.1.2 If there is more than one Receiver holding office at the same time, each Receiver may (unless the document appointing it states otherwise) exercise all of the powers conferred on a Receiver under this deed individually and to the exclusion of any other Receiver.

15.1.3 Any exercise by a Receiver of any of the powers given by clause 155 may be on behalf of the Guarantor, the directors of the Guarantor or itself.

15.2 Repair and develop Properties

A Receiver may undertake or complete any works of repair, building or development on the Properties and may apply for and maintain any planning permission, development consent, building regulation approval or any other permission, consent or licence to carry out any of the same.

15.3 Surrender leases

A Receiver may grant, or accept surrenders of, any leases or tenancies affecting any Property and may grant any other interest or right over any Property on any terms, and subject to any conditions, that it thinks fit.

15.4 Remuneration

A Receiver may charge and receive any sum by way of remuneration (in addition to all costs, charges and expenses incurred by it) that Valco may prescribe or agree with it.

15.5 Manage or Reconstruct the Guarantor's Business

A receiver may carry on, develop, reconstruct, amalgamate or diversify or concur in carrying on, managing, developing, reconstructing, amalgamating or diversifying the business of the Guarantor.

15.6 Realise Secured Assets

A Receiver may collect and get in the Secured Assets or any part of them in respect of which it is appointed, and make any demands and take any proceedings as may seem expedient for that purpose, and take possession of the Secured Assets with like rights.

15.7 Dispose of Secured Assets

A Receiver may sell, exchange, convert into money and realise all or any of the Secured Assets in respect of which it is appointed in any manner (including, without limitation, by public auction or private sale) and generally on any terms and conditions as it thinks fit. Any sale may be for any consideration that the Receiver thinks fit and a Receiver may promote, or concur in promoting, a company to purchase the Secured Assets to be sold.

15.8 Sever fixtures and fittings

A Receiver may sever and sell separately any fixtures or fittings from any Property without the consent of the Guarantor.

15.9 Sell Book Debts

A Receiver may sell and assign all or any of the Book Debts in respect of which it is appointed in any manner, and generally on any terms and conditions, that it thinks fit.

15.10 Valid receipts

A Receiver may give valid receipt for all monies and execute all assurances and things that may be proper or desirable for realising any of the Secured Assets.

15.11 Make settlements

A Receiver may make any arrangement, settlement or compromise between the Guarantor and any other person that it may think expedient.

15.12 Bring proceedings

A Receiver may bring, prosecute, enforce, defend and abandon all actions, suits and proceedings in relation to any of the Secured Assets as it thinks fit.

15.13 Improve the Equipment

A Receiver may make substitutions of, or improvements to, the Equipment as it may think expedient.

15.14 Make calls on Guarantor members

A Receiver may make calls conditionally or unconditionally on the members of the Guarantor in respect of uncalled capital with (for that purpose and for the purpose of enforcing payments of any calls so made) the same powers as are conferred by the articles of association of the Guarantor on its directors in respect of calls authorised to be made by them.

15.15 Insure

A Receiver may, if it thinks fit, but without prejudice to the indemnity in clause 18, effect with any insurer any policy of insurance either in lieu or satisfaction of, or in addition to, the insurance required to be maintained by the Guarantor under this deed.

15.16 Powers under the LPA 1925

A Receiver may exercise all powers provided for in the LPA 1925 in the same way as if it had been duly appointed under the LPA 1925, and exercise all powers provided for an administrative receiver in Schedule 1 to the Insolvency Act 1986.

15.17 Redeem prior Security

A Receiver may redeem any prior Security and settle and pass the accounts to which the Security relates. Any accounts so settled and passed shall be, in the absence of any manifest error, conclusive and binding on the Guarantor, and the monies so paid shall be deemed to be an expense properly incurred by the Receiver.

15.18 Absolute beneficial owner

A Receiver may, in relation to any of the Secured Assets, exercise all powers, authorisations and rights it would be capable of exercising, and do all those acts and things, as an absolute beneficial owner could exercise or do in the ownership and management of the Secured Assets or any part of the Secured Assets.

15.19 Incidental powers

A Receiver may do any other acts and things that it:

15.19.1 may consider desirable or necessary for realising any of the Secured Assets;

15.19.2 may consider incidental or conducive to any of the rights or powers conferred on a Receiver under or by virtue of this deed or law; or

15.19.3 lawfully may or can do as agent for the Guarantor.

16. DELEGATION

The Lender or any Receiver may delegate (either generally or specifically) by power of attorney or in any other manner to any person any right, power, authority or discretion conferred on it by this deed (including the power of attorney granted under clause 20.1).

17. APPLICATION OF PROCEEDS

All monies received by Valco, a Receiver or a Delegate pursuant to this deed, after the security constituted by this deed has become enforceable, shall (subject to the claims of any person having prior rights and by way of variation of the LPA 1925) be applied in the following order of priority:

17.1.1 in or towards payment of or provision for all costs, charges and expenses incurred by or on behalf of Valco (and any Receiver, Delegate, attorney or agent appointed by it) under or in connection with this deed, and of all remuneration due to any Receiver under or in connection with this deed;

17.1.2 in or towards payment of or provision for the Secured Liabilities in any order and manner that Valco determines; and

17.1.3 in payment of the surplus (if any) to the Guarantor or other person entitled to it.

18. COSTS AND INDEMNITY

18.1 Costs

The Guarantor shall, promptly on demand, pay to, or reimburse, Valco and any Receiver, on a full indemnity basis, all costs, charges, expenses, taxes and liabilities of any kind (including, without limitation, legal, printing and out-of-pocket expenses) incurred by Valco, any Receiver or any Delegate in connection with:

18.1.1 this deed or the Secured Assets;

18.1.2 taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) any of Valco's, a Receiver's or a Delegate's rights under this deed; or

18.1.3 taking proceedings for, or recovering, any of the Secured Liabilities,

together with interest, which shall accrue and be payable (without the need for any demand for payment being made) from the date on which the relevant cost or expense arose until full discharge of that cost or expense (whether before or after judgment, liquidation, winding up or administration of the Guarantor) at the rate and in the manner specified in the Agreement.

18.2 Indemnity

The Guarantor shall indemnify Valco, each Receiver and each Delegate, and their respective employees and agents against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by any of them arising out of or in connection with:

18.2.1 the exercise or purported exercise of any of the rights, powers, authorities or discretions vested in them under this deed or by law in respect of the Secured Assets;

18.2.2 taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) the security constituted by this deed; or

18.2.3 any default or delay by the Guarantor in performing any of its obligations under this deed.

Any past or present employee or agent may enforce the terms of this clause 18.2 subject to and in accordance with the provisions of the Contracts (Rights of Third Parties) Act 1999.

19. FURTHER ASSURANCE

19.1 Further assurance

The Guarantor shall, at its own expense, take whatever action Valco or any Receiver may reasonably require for:

19.1.1 creating, perfecting or protecting the security intended to be created by this deed;

19.1.2 facilitating the realisation of any Secured Asset; or

19.1.3 facilitating the exercise of any right, power, authority or discretion exercisable by Valco or any Receiver in respect of any Secured Asset,

including, without limitation (if Valco or Receiver thinks it expedient) the execution of any transfer, conveyance, assignment or assurance of all or any of the assets forming part of (or intended to form part of) the Secured Assets (whether to Valco or to its nominee) and the giving of any notice, order or direction and the making of any registration.

20. POWER OF ATTORNEY

20.1 Appointment of attorneys

By way of security, the Guarantor irrevocably appoints Valco, every Receiver and every Delegate separately to be the attorney of the Guarantor and, in its name, on its behalf and as its act and deed, to execute any documents and do any acts and things that:

20.1.1 the Guarantor is required to execute and do under this deed; or

20.1.2 any attorney deems proper or desirable in exercising any of the rights, powers, authorities and discretions conferred by this deed or by law on Valco, any Receiver or any Delegate.

20.2 Ratification of acts of attorneys

The Guarantor ratifies and confirms, and agrees to ratify and confirm, anything that any of its attorneys may do in the proper and lawful exercise, or purported exercise, of all or any of the rights, powers, authorities and discretions referred to in clause 20.1.

21. RELEASE

Subject to clause 28.2, on the expiry of the Security Period (but not otherwise), Valco shall, at the request and cost of the Guarantor, take whatever action is necessary to:

21.1.1 release the Secured Assets from the security constituted by this deed; and

21.1.2 reassign the Secured Assets to the Guarantor.

22. ASSIGNMENT AND TRANSFER

22.1 Assignment by Lender

22.1.1 At any time, without the consent of the Guarantor, Valco may assign or transfer any or all of its rights and obligations under this deed.

22.1.2 The Lender may disclose to any actual or proposed assignee or transferee any information in its possession that relates to the Guarantor, the Secured Assets and this deed that Valco considers appropriate.

22.2 Assignment by Guarantor

The Guarantor may not assign any of its rights, or transfer any of its rights or obligations, under this deed.

23. SET-OFF

The Lender may at any time set off any liability of the Guarantor to Valco against any liability of Valco to the Guarantor, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under this deed.

24. AMENDMENTS, WAIVERS AND CONSENTS

24.1 Amendments

No amendment of this deed shall be effective unless it is in writing and signed by, or on behalf of, each party (or its authorised representative).

24.2 Waivers and consents

24.2.1 A waiver of any right or remedy under this deed or by law, or any consent given under this deed, is only effective if given in writing by the waiving or consenting party and shall not be deemed a waiver of any other breach or default.

24.2.2 A failure to exercise, or a delay in exercising, any right or remedy provided under this deed or by law shall not constitute a waiver of that or any other right or remedy, prevent or restrict any further exercise of that or any other right or remedy or constitute an election to affirm this deed.

24.3 Rights and remedies

The rights and remedies provided under this deed are cumulative and are in addition to, and not exclusive of, any rights and remedies provided by law.

25. SEVERANCE

If any provision (or part of a provision) of this deed is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision (or part of a provision) shall be deemed deleted. Any modification to or deletion of a provision (or part of a provision) under this clause shall not affect the legality, validity and enforceability of the rest of this deed.

26. **COUNTERPARTS**

This deed may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute one deed.

27. **THIRD PARTY RIGHTS**

Except as expressly provided elsewhere in this deed, a person who is not a party to this deed shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce, or enjoy the benefit of, any term of this deed. This does not affect any right or remedy of a third party which exists, or is available, apart from that Act.

28. **FURTHER PROVISIONS**

28.1 **Continuing security**

The security constituted by this deed shall remain in full force and effect as a continuing security for the Secured Liabilities, despite any settlement of account, or intermediate payment, or other matter or thing, unless and until Valco discharges this deed in writing.

28.2 **Discharge conditional**

Any release, discharge or settlement between the Guarantor and Valco shall be deemed conditional on no payment or security received by Valco in respect of the Secured Liabilities being avoided, reduced or ordered to be refunded pursuant to any law relating to insolvency, bankruptcy, winding-up, administration, receivership or otherwise.

28.3 **Certificates**

A certificate or determination by Valco as to any amount for the time being due to it from the Guarantor under this deed and the Agreement shall be, in the absence of any manifest error, conclusive evidence of the amount due.

28.4 **Consolidation**

The restriction on the right of consolidation contained in section 93 of the LPA 1925 shall not apply to this deed.

29. **NOTICES**

Each notice or other communication required to be given to a party under or in connection with this deed shall be in writing, delivered by hand or by pre-paid first-class post or other next working day delivery service, and sent to the Guarantor or Valco (as the case may be) at the address set out in respect of it on page 1 of this deed or any other address as is notified in writing by one party to the other from time to time.

30. **GOVERNING LAW AND JURISDICTION**

30.1 **Governing law**

This deed and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.

30.2 **Jurisdiction**

Each party irrevocably agrees that, subject as provided below, the courts of England and Wales shall have exclusive jurisdiction over any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this deed or its subject matter or formation.

30.3 **Other service**

The Guarantor irrevocably consents to any process in any legal action or proceedings under clause 30.2 being served on it in accordance with the provisions of this deed relating to service of notices. Nothing contained in this deed shall affect the right to serve process in any other manner permitted by law.

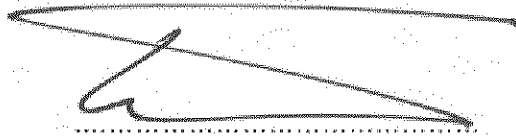
SCHEDULE 1 BORROWER'S GROUP

Name	Registration Number	Registered Office
Burgess and Leigh Limited	03820303	Denby Pottery, Denby, Derbyshire, DE5 8NX
Denby Potteries Limited	06784072	Denby Pottery, Denby, Derbyshire, DE5 8NX
Denby Brands Limited	06761664	Denby Pottery, Denby, Derbyshire, DE5 8NX
Denby USA Limited	03112680	Denby Pottery, Denby, Derbyshire, DE5 8NX
The Denby Pottery Company Limited	06798163	Denby Pottery, Denby, Derbyshire, DE5 8NX
Denby Retail Limited	06800973	Denby Pottery, Denby, Derbyshire, DE5 8NX
Denby Korea Limited	11011-0171021	4 th Floor, Samseong Building, 7 Samseong-ro 86 Gil, Gangnam-Gu, Seoul, Korea

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

Guarantor

Executed as a deed by **DENBY USA LIMITED** acting by a director in the presence of:



Director

Signature of witness

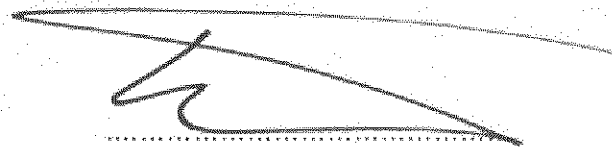
Sam Gubbey
.....
(name of witness)

Personal Trainer
.....
(occupation of witness)
358a Essex Road
.....

London
.....
N13 8D
.....
(address of witness)

Valco GP IV Limited

Executed as a deed by **VALCO GP IV** as general partner of **VALCO CAPITAL PARTNERS IV LIMITED PARTNERSHIP** acting by a director in the presence of:



Director

Signature of witness

Sam Gubbey
.....
(name of witness)

Personal Trainer
.....
(occupation of witness)
358a Essex Road
.....

London
.....
N13 8D
.....
(address of witness)