

MR01

Particulars of a charge

191706/23

Laserform



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A fee is be payable with this form
Please see 'How to pay' on the last page.

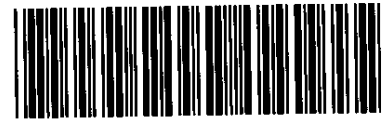
☒ **What this form is for**
You may use this form to register
a charge created or evidenced by
an instrument.

☒ **What this form is NOT for**
You may not use this form to
register a charge where there is no
instrument. Use form

For further information, please
refer to our guidance at
www.gov.uk/companieshouse

This form **must be delivered to the Registrar for registration**
21 days beginning with the day after the date of creation of the
delivered outside of the 21 days it will be rejected unless it is
court order extending the time for delivery.

☒ You **must** enclose a certified copy of the instrument with this form
scanned and placed on the public record. **Do not send the original**



A13 *A7G9ZDIA* #253
10/10/2018
COMPANIES HOUSE

1 Company details

Company number 1 1 1 4 5 7 5 5

Company name in full Kyen Resources UK Ltd ✓

0 0 0 3 For official use

→ **Filling in this form**
Please complete in typescript or in
bold black capitals.

All fields are mandatory unless
specified or indicated by *

2 Charge creation date

Charge creation date d 2 d 8 m 0 m 9 y 2 y 0 y 1 y 8 ✓

3 Names of persons, security agents or trustees entitled to the charge

Please show the names of each of the persons, security agents or trustees
entitled to the charge.

Name Oversea-Chinese Banking Corporation Limited ✓

Name

Name

Name

If there are more than four names, please supply any four of these names then
tick the statement below.

☐ I confirm that there are more than four persons, security agents or
trustees entitled to the charge.

MR01

Particulars of a charge

4

Brief description

Please give a short description of any land, ship, aircraft or intellectual property registered or required to be registered in the UK subject to a charge (which is not a floating charge) or fixed security included in the instrument.

Brief description

Not applicable

Please submit only a short description. If there are a number of plots of land, aircraft and/or ships, you should simply describe some of them in the text field and add a statement along the lines of, "for more details please refer to the instrument"

Please limit the description to the available space.

5

Other charge or fixed security

Does the instrument include a charge (which is not a floating charge) or fixed security over any tangible or intangible or (in Scotland) corporeal or incorporeal property not described above? Please tick the appropriate box.

☒ Yes

☐ No

6

Floating charge

Is the instrument expressed to contain a floating charge? Please tick the appropriate box.

☒ Yes Continue

☐ No Go to Section 7

Is the floating charge expressed to cover all the property and undertaking of the company?

☐ Yes

7

Negative Pledge

Do any of the terms of the charge prohibit or restrict the company from creating further security that will rank equally with or ahead of the charge? Please tick the appropriate box.

☒ Yes

☐ No

8

Trustee statement ¹

You may tick the box if the company named in Section 1 is acting as trustee of the property or undertaking which is the subject of the charge.

☐

¹ This statement may be filed after the registration of the charge (use form MR06)

9

Signature

Please sign the form here

Signature

Signature

X *Simpson & Simmons LLP*
9/10/18 (CSY)

X

This form must be signed by a person with an interest in the charge.

MR01

Particulars of a charge



Presenter information

You do not have to give any contact information, but if you do, it will help Companies House if there is a query on the form. The contact information you give will be visible to searchers of the public record.

Contact name Amanda Gardam (088163-00036)

Company name Simmons & Simmons LLP

Address CityPoint

One Ropemaker Street

Post town London

County/Region

Postcode EC2Y 9SS

Country United Kingdom

DX DX Box No 12 Chancery Lane London

Telephone 020 7825 4815



Certificate

We will send your certificate to the presenter's address if given above or to the company's Registered Office if you have left the presenter's information blank.



Checklist

We may return forms completed incorrectly or with information missing.

Please make sure you have remembered the following:

- ☒ The company name and number match the information held on the public Register.
- ☒ You have included a certified copy of the instrument with this form.
- ☒ You have entered the date on which the charge was created.
- ☒ You have shown the names of persons entitled to the charge.
- ☒ You have ticked any appropriate boxes in Sections 3, 5, 6, 7 & 8.
- ☒ You have given a description in Section 4, if appropriate.
- ☒ You have signed the form.
- ☒ You have enclosed the correct fee
- ☒ Please do not send the original instrument; it must be a certified copy.



Important information

Please note that all information on this form will appear on the public record.



How to pay

A fee of £23 is payable to Companies House in respect of each mortgage or charge filed on paper.

Make cheques or postal orders payable to 'Companies House.'



Where to send

You may return this form to any Companies House address. However, for expediency, we advise you to return it to the appropriate address below:

For companies registered in England and Wales:
The Registrar of Companies, Companies House,
Crown Way, Cardiff, Wales, CF14 3UZ.
DX 33050 Cardiff.

For companies registered in Scotland:
The Registrar of Companies, Companies House,
Fourth floor, Edinburgh Quay 2,
139 Fountainbridge, Edinburgh, Scotland, EH3 9FF.
DX ED235 Edinburgh 1
or LP - 4 Edinburgh 2 (Legal Post).

For companies registered in Northern Ireland:
The Registrar of Companies, Companies House,
Second Floor, The Linenhall, 32-38 Linenhall Street,
Belfast, Northern Ireland, BT2 8BG.
DX 481 N.R. Belfast 1.



Further information

For further information, please see the guidance notes on the website at www.gov.uk/companieshouse or email enquiries@companieshouse.gov.uk

This form is available in an alternative format. Please visit the forms page on the website at www.gov.uk/companieshouse



FILE COPY

CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 11145755

Charge code: 1114 5755 0003

The Registrar of Companies for England and Wales hereby certifies that a charge dated 28th September 2018 and created by KYEN RESOURCES UK LTD was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 10th October 2018.



Given at Companies House, Cardiff on 17th October 2018



Companies House



**THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES**

**LIMITED DEBENTURE
- SECURITY OVER GOODS FINANCED BY BANK**

THIS DEBENTURE is dated 28 September 2018 and made between -

- (1) KYEN RESOURCES UK LTD, a company incorporated in England and Wales and having its registered office at c/o LegalinX Limited, One Fetter Lane, London, United Kingdom EC4A 1BR (the "Company"); and
- (2) OVERSEA-CHINESE BANKING CORPORATION LIMITED of 63 Chulia Street #10-00, Singapore 049514 ("the Bank").

WHEREAS:-

- (A) The Company has requested for and the Bank has agreed to grant at its discretion Facilities (as defined in Clause 1.1) to finance the Company's purchase of Goods (as defined in clause 1.1) from time to time for so long as it thinks fit at its absolute discretion and to such an extent and on such terms as may from time to time be fixed by the Bank at its absolute discretion
- (B) The Company has agreed to execute this Debenture by way of security for all its obligations and liabilities under the Facilities to the Bank.

NOW THIS DEBENTURE WITNESSES as follows -

1. DEFINITIONS

1.1 In this Debenture, unless the context otherwise requires:

Charged Assets means the property, assets and rights for the time being comprised in or subject to the security described in clause 3.1; and references to the Charged Assets include references to any part of it;

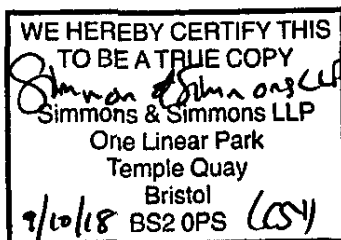
CLPA means the Conveyancing and Law of Property Act (Cap 61);

Collateral Instruments means negotiable and non-negotiable instruments, guarantees and any other documents or instruments which contain or evidence an obligation (with or without security) to pay, discharge or be responsible directly or indirectly for, any liabilities of any person and includes any document or instrument creating or evidencing an Encumbrance;

Contract Rights means all and any rights of the Company under any Goods Agreement, including without limitation:

- (a) all rights to delivery of any quantity of Goods under any Goods Agreement;
- (b) all rights to any sum or sums of money (whether in the nature of debt, purchase price, damages liquidated or unliquidated, or otherwise) under any Goods Agreement and all and any such sums when paid;
- (c) all and any rights or interest of the Company in or to the proceeds of any insurance payable or paid in respect of the Goods;
- (d) all and any rights or interest of the Company under any Letter of Credit;
- (e) all and any rights or interest of the Company under any Letter of Indemnity, including without limitation all claims for damages arising out of any breach of any Letter of Indemnity; and
- (f) all and any rights or interest of the Company under any Wash-Out Agreement;

Credit Balances means all and any credit balances of the Company (including without



limitation time, structured or other deposits whether or not evidenced by deposit receipts, bonds, instruments or any other investment products pursuant to which Liabilities are owed by the Bank to the Company, or the Company is able to make a claim against the Bank, in whatever currency) now or in the future made by or held for the account of the Company at any branch or subsidiary of the Bank,

Debts	means the Receivables and other debts owed to the Company described in <u>Clause 3.1</u> ;
Encumbrances	means and includes any mortgage, assignment of receivables, debenture, lien, charge, pledge, hypothecation, title retention, right to acquire, security interest, options, rights of first refusal and any other encumbrance or condition whatsoever;
Event of Default	refers to any and every event set out in <u>Clause 6.2</u> ;
Facilities	means loans, advances, overdrafts, indemnities, guarantees and facilities whereby the Company has access to funds or financial guarantees and facilities whereby the Bank incurs liabilities on behalf of the Company or a third party at the Company's request, facilities relating to foreign exchange transactions, letters of credit and trust receipt facilities and other credit facilities and accommodation relating to the accepting, endorsing and discounting of cheques bills of exchange promissory notes or other negotiable instruments and any credit or banking accommodation or other accommodation now or hereafter granted or to be granted from time to time by the Bank on the security of this Debenture, and "Facility" means any of them;
Goods	means all and any goods and any right, title, benefit or interest of the Company therein now or in the future purchased or to be purchased by the Company, in respect of which any payment has been or may fall to be made by the Bank pursuant to any letter of credit now or in the future issued by the Bank, or in respect of or to facilitate the purchase of which the Bank has extended or hereafter extends to the Company any banking or credit facilities or accommodation of any kind (including, without in any way limiting the generality of the above, the Goods specified in <u>Annex I</u> hereto, and any supplement thereto pursuant to <u>clause 3.7</u>);
Goods Agreement	means the Goods Sale Agreement and the Goods Purchase Agreement;
Goods Purchase Agreement	means any agreement now or in the future entered into by or on behalf of the Company for the purchase by the Company of Goods from a third party being a contract which has been financed wholly or in part directly or indirectly by the Bank, whether by the issue or confirmation of a guarantee, letter of credit, payment undertaking, the making of cash advances, the acceptance or discount of bills or otherwise howsoever;
Goods Sale Agreement	means any agreement now or in the future entered into by or on behalf of the Company with any person or persons for the sale or other disposal by the Company of Goods;
Letter of Credit	means a letter of credit or other payment undertaking issued or confirmed in favour of the Company in respect of the payment to the Company of the price under a Goods Sale Agreement,
Letter of Indemnity	means a letter of indemnity or guarantee issued in favour of, or for the account of, the Company by or on behalf of the seller of any Goods the subject of a Goods Purchase Agreement, in respect of any or all losses, costs, charges, expenses, liabilities, claims and demands which may be incurred by or made against the Company as a consequence of payment being made by or for the account of the Company to or for the account of the seller in respect of such Goods in circumstances where no bill of lading or other document of title relating thereto shall have been delivered to or to the order of the Company,

Liabilities	includes all liabilities whatsoever whether such liabilities be present or future, actual or contingent, primary or collateral, several or joint and whether incurred in Singapore or elsewhere and whether in Singapore Dollars or in any other currency,
Receivables	means all moneys payable now or in the future to or for the account of the Company arising out of or as a result of or pursuant to: <ul style="list-style-type: none"> (a) each present and future Goods Sale Agreement including, without limitation, the sales proceeds of the Goods, the subject of each Goods Sale Agreement, all claims for damages arising out of any breach of any Goods Sale Agreement and all insurance moneys which may be or become payable to the Company under any insurances relating to any Goods Sale Agreement; (b) each present and future Letter of Indemnity including, without limitation, all claims for damages arising out of any breach of any Letter of Indemnity; (c) any and all present and future Wash-Out Rights; (d) each present and future Goods Purchase Agreement including, without limitation, all claims for damages arising out of any breach of any Goods Purchase Agreement and all insurance moneys which may be or become payable to the Company under any insurances relating to any Goods Purchase Agreement; (e) each present and future Letter of Credit; and (f) any present or future claim which the Company may have against a carrier of any Goods, the subject of a Goods Sale Agreement or a Goods Purchase Agreement, whether under or pursuant to a bill of lading or otherwise;
Relevant Documents	means the Goods Agreement, Letter of Credit, Letter of Indemnity and Wash-Out Agreement;
Secured Obligations	means all of the obligations of the Company which are from time to time the subject of the Company's undertaking pursuant to <u>Clause 2</u> ;
Security Provider	means any person, including a guarantor, who may from time to time provide any security and/or assume the obligations of a surety or an indemnifier for the indebtedness, liabilities or obligations of the Company to the Bank;
Singapore Dollars	means the lawful currency of the Republic of Singapore;
Subsidiary	has the meaning ascribed to it in the Companies Act (Cap. 50);
Wash-Out Agreement	means any wash-out, book-out, circle settlement, netting or other similar agreement or arrangement (by whatever name called) pursuant to which the rights and obligations of parties to two or more contracts for the sale and purchase of a particular commodity are effectively cancelled and substituted by new payment obligations (whether the paying party is a seller or a buyer) calculated by reference to the sale prices agreed in such contracts;
Wash-Out Rights	means any and all rights from time to time vested in, or accruing to the Company as a consequence of the operation of any Wash-Out Agreement

1.2 References to any statutory provisions shall be construed as references to:

- (a) any statutory modification, consolidation or re-enactment (whether before or after the date of this Debenture) for the time being in force;

- (b) all statutory instruments or orders made pursuant to a statutory provision; and
 - (c) any statutory provisions of which a statutory provision is a consolidation, re-enactment or modification.
- 1.3 References to a receiver include a receiver and/or manager.
 - 1.4 References to clauses are to clauses of this Debenture.
 - 1.5 References to any party to this Debenture include their respective successors and permitted assigns.
 - 1.6 References to the plural include the singular and vice versa.
 - 1.7 References to a person shall be construed as including an individual, firm, company, corporation, unincorporated body of persons or any state or agency thereof.
 - 1.8 Clause headings are for convenience of reference only and shall have no legal effect.

2. UNDERTAKING TO PAY

The Company undertakes with the Bank that it will pay to the Bank on demand all moneys which are now or shall from time to time or at any time hereafter be owing or remain unpaid to the Bank by the Company either as principal or as surety and either solely or jointly with any other person or persons in partnership or otherwise whether on any banking or other account or accounts or otherwise in any manner whatsoever and discharge all obligations and Liabilities now or hereafter incurred by the Company to the Bank or subsisting whether on any banking or other account or accounts or otherwise in any manner whatsoever, whether alone or jointly and in whatever style, name or form and whether as principal or surety whether in Singapore Dollars or in any other currency including (but without limitation) all liabilities in connection with overdraft or other loan facilities, foreign exchange transactions, accepting and/or discounting any notes or bills or under bonds, guarantees, indemnities, documentary or other credits or any instruments whatsoever now or hereafter from time to time entered into or incurred by the Bank for or at the request of the Company and all liabilities in respect of or in connection with Facilities now or hereafter from time to time granted to the Company or subsisting between the Bank and the Company together with interest to date of payment (both after as well as before judgement, if any, shall have been obtained in respect thereof) at such rate or rates and in the manner provided under the terms of any Facilities extended by the Bank to the Company from time to time or at such other rate or rates and with such periodic rests as may from time to time be fixed by the Bank and upon such terms as may from time to time be fixed by the Bank, commissions, fees and other charges and all legal and other costs, charges and expenses incurred by the Bank in relation to the Company or any guarantee, indemnity or security for any moneys, obligations or liabilities hereby secured on a full and unqualified indemnity basis.

3. SECURITY AND RELATED PROVISIONS

- 3.1 The Company as beneficial owner and as a continuing security for the payment and discharge of the Secured Obligations:
 - (a) charges to the Bank by way of floating charge all its right, title, benefit, and interest in and to all Goods (including, without limitation, the Goods specified in Annex I hereto);
 - (b) charges to the Bank by way of first fixed charge all its right, title, benefit and interest in and to all Credit Balances;
 - (c) assigns and charges to the Bank by way of first fixed security all Receivables and all other present and future book debts and other debts and all moneys whatsoever, for the time being due, owing or payable to the Company relating to or arising from any and all Goods and Goods Agreements by any person whatsoever, and the benefit of any Encumbrances and securities for the time being held by the Company in respect of any such debts or moneys;
 - (d) assigns and charges to the Bank by way of first fixed security all Contract Rights;
 - (e) assigns and charges to the Bank by way of first fixed security all present and future contract rights, receivables, book and other debts and monetary claims now or at any time hereafter due or owing to the Company, in consideration of or against which the Bank has extended or may hereafter extend banking or credit facilities or accommodation of any kind, together with the full benefit of all guarantees and securities therefor and indemnities in respect thereof and all Collateral Instruments, liens, reservations of title, rights of tracing and other rights enabling the Company to enforce such

contract rights, receivables, debts or claims; and

- (f) assigns and charges to the Bank by way of first fixed security all its right, title, benefit and interest under the Letters of Credit, and in respect of which the Company has requested or may hereafter request to the Bank to act or where the Bank has acted as the collecting and/or negotiation bank, and the underlying contracts, together with the full benefit of all rights enabling the Company to collect payment under the Letters of Credit; and
 - (g) pledges and surrenders to the Bank the Goods and all documents of title (including, without limitation, bills of lading), all shipping documents, transport documents, delivery orders, warehouse warrants, certificates or receipts and all other documents relating to the Goods, and all other documents now or hereafter presented by the Company to the Bank as the collecting and/or negotiation bank.
- 3.2 The charges created by or pursuant to Clause 3.1 shall (regardless of whether it is a floating charge, fixed charge, assignment or any other kind of security interest) each be a first charge and rank in terms of priority and security, ahead of any other Encumbrance which the Company has or may create in favour of any other parties.
- 3.3 The floating charge created pursuant to this Debenture shall automatically and without notice be converted into a fixed charge in respect of any Charged Assets subject to it:
- (a) which shall become subject to any Encumbrance or claims other than that permitted under this Debenture;
 - (b) in the event any person levies or notifies the Company that it intends to levy any distress, execution, sequestration or other process against any Charged Assets;
 - (c) in the event the Company ceases to carry on business or to be a going concern;
 - (d) in the event the Company for any reason fails to observe or punctually perform any of its obligations to the Bank;
 - (e) in the event the Company becomes or is unable to pay its debts as they fall due, or suspends or threatens to suspend making payments (whether of principal or interest) with respect to all or any class of its debts or otherwise becomes or is declared insolvent; and
 - (f) in the event any of the Secured Obligations become due and payable.
- 3.4 All rights of the Company in relation to Credit Balances shall not be capable of assignment or other dealing by the Company. The Company's rights to repayment or withdrawal of Credit Balances and (following any default in payment of the Secured Obligations and for so long as such default is subsisting) its right to payment or withdrawal of any interest earned thereon and credited thereto shall be conditional upon discharge of all actual and contingent liabilities of the Company for the time being comprised in the Secured Obligations, and its rights against the Bank in relation to the Credit Balances shall be contingent accordingly. Absent agreement to the contrary, the Bank shall be entitled to renew any fixed or time deposit comprised in the Credit Balances upon its maturity for such period or periods as it may choose if and for so long as such contingency has not been fulfilled.
- 3.5 The Company shall forthwith deliver possession (actual, constructive or otherwise) of the Goods to the Bank or such other party for and on behalf of the Bank as may be instructed by the Bank.
- 3.6 Where the Goods have been pledged to the Bank and are to be delivered or handed over by the Bank to the Company, they shall be received by the Company only (a) against the delivery by the Company of trust receipts (in accordance with the Bank's normal practices and in the form as may be required by the Bank), (b) as trustee and agent of the Bank, and if the Company shall receive any sale proceeds, it shall receive such proceeds on trust for, and as agent of, the Bank and not otherwise
- 3.7 As and when additional Goods the purchase of which, are being financed by the Bank, or in respect of which any payment has been or may fall to be made by the Bank, is acquired by the Company, the Company shall send to the Bank a letter substantially in the form of Annex 2 hereto identifying the additional Goods and confirming to the Bank that the Goods specified in the letter, and all the Company's right, title, benefit and interest connected to such Goods, including all Goods Agreement in respect of the additional Goods and all Receivables in respect of the additional Goods are to be charged, assigned and secured in favour of the Bank and the Goods, all Goods Agreement, all Receivables and all Relevant Documents in connection thereto are subject to this Debenture, and (for the avoidance of doubt) all references in this Debenture to Goods shall include such additional Goods.

3.8 The Company authorises the Bank, in order to recover all or any of the moneys from time to time outstanding in respect of the Secured Obligations:

- (a) to combine or consolidate all or any of the Company's accounts (whether current, deposit or any other type of account and whether held by the Company in its own name or jointly, wheresoever situate, whether in Singapore or elsewhere),
- (b) to set-off or transfer any sum standing to the credit of any such account and to apply the same in diminution of the moneys owing in respect of the Secured Obligations; and
- (c) where necessary, to convert (at the Bank's prevailing rates and otherwise on its normal terms for such business) the moneys standing to the credit of such accounts into the currencies in which the Secured Obligations are denominated.

4. GENERAL UNDERTAKINGS

The Company undertakes and covenants with the Bank that, so long as any of the Secured Obligations (whether contingent or otherwise) remain to be repaid or performed:-

- (a) (save for the Encumbrances created pursuant to this Debenture) it will not create or attempt to create or permit to subsist any Encumbrance on or over any of the Goods, Relevant Documents, Receivables or any other Charged Assets;
- (b) save in the realising of Debts in the ordinary course of business, it will not sell, assign, factor, part with possession, transfer, lease or otherwise dispose of the Charged Assets or any part thereof or attempt or agree to do so (except in the case of any Goods subject to the floating charge described in clause 3.1(a) which may be sold at market value in the usual course of the Company's trade as now conducted and for the purpose of carrying on that trade);
- (c) it will (and will procure that its Subsidiaries will) conduct and carry on its business in a proper and efficient manner and keep or cause to be kept proper books of account relating to its business and it will not (and will procure that none of its Subsidiaries will) make any substantial alteration in the nature of or mode of conduct of that business;
- (d) it will furnish to the Bank all such statements, information, explanation and data as the Bank may reasonably require regarding its financial conditions;
- (e) it will (and will procure that each of its Subsidiaries will) observe and perform all stipulations from time to time affecting its property (whether real or personal, tangible or intangible) including without limitation any licence or ancillary or connected rights from time to time relating thereto or the mode of use or enjoyment of the same;
- (f) it will (and will procure that each of its Subsidiaries will) keep all its buildings and all plant, machinery, fixtures, fittings and other equipment and effects in good and substantial repair and in good working order and condition;
- (g) it will (and will procure that each of its Subsidiaries will) at its own expense properly insure and keep insured all of its properties and effects whatsoever of an insurable nature against such risks, upon such terms and with such insurers as the Bank may approve, in the joint names of the Company and the Bank, or at the Bank's option, in the name of the Company with an endorsement of the Bank's interest, and from time to time deposit with the Bank the policies of insurance, evidence of current payment of premiums and such other documents as the Bank may require in connection therewith;
- (h) it shall permit the Bank entry into and upon any land and premises belonging to it or where it carries on its business and inspect the same and to inspect all its accounts, records and statements wherever the same may be situated. To this extent, it shall give to the Bank such written authorities or other directions and provide such facilities and access as the Bank may require, and shall pay all costs, fees, and other expenses whether legal or otherwise in respect of such inspection;
- (i) it will not (and will ensure that none of its Subsidiaries will) vary, surrender, cancel, assign, encumber or otherwise dispose of or permit to be forfeited its leasehold interest in any premises or in any credit sale, hire-purchase, leasing or like agreement for the acquisition or rental of any material equipment used in business;
- (j) it will get in and realise all Debts in the ordinary course of its business and pay all moneys received in respect of the Debts into the Company's account with the Bank;

- (k) it shall duly furnish to the Bank annually as soon as possible and in any event not later than one hundred and twenty (120) days after the close of its financial year the audited financial statements of the Company and the audited consolidated financial statements of the Company and its Subsidiaries, in each case consisting of a balance sheet as of the close of such financial year and a statement of its profits and loss for the period then ended in accordance with generally accepted accounting practices and principles consistently applied and signed by its qualified independent auditors to be acceptable to the Bank;
- (l) it will not re-issue any debenture or debenture stock which may have been or which may hereafter be redeemed by the Company;
- (m) it will not undertake, permit or effect any form of reorganisation, reconstruction, amalgamation or takeover, or any scheme of arrangement or compromise, affecting the Company without the Bank's prior written consent;
- (n) it will promptly notify the Bank of any material event or adverse change in the condition (financial or otherwise) of the Company or any of its Subsidiaries and of any litigation or proceedings being threatened or initiated against the Company or any of its Subsidiaries before any court tribunal or administrative agency, which might materially affect the operations or financial condition of the Company or such Subsidiaries, all such notification to be given to the Bank not later than seven (7) days after the Company has knowledge of the said change or of the said litigation or proceedings or threat thereof and the amount of contingent liability if such amount is ascertainable, and
- (o) it shall duly pay and discharge and cause all its Subsidiaries to pay and discharge, all rents, rates, taxes, assessments and governmental charges from time to time levied upon it or them or against its or their properties, business and operations prior to the date on which penalties become attached thereto, unless and to the extent only that the same shall be contested in good faith and by appropriate proceedings.

5. WARRANTIES AND REPRESENTATIONS

5.1 The Company hereby warrants and represents to the Bank as follows.-

- (a) that the Company is duly incorporated, validly existing and of good standing in its country of incorporation;
- (b) that this Debenture has been validly authorised by the appropriate corporate action of the Company and when executed and delivered to the Bank will constitute valid and binding obligations of the Company enforceable in accordance with its terms;
- (c) that the certified true copies of its constitutional documents and the board or other appropriate resolutions of the Company delivered to the Bank are true and accurate copies of the corporate records of the Company;
- (d) that all acts, conditions and things required to be done and performed and to have happened precedent to the execution and delivery of this Debenture to constitute the same valid obligations of the Company enforceable in accordance with its terms have been done, performed and have happened in due and strict compliance with all applicable laws and regulations;
- (e) that the Company has full power and authority to carry on the business currently carried on by it and full power and authority to execute this Debenture and the other instruments, documents and agreements incidental hereto or thereto;
- (f) that every consent, licence, approval or authorisation of any governmental authority, bureau or agency required in connection with the execution, delivery, performance, validity or enforceability of this Debenture has been obtained and is valid and subsisting;
- (g) that the Company has not committed, under any agreement to which it is a party or by which it is bound, a default which might have a material adverse effect on the business, assets or financial condition of the Company;
- (h) that there are no proceedings pending before any court or to the knowledge of the Company threatened against or affecting the Company and no proceedings are before any court tribunal government agency or administrative body pending or to the knowledge of the Company threatened against it which would materially and adversely affect the financial condition or operations of the Company or impair the right of the Company to carry on its business substantially as is now carried on or the ability of the Company to observe and perform its obligations under this Debenture and to the best of the knowledge and belief of

the Company, the Company has complied with all applicable laws and statutes and regulations made thereunder and with the requirements of all government authorities having jurisdiction over it;

- (i) that no steps have been taken or are being taken to appoint a receiver and/or manager or liquidator over, or to wind up the Company or to place the Company under the judicial management of a judicial manager;
- (j) that the Company has filed all tax returns which it is required by law to file and has paid all taxes, assessments, fees and other governmental charges assessed against it or upon any of its properties, assets, income or franchises;
- (k) that the Company is not in default in the payment or performance of any of its obligations for borrowed money, and no Event of Default (as defined in Clause 6.2 below) and no condition, event or act, which with the giving of notice or lapse of time or both would constitute such an Event of Default, has occurred, or is continuing or is anticipated;
- (l) that neither the execution and delivery of this Debenture, nor the performance of any of the terms hereof will:
 - (i) contravene or constitute a default under any provision contained in any existing mortgage, trust deed, contract, licence, concession, agreement, instrument, law, ordinance, judgement, order, decree or similar enactment, permit or consent by which the Company is bound or affected, or
 - (ii) cause any limitation on the Company or the powers of its directors, whether imposed by or contained in its constitutional documents or under any law, judgement, agreement, instrument or otherwise, to be exceeded;
- (m) that all the information relating to the Company and its liabilities and assets furnished to the Bank for the purpose of obtaining the Facilities are true, complete and correct in all material aspects, and
- (n) that no Event of Default has occurred or is continuing.

5.2 In respect of the Charged Assets, the Company hereby warrants and represents to the Bank as follows:

- (a) that the Company is absolutely entitled to all the Charged Assets in particular the Goods, free from all security interests, Encumbrances and claims whatsoever;
- (b) that the Company has not created or caused to be created or allowed to be subsisting any Encumbrance over any of the Charged Assets save as created by this Debenture;
- (c) to deposit with the Bank all bills of lading or other documents of title relating to Goods and all shipping documents, transport documents, delivery orders, warehouse warrants, certificates or receipts and all other documents relating to the Goods to the intent that the same shall be pledged to the Bank independently of this Debenture, and to deposit with the Bank an original duly executed copy of all Relevant Documents promptly upon the same being made,
- (d) if and as the Bank so requires, promptly to execute, at the Company's own cost, as a continuing security for the payment or discharge of the Secured Obligations, a first legal mortgage, charge or assignment, in terms specified by the Bank, of all or any of the Charged Assets,
- (e)
 - (i) except with the prior written consent of the Bank, not to assign, transfer, factor, discount, sell, release, compound, subordinate, defer, or vary the terms of the Receivables or any book or other debts or moneys for the time being due, owing or payable to the Company whether pursuant to or in connection with the Relevant Documents or otherwise, nor to charge or otherwise encumber the same;
 - (ii) to procure that the Receivables, and all moneys payable to the Company under or arising from any and all Relevant Documents or otherwise are paid to the Bank and if the Bank so requires, at the Company's own cost promptly to execute a legal assignment to the Bank in terms specified by the Bank of all or any of such Receivables, or book or other debts or moneys and any Encumbrance or documents relating thereto, or otherwise negotiate the same to the Bank and/or promptly to sign and deliver to any other person or persons party to any Relevant Document or any other agreement under which such book or other debts or moneys arise to be paid to the Company notice in terms specified by the Bank of assignment and/or instructions as to payment of moneys thereunder, but so that nothing in this paragraph or paragraph (d) above shall be taken to detract from or otherwise affect the validity of the fixed security specified in clause 3.1 or any other security (including without

limitation any pledge of Goods) to which the Bank may from time to time be entitled, and

- (iii) without prejudice to the generality of the foregoing, the Company shall give notice of the assignment created by this Debenture to the seller under each Goods Purchase Agreement, to the purchaser under each Goods Sale Agreement, to the issuer of each Letter of Credit and Letter of Indemnity, and to the counterparty of each Wash-Out Agreement, in the form or substantially in the form set out in Schedule 1 (completed as appropriate) or in such other form as the Bank may require and otherwise to perfect the security created or intended to be created by this Debenture in accordance with the laws of any jurisdiction which the Bank considers relevant including without limitation: (1) the jurisdiction by the laws of which any Charged Assets is (whether by virtue of the terms of the document or instrument constituting or evidencing the same or otherwise) governed or construed; and (2) the jurisdiction in which the obligor in respect of any Charged Assets is treated as being situated;
- (f) to maintain such insurances in respect of the Charged Assets in names, on terms and with insurers acceptable to the Bank, as the Bank may from time to time require, and if requested to name the Bank as loss payee thereunder, punctually to pay all premiums and other sums payable in respect of all insurances effected by the Company, to comply with all warranties or other requirements relating thereto, and to produce to (or, if required, deposit with) the Bank on demand all or any of the relevant policies and the receipts for the last premiums payable thereunder, and to hold any moneys payable to or received by the Company on any insurance upon trust to apply them either in replacing the Charged Assets in respect of which the moneys are received or (as the Bank may require) in or towards discharging the Secured Obligations, to the intent that such moneys shall (without prejudice to any other right or interest of the Bank therein or thereto) be comprised in the Charged Assets;
- (g) punctually and properly to perform all its obligations under the Relevant Documents or any other agreement under which the Receivables or such book or other debts or moneys arise to be paid to the Company, promptly present invoices and the other specified documents for payment in accordance with each Relevant Document, forthwith to notify the Bank in writing of any notice or information received by the Company concerning any breach or alleged breach or termination or threatened or proposed termination of any Relevant Document or any other agreement under which the Receivables or such book or other debts or moneys arise to be paid to the Company and take all such action as may from time to time be necessary or desirable (including where appropriate the institution of legal proceedings) to enforce the performance by such third party of such obligations, to provide the Bank with all such information in relation to the Relevant Documents or any other agreement under which the Receivables or such book or other debts or moneys arise to be paid to the Company and their performance as the Bank may from time to time require, and to promptly deliver to the Bank a copy of all notices given or received under any Relevant Document or any other agreement under which the Receivables or such book or other debts or moneys arise to be paid to the Company;
- (h) except with the prior written consent of the Bank, not to negotiate, compromise, abandon or settle any claim for compensation (whether payable under any enactment or otherwise) under or arising out of any breach or alleged breach of obligations under any Relevant Document, or any other agreement under which the Receivables or such book or other debts or moneys arise to be paid to the Company or any claim under any insurance in respect of any of the Charged Assets;
- (i) except with the prior written consent of the Bank, not to terminate, amend or vary, or acquiesce in any amendment or variation of, any Relevant Document or release any party from its obligations thereunder or waive any breach of the obligations of any other party thereto or do or permit, or omit to do or permit the omission of, any act or thing as a result of which any Relevant Document is or may be frustrated or may lawfully be terminated, withdrawn or cancelled by any person;
- (j) notify the Bank forthwith of any proposal for the amendment or variation of the terms of any Relevant Document,
- (k) ensure that all Letters of Indemnity issued to or for the benefit of the Company contain provisions substantially to the effect of the matters specified in Schedule 2;
- (l) not do or cause or permit to be done anything which may in any way depreciate, jeopardise or otherwise prejudice the value or the collectability of any of the Receivables to the Bank;
- (m) to allow the Bank and to procure that the Bank (and any persons appointed in writing by the Bank) shall have full access to the Goods to carry out any survey or inspection;
- (n) punctually to pay all governmental or other taxes, duties, rates and outgoings assessed upon or payable with reference to the Charged Assets, and punctually to discharge all liabilities which by the

general law would rank, or might come to rank, in priority to any of the charges contained in this Debenture; and

- (o) to do all such things as may be necessary or appropriate to preserve or protect the rights and interests of the Bank created by, or arising from, this Debenture. In particular, but without prejudice to the generality of the foregoing, the Company shall register or notify this Debenture with the Registrar of Companies at Companies House.

5.3 Each of the representations and warranties contained in the preceding sub-clauses shall survive and continue to have full force and effect after the execution of this Debenture and the Company hereby warrants to the Bank that the above representations and warranties will be true complete and correct and fully observed as if repeated every time any Facilities are availed of by the Company and until the Company has discharged all its obligations hereunder.

6. EVENTS OF DEFAULT

6.1 If any Event of Default shall occur at any time then:

- (a) the Bank may by notice to the Company terminate any obligation which the Bank may have to make available to the Company any further Facilities or other accommodation;
- (b) the Bank may declare all interest, principal, fees and other sums payable by the Company due and payable whereupon the same shall, immediately or in accordance with such notice, become due and payable;
- (c) the Bank may require the Company to place with the Bank an amount (calculated in such manner as the Bank may in its absolute discretion determine) equal to the aggregate maximum liability of the Bank in respect of guarantees, letters of credit and other obligations entered into by the Bank at the request of the Company, whereupon such amount shall immediately become due and payable and upon payment shall stand charged to the Bank by way of security for the Company's obligation to indemnify the Bank against its obligations in respect of such guarantee, letter of credit or other obligations; and
- (d) the security hereby created shall immediately become enforceable and the power of sale and other powers conferred by Section 24 of the CLPA shall be immediately exercisable.

6.2 There shall be an Event of Default if:

- (a) the Company fails to pay any sum (whether principal, interest or otherwise) payable by it to the Bank (whether under this Debenture or otherwise) when due; or
- (b) the Company defaults in the due and punctual performance of any provision of this Debenture and (if such default is in the opinion of the Bank capable of remedy) such default shall not have been remedied within seven (7) days of the Bank notifying the Company of such default; or
- (c) any indebtedness of the Company or any of its Subsidiaries or any Security Provider is not paid when due or becomes due or capable of being declared due prior to its stated maturity; or
- (d) an encumbrancer takes possession or a trustee, receiver and/or manager, judicial manager or other similar officer is appointed in respect of the undertaking or the whole or any material part of the assets, rights or revenues of the Company or any of its Subsidiaries or any Security Provider or a distress or other process is levied or enforced upon any of the assets, rights or revenues of the Company or any of its Subsidiaries or any Security Provider and is not discharged within seven (7) days; or
- (e) the Company or any of its Subsidiaries or any Security Provider stops or suspends payment of its debts or is unable to or admits inability to pay its debts as they fall due or proposes to enter or enters into any composition or other arrangement for the benefit of its creditors generally or proceedings are commenced in relation to the Company or any of its Subsidiaries or any Security Provider under any law, regulation or procedure relating to reconstruction or readjustment of debts; or
- (f) the Company or any of its Subsidiaries or any Security Provider is adjudicated or found bankrupt or insolvent or any order is made by any competent court or resolution passed by the Company or any of its Subsidiaries or any Security Provider for the winding-up or dissolution of the Company or any of its Subsidiaries or any Security Provider or for the appointment of a judicial manager liquidator or other similar officer of the Company or any of its Subsidiaries or any Security Provider or of the whole or any material part of their respective assets, rights or revenues; or

- (g) any of the warranties or representations made by the Company hereunder or in connection herewith becomes false or inaccurate in any respect and, if capable of remedy, is not remedied within fourteen (14) days; or
- (h) legal proceedings suits arbitrations or actions of any kind whatsoever (whether criminal or civil) shall be instituted against the Company or any of its Subsidiaries or any Security Provider and the Bank is reasonably of the opinion that it will materially affect the Company's ability to pay all or any of the moneys and liabilities hereby secured or the Security Provider's liability to honour its obligations to the Bank; or
- (i) the Company is declared by the Minister to be a declared Company under the provisions of Part IX of the Companies Act (Cap. 50); or
- (j) in the reasonable assessment of the Bank the security hereunder is in jeopardy and written notice thereof has been given to the Company; or
- (k) any other security held by the Bank for the account of the Company becomes invalid or unenforceable or the security of the Bank thereunder is in the opinion of the Bank in jeopardy or a notice of revocation or termination of any form of security provided by a Security Provider is received by the Bank; or
- (l) any action, condition or thing (including the obtaining of any necessary consent) at any time required to be taken, fulfilled or done for any of the purposes stated in Clause 5.1 (d) or (f) is not taken, fulfilled or done or any such consent ceases to be in full force and effect without modification or any condition in or relating to any such consent is not complied with; or
- (m) there shall occur a material adverse change in the business, assets or financial position of the Company or any of its Subsidiaries or any Security Provider; or
- (n) an event occurs which constitutes a default under or in respect of any other agreement or document to which the Company is a party or by which the Company may be bound or an event has occurred which, with the giving of notice, lapse of time, determination of materiality or other condition might constitute a default under or in respect of any such agreement or document and which event might in the opinion of the Bank materially affect the financial condition of the Company; or
- (o) any event occurs or proceeding is taken with respect to the Company or any of its Subsidiaries or any Security Provider in any jurisdiction to which it is subject which has an effect equivalent or similar to any of the events mentioned in Clause 6.2 (d), (e) or (f); or
- (p) any other event occurs or circumstance arises which, in the opinion of the Bank, is likely materially and adversely to affect the ability of the Company to perform or comply with all or any of its obligations to the Bank (whether arising under or in respect of this Debenture or in any other manner whatsoever); or
- (q) it is or becomes unlawful for the Company or any Security Provider to perform or comply with any one or more of its obligations to the Bank (whether arising under or in respect of this Debenture or in any other manner whatsoever).

7. SECURITY DOCUMENTS AND FURTHER ASSURANCE

- 7.1 So long as any of the Secured Obligations (whether contingent or otherwise) remain to be performed, the Company shall deposit with the Bank and permit the Bank to retain:-
- (a) all deeds and documents of title relating to the Charged Assets, including but not limited to the Relevant Documents (and the insurance policies relating thereto),
 - (b) such other documents relating to the Charged Assets as the Bank may require.
- 7.2 If the Bank receives notice of any subsequent Encumbrance or other dealing affecting the Charged Assets or any part thereof or any interest therein, the Bank may open a new account for the Company. If the Bank does not open a new account, then it shall nevertheless be treated as if it has done so at the time when it receives such notice and as from that time, all payments made by or on behalf of the Company to the Bank shall be credited or be treated as having been credited to the new account and shall not operate to reduce the amount due from the Company to the Bank at the time when it received such notice.
- 7.3 The Company shall at any time if and when required by the Bank execute such other appropriate documents and deliver to the Bank such further Encumbrances in favour of the Bank as the Bank shall from time to time require over all or any of the Charged Assets by way of security for the performance of the Secured Obligations. Any documents to be executed by the Company under this Clause 7.3 shall be in such form as the Bank may require

The Company shall further do all such acts and things as the Bank may in its absolute discretion require to give effect to the transactions contemplated herein.

- 7.4 The Company shall execute and do all such assurances, acts and things as the Bank may reasonably require for perfecting or protecting the security over the Charged Assets or any part thereof or for facilitating the realisation of such property and the exercise of all powers, authorities and discretions vested in the Bank or in any receiver of such property or any part thereof and shall in particular execute all assignments and assurances of such property whether to the Bank or to its nominees and give all notices, orders and directions which the Bank may think expedient and for the purposes of this Clause a certificate in writing by the Bank to the effect that any particular assurance, act or thing required by it is reasonably required shall be conclusive evidence of such fact.

- 7.5 Any amount received by the Bank in respect of any sum payable by the Company under this Debenture may be placed in a suspense account and kept there for so long as the Bank thinks fit without any obligation to apply the same or any part thereof in or towards discharge of the Liabilities.

8. POSITION OF OTHER SECURITY

Nothing contained in this Debenture shall prejudice or affect any lien to which the Bank is entitled or any charge, mortgage or security which the Bank holds or may at any time hold from the Company or others on any account whatsoever.

9. ADDITIONAL ADVANCES

- 9.1 The Bank may, at all times without in any way affecting the security hereby created:
- (a) increase, decrease, extend, renew or restructure all or any of the Facilities or other accommodation granted or given to the Company from time to time whether solely or jointly with any other person or persons (in partnership or otherwise) or any variation of any terms and conditions thereof with or without notice to the Company,
 - (b) deal with, exchange, vary, release, realise, modify or abstain from perfecting or enforcing any collateral, security or guarantee or rights which the Bank may now or hereafter have from or against the Company or any other person;
 - (c) grant to the Company or any other person any time, indulgence, forbearance or concession;
 - (d) compound with, discharge, release or vary the liabilities or accept or vary any compromise, arrangement or settlement with the Company or any other person; and/or
 - (e) renew guarantees, standby letters of credit, letters of credit, bills or promissory notes or other negotiable or non-negotiable instruments in any manner and compound with, accept composition from and make other arrangements with, the Company or any person liable to the Bank in respect of the bills, notes, instruments or other securities or guarantees held or to be held by the Bank for the Secured Obligations or any part thereof.
- 9.2 In the event that the Bank grants additional Facilities, the Company herein further undertakes to complete and execute all forms and other documents as are necessary to enable the Bank to file particulars of the additional charge as required by law and to pay all costs, fees and expenses incidental thereto.

10. REALISATION OF THE SECURITY

- 10.1 At any time after the Bank shall have demanded payment of any moneys or the discharge of any liability in respect of the Secured Obligations the Bank may exercise without further notice all powers conferred upon a mortgagee by law (whether pursuant to the CLPA or otherwise).
- 10.2 At any time after the Bank has demanded payment of any money or the discharge of any liability in respect of the Secured Obligations and/or the security constituted by this Debenture has become enforceable, the Bank may.
- (a) take possession and control of the Charged Assets and any part thereof without being liable as mortgagee in possession;
 - (b) from time to time at its discretion, be at liberty to give any notice which may be deemed necessary by them to any person or persons owing moneys to the Company that all such moneys be paid to the Bank and the Company hereby irrevocably appoints the Bank to be its attorney to demand, sue for and recover and take all appropriate legal proceedings to recover such moneys and to give a good receipt

for the same and to give such notices to the debtors of the Company and to take all necessary steps to complete the assignment of such moneys to the Bank; and/or

- (c) in writing appoint any person to be a receiver of the Charged Assets or any part thereof (with power to authorise any joint receiver to exercise any power independently of any other joint receiver) and may from time to time fix his or their remunerations and may remove any receiver so appointed and appoint another in his place. A receiver shall be the agent of the Company and the Company shall be solely responsible for his acts and defaults and for his remuneration. A receiver shall have all the powers conferred from time to time on receivers by law and in addition shall have power on behalf and at the cost of the Company (notwithstanding the liquidation of the Company) to do or omit to do anything which a Company could do or omit to do in relation to the Charged Assets or any part thereof. In particular (but without limitation) the Bank and any such receiver may:
- (i) take possession of, collect and get in all or any of the Charged Assets and exercise all rights of which would be available to the owner thereof;
 - (ii) bring, defend or discontinue any legal proceedings or arbitration in the name of the Company or otherwise as may seem to him to be appropriate;
 - (iii) carry on, amalgamate or diversify the business of the Company or any part thereof;
 - (iv) raise or borrow any money for any purpose whatsoever from, or incur any other liability to, the Bank or any other person on such terms (as to security and otherwise) as he may think fit;
 - (v) (by public auction, private contract or otherwise) sell, let or otherwise dispose of or deal with all or any of the Charged Assets on such terms as he may think fit;
 - (vi) promote the formation of companies with a view to the same acquiring any interest in all or any of the Charged Assets;
 - (vii) make any arrangement or compromise or enter into or cancel any contracts as he shall think fit;
 - (viii) maintain, improve and insure the Charged Assets (in each case) on such terms as he shall think fit;
 - (ix) employ managers, agents, officers and employees at such salaries and commissions and for such periods and purposes in relation to the Charged Assets as he may see fit;
 - (x) make calls conditionally or unconditionally on members of the Company in respect of uncalled capital;
 - (xi) 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 described in this Clause 10.2 or to the realisation of the security of the Bank and to use the name of the Company for all of the above purposes; and/or
 - (xii) do or cause to be done such other acts and things which the Company may have done in the ordinary conduct of its business for the protection and for the improvement of the Charged Assets

- 10.3 (a) The Company by way of security hereby irrevocably appoints the Bank and the persons deriving title under it and separately any receiver appointed hereunder and each of them severally to be its attorney in its name and on its behalf and as its act or deed or otherwise to execute, deliver and complete in favour of the Bank or its nominee or any purchaser all documents which the Bank or such receiver may require for perfecting the title of the Bank or the receiver to, or for vesting the Charged Assets or any of them (both present and future) in the Bank, any receiver or their respective nominees or any purchaser and otherwise generally, to sign, seal, and deliver and otherwise perfect any such Encumbrance as is referred to in Clause 7.3 and all such deeds, assurances, agreements and documents and to do all such acts and things as may be required or desirable for the full exercise of all or any of the powers conferred by this Debenture or which may be deemed expedient by the Bank or any receiver on or in connection with any sale, lease, disposition, realisation or getting in by the Bank or any such receiver of the Charged Assets or any part thereof or in connection with any other exercise of any power hereunder.
- (b) The Company hereby declares that any and all such deeds, instruments and documents executed on behalf of the Company by the Bank or its attorney or the receiver as aforesaid by virtue of the provisions hereof shall be as good, valid and effectual to all intents and purposes whatsoever as if the same has

been duly and properly executed by the Company itself and the Company hereby undertakes to ratify and confirm all such deeds, instruments and documents lawfully executed by virtue of the authorities and the powers hereby conferred.

10.4 Subject to Clause 10.5, sums realised by the Bank or any receiver in the exercise of any of the powers contained in this Debenture shall be applied in favour of the Bank (subject to any liabilities having priority thereto by law):-

- (a) firstly, in or towards payment of all fees and expenses of and incidental to the exercise by the Bank or the receiver of all or any of the powers contained in this Debenture (including without limitation the reasonable remuneration of the receiver);
- (b) secondly, in or towards payment of interest and all other sums (other than principal) owing to the Bank under this Debenture or in respect of the Secured Obligations;
- (c) thirdly, in or towards payment of principal (including sums payable contingently in respect of guarantees, letters of credit and similar obligations entered into by the Bank at the request of the Company) payable to the Bank in respect of the Secured Obligations; and
- (d) fourthly, any surplus shall be paid to the Company.

For the purposes of sub-clauses (b) and (c) above references to principal shall be taken to include interest which had been capitalised up to the date of the appointment of the relevant receiver, and references to interest shall be construed accordingly.

10.5 Where any moneys realised by a receiver or the Bank pursuant to the powers contained in this Debenture are inadequate to discharge all of the Secured Obligations, then such moneys shall be applied in such manner and in such order as the Bank in its absolute discretion may think fit.

10.6 No purchaser or other person shall be bound or concerned to see or enquire whether the right of the Bank or any receiver to exercise any of the powers hereby conferred has become exercisable or not or be concerned with notice to the contrary or with the propriety of the exercise or purported exercise of any such powers.

10.7 Neither the Bank nor any receiver shall be liable to account as mortgagee in possession in respect of all or any of the Charged Assets nor be liable for any loss upon realisation of the Charged Assets or for any neglect or default of any nature whatsoever in connection therewith for which a mortgagee in possession may otherwise be liable.

10.8 The Company shall on demand indemnify the Bank and any receiver against:

- (a) any costs, charges and expenses which any of them may incur or which may be incurred by their manager, agent, officer or employee, in or about the enforcement, preservation or attempted enforcement preservation of this security or the Charged Assets or any of them;
- (b) all existing and future rent, storage, warehouse, transportation or delivery charges, property tax, dues or other assessments and outgoings whatsoever now or at any time hereafter payable in respect of the Charged Assets or any part thereof or by the owner or occupier thereof; and
- (c) any losses, actions, claims, expenses, demands or liabilities (whether in contract, tort or otherwise) now or hereafter incurred by any of them or by any manager, agent, officer or employee for whose liability, act or omission they may be answerable.

10.9 All or any of the powers, authorities and discretions which are conferred by this Debenture either expressly or impliedly upon a receiver of the Charged Assets, may be exercised by the Bank either alone or jointly in relation to the whole of such Charged Assets or any part thereof, without first appointing a receiver of such Charged Assets or any part thereof, or notwithstanding the appointment of a receiver of such Charged Assets or any part thereof, shall have subsisted and have been withdrawn in respect of such Charged Assets or any part thereof or shall have been subsisting in respect of any other properties hereby charged.

10.10 The powers conferred by this Debenture in relation to the Charged Assets or any part thereof on the Bank or on any receiver of such Charged Assets or any part thereof shall be in addition to and not in substitution for the powers conferred on the Bank or receivers under the CLPA or any other statutory enactment or law (whether of sale or otherwise) which shall apply to the security constituted by this Debenture and where there is any ambiguity or conflict between the powers contained in the CLPA and those conferred by this Debenture as aforesaid then the terms of this Debenture shall prevail.

10.11 The Bank shall be at liberty but not be bound to resort for its benefit to any other means of payment at any time and in any order as it may deem fit without thereby exonerating or discharging this Debenture and the undertaking, properties and assets hereby charged, and the Bank may exercise the rights hereunder either for payment of the ultimate balance after resorting to other means of payment or for the balance due at any time

notwithstanding that other means of payment have not been resorted to and in the latter event without entitling the Company to any benefit from such other means of payment so long as any part of the Liabilities shall remain owing and unpaid

10.12 Sections 25 and 29(6) of the CLPA shall not apply to this Debenture.

11. CONTINUING SECURITY

11.1 The security created by this Debenture shall be a continuing security notwithstanding any settlement of account or any other matter whatsoever and is in addition to and shall not merge with or otherwise prejudice or affect any contractual or other right or remedy now or hereafter held by or available to the Bank and shall not in any way be prejudiced or affected thereby or by the invalidity or irregularity thereof or by the Bank dealing with, exchanging, releasing, varying or abstaining from perfecting or enforcing any of the same or any rights which any of them may now or hereafter have or giving time for payment or indulgence or compounding with any other person liable.

11.2 This Debenture and the security hereby created shall be without prejudice and in addition to any other security for the Liabilities (whether by way of mortgage, equitable charge or otherwise) which the Bank may hold now or hereafter on all or any of the Charged Assets.

11.3 Section 21(1) of the CLPA shall not apply to the security created by this Debenture.

12. FIXED SECURITY

12.1 The Company further covenants with the Bank, from time to time, upon demand to execute, at the Company's own cost, as a continuing security for the payment or discharge of the Secured Obligations, a first fixed mortgage or charge in terms specified by the Bank of all or any part of the Charged Assets which is for the time being subject to the floating charge contained in this Debenture.

12.2 The Bank may, at any time, by notice in writing served on the Company, convert the floating charge contained in this Debenture into a first fixed charge over all the property, assets and rights for the time being subject to the said floating charge or over so much of the same as is specified in the notice.

13. AVOIDANCE OF PAYMENTS

No assurance, security or payment which may be avoided under any law relating to bankruptcy or insolvency or under any provision of the Companies Act (Cap. 50), and no release, settlement or discharge given or made by the Bank on the faith of any such assurance, security or payment, shall prejudice or affect the right of the Bank to enforce the security constituted by this Debenture in respect of the full extent of the moneys hereby secured. It is further agreed that (to the extent that the Bank is of the opinion that there is a reasonable prospect of any assurance, security or payment being avoided as aforesaid) the Bank shall be at liberty at its absolute discretion to retain the security constituted by this Debenture as security for the Liabilities for a period of seven (7) months after the Liabilities shall have been paid in full, notwithstanding any release, settlement, discharge or arrangement given or made by the Bank on, or as a consequence of, such termination of liability and, if at any time within the period of six (6) months after such termination a petition (or equivalent) shall be presented to a competent court for an order for the winding-up (or equivalent) of the Company or the Company shall commence to be wound-up voluntarily, the Bank shall be at liberty, notwithstanding as aforementioned, to continue to retain such security or any part thereof for and during such further period as the Bank in its absolute discretion shall determine and the Company agrees that such security shall be deemed to have been and to have remained held by the Bank as and by way of security for the payment of the moneys and Liabilities covenanted to be paid or discharged under this Debenture.

14. TAXES

14.1 All payments by the Company to the Bank shall be made in full without set-off, deductions or counterclaim and free and clear of and without deduction for or on account of any tax impost or levy unless the Company is required by law in any jurisdiction to make any such payments subject to such withholding or deduction, in which case the Company shall pay such additional amount to the Bank as may be necessary in order that the actual amount received after such withholding or such deduction shall be equal to the amount that would have been received if such withholding or such deduction were not required. The Company shall pay in full to the appropriate taxing authority all taxes or charges imposed by law in any jurisdiction on the Company and/or the Bank with regard to its payment obligations to the Bank and promptly deliver to the Bank the original or certified copy of each receipt evidencing such payment. The Company shall fully indemnify the Bank from any liability with respect to the delay or failure by the Company to pay such taxes or charges.

- 14.2 In the event that the goods and services value added or other similar taxes (hereinafter collectively referred to as "the said tax") are imposed or charged by any government, statutory or tax authority on any sum or payment whether principal interest fees costs charges commission expenses or otherwise received or receivable by the Bank under this Debenture the Company shall pay the said tax in the manner and within the period prescribed in accordance with the applicable laws and regulations or at such times as the Bank may decide at any time and from time to time.

15. CURRENCY INDEMNITY

- 15.1 For the purpose of procuring the discharge of any of the Liabilities the Bank may convert any moneys received, recovered or realised or subject to application by the Bank under this Debenture (including the proceeds of any previous conversion under this Clause and whether as a result of, or the enforcement of, a judgment or order of court of any jurisdiction, in the Company's winding-up or otherwise) from their existing currency of denomination into such other currency of denomination as the Bank may think fit, and any such conversion shall be effected at the Bank's then prevailing spot rate of exchange for obtaining such other currency with the existing currency.
- 15.2 If any sum due from the Company, whether under this Debenture or otherwise, is converted from one currency into another for any reason whatsoever, the Company shall indemnify the Bank on a full indemnity basis against any shortfall arising from such conversion and from any loss, cost or liability incurred by the Bank as a result of such conversion.
- 15.3 These indemnities constitute a separate and independent obligation from the other obligations under this Debenture, shall give rise to a separate and independent cause of action, shall apply irrespective of any indulgence granted by the Bank and shall continue in full force and effect despite any judgement, order, claim or proof for a liquidated amount in respect of any sum due under this Debenture or any judgment or order.

16. MISCELLANEOUS

- 16.1 Nothing in this Debenture shall, or shall be construed so as to, impose on the Bank any obligation to make available to the Company any Facilities or other accommodation whatsoever.
- 16.2 The Company hereby irrevocably and unconditionally consents for the Bank and any officer (as defined in the Banking Act (Cap.19) (the Banking Act)) of the Bank to disclose any customer information (as defined in the Banking Act) relating to the Company or any information whatsoever as the Bank shall consider appropriate to any person to whom disclosure is permitted or required by any statutory provision or law or to any other person wherever situate for any purpose whatsoever, including but not limited to:-
- (a) any person who may enter into a contractual relationship with the Bank;
 - (b) any of the Bank's subsidiaries, branches, agents, correspondents, agencies or representative offices;
 - (c) any of the Bank's potential assignees, transferees or successors;
 - (d) any person who has given any security to the Bank for any facilities granted to the Company;
 - (e) any person who is jointly or jointly and severally liable to the Bank together with the Company;
 - (f) any receiver or receiver and manager appointed by the Bank pursuant to its rights as chargee;
 - (g) any credit bureau (or other organisation or corporation set up for the purpose of collecting and providing information relating to the credit standing of persons) of which the Bank is a member and to the disclosure by such credit bureau or other organisation to any other member(s) thereof for the purposes of assessing the Company's credit worthiness or for any other purpose whatsoever; or
 - (h) any governmental agencies and authorities in Singapore,

and it is hereby agreed that the Bank and any officer of the Bank may disclose the foregoing information to the fullest extent permitted by the Banking Act or any other statutory provision or law. The rights conferred on the Bank herein shall be in addition to and shall not be in any way prejudiced or affected by any other agreement, expressed or implied, between the Company and the Bank in relation to any information referred to herein nor shall any such other agreement be in any way prejudiced or affected by any provision herein. This consent and provision shall survive the termination of any or all of the Company's accounts or facilities with the Bank and/or the termination of any relationship between the Company and the Bank for any reason whatsoever.

- 16.3 The Company shall on demand indemnify the Bank against all costs and expenses (including legal fees and stamp duty) incurred by them in connection with the preparation, execution, registration, protection and enforcement of this Debenture and the security hereby created
- 16.4 No failure or delay by the Bank in exercising any right or remedy shall operate as a waiver thereof nor shall any or partial exercise or waiver of any right or remedy inhibit its further exercise or the exercise of any other right or remedy on any subsequent occasions. The remedies provided by this Debenture are cumulative and not exclusive of any rights provided by law.
- 16.5 Any statutory provision restricting the right of consolidation shall not apply to this security, and in addition and without prejudice to any right of consolidation none of the property of the Company which at the date hereof is or which at any time hereafter shall become subject to a mortgage or a charge in favour of or vested in the Bank shall be redeemed except on payment of not only all moneys thereby secured but also all moneys secured by this Debenture.
- 16.6 A certificate signed by an officer of the Bank as to the money or liability for the time being due or owing or incurred to the Bank from the Company or from any other person liable to the Bank under this Debenture may be adduced by the Bank and shall in that case be accepted by the Company as conclusive evidence that the balance or amount thereby appearing is due or owing to the Bank from the Company or the person liable as aforesaid.
- 16.7 (a) Any notice or certificate to be given to, or demand to be made on, the Company (notwithstanding the Company's liquidation (whether voluntary or compulsory) or dissolution) shall be deemed to have been duly given or made if it is in writing, signed by any of the Bank's managers or officers or any person/firm/corporation for the time being acting as solicitors for the Bank or any person for the time being acting in one or more of those capacities ("Authorised Officer"), delivered personally or sent by telex, facsimile, telegram or pre-paid post addressed to the Company and forwarded to:
- (i) the Company's address as hereinabove written or, where a new address has been notified in writing to the Bank, that new address;
 - (ii) the Company's registered office;
 - (iii) the Company's last known place of business or abode in England and Wales; or
 - (iv) the Company's then published telex or facsimile number or the last such number advised to the Bank by the Company in writing.
- (b) A communication sent by mail shall be deemed to have been received by the Company on the second day after posting (excluding days on which no mail deliveries are normally made) notwithstanding that it may be returned by the post office undelivered.
- (c) A communication sent by telex, facsimile or telegram shall be deemed to have been received by the Company at the time of despatch.
- (d) A statement signed by an Authorised Officer stating the date on which any demand or notice was posted shall, in the absence of manifest error, be *prima facie* evidence of the date upon which that demand or notice was posted.
- (e) Notices, certificates and other correspondence in connection herewith required to be sent or given to the Bank shall be addressed by the Company and shall be sent to the Bank's address as may from time to time be given by the Bank to the Company for the purpose. Any such notice shall be deemed to have been given, sent, served or received at the time of acknowledgement of receipt by the Bank's duly authorised officer.
- 16.8 The Company shall pay forthwith on demand:-
- (a) all expenses including stamp duty (whether as penalty or otherwise), legal, administrative, registration, execution fees and any other costs or charges (including abortive costs) incurred or expended by the Bank in connection with this Debenture whether the same is executed or otherwise; and
 - (b) all legal fees on a full indemnity basis and other costs and disbursements whatsoever including but not limited to stamp or other duties incurred in connection with demanding and enforcing payment of moneys due hereunder or otherwise howsoever in enforcing this Debenture, or any other document called for by the terms of this Debenture or any of the covenants, undertakings, stipulations, terms, conditions or provisions of this Debenture, or any other document called for by the terms of this Debenture or incurred in connection with any delay or omission on the part of the Company to pay any

stamp or other duties in connection with this Debenture or any other document called for by the terms of this Debenture.

In addition to and not in derogation of the other provisions of this Debenture, if the Company shall fail or refuse to pay any insurance premium legal fees stamp duty and other costs charges and expenses which the Company is liable to pay under any provisions of this Debenture the Bank may at its discretion pay the same (but shall not be under any obligation to do so) and if such payment is made by the Bank the Company shall forthwith on demand repay the same to the Bank together with interest thereon at such rate or rates as may be prescribed by the Bank from time to time calculated from the date of payment thereof by the Bank up to the date of repayment by the Company and until so repaid shall form part of the Secured Obligations herein.

- 16.9 This Debenture and the security hereby created shall enure to the benefit of the Bank and its transferees, successors and assigns and shall remain in full force and effect notwithstanding any acquisition, reconstruction or amalgamation of the Company.
- 16.10 The Bank may transfer or assign all or any part of its rights, benefits and obligations under this Debenture. The Company may not transfer or assign all or part of its rights, benefits and obligations under this Debenture except with the prior written consent of the Bank.
- 16.11 Each of the provisions of this Debenture is severable and distinct from the others and if at any time one or more of such provisions is or becomes invalid illegal or unenforceable, the validity legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.
- 16.12 A person who is not a party to this Debenture shall have no rights under the Contracts (Rights of Third Parties) Act (Cap 53B) to enforce any of its terms.
- 16.13 This Debenture and the security hereby created shall be governed by and construed in accordance with the laws of the Republic of Singapore but in enforcing this Debenture the Bank is at liberty to initiate and take actions or proceedings or otherwise against the Company in the Republic of Singapore or elsewhere in jurisdictions selected by the Bank as the Bank may deem fit and the Company hereby irrevocably agrees that where any actions or proceedings are initiated and taken in the Republic of Singapore the Company shall submit to the non-exclusive jurisdiction of the courts of the Republic of Singapore in all matters connected with the Company's obligations and liabilities under or arising out of this Debenture and the Company hereby irrevocably and unconditionally submits itself and its property and assets to the jurisdiction of the aforesaid courts.

Annex 2

[On the letterhead of Company]

[Date]

To: Oversea-Chinese Banking Corporation Limited
65 Chulia Street
#29-00 OCBC Centre
Singapore 049513

We refer to your **[letter of offer dated [•]]** duly accepted by us on **[date]** and the Limited Debenture dated **[•]** which we had executed in your favour.

We hereby confirm that the Goods specified below are subject to the terms of the Limited Debenture and as such, pursuant to the terms of the Limited Debenture, you are to have a legal, valid and binding security interest over the Goods including, all Goods Agreement, all Receivables and all Relevant Documents in connection therewith.

Terms defined in the Limited Debenture shall have the same meanings when used herein.

Description of Goods

Yours faithfully

for and on behalf of Kyen Resources UK Ltd

Name:

Designation:

Schedule 1

Form of Notice of Assignment
[on the Letterhead of the Company]

[date]

To: *[Seller]/[Purchaser]/[L/C or LOI issuer][counterparty to Wash-Out Agreement]

cc: OCBC
Attention : []

We refer to

*[the contract (the "Contract") dated [•] made between [•] (the "Company") and yourselves]

*[the letter of indemnity ("LOI") dated [•] issued by you to [•] (the "Company")]

*[the Letter of Credit ("L/C") dated [•] number [•] opened/confirmed by you in favour of [•](the "Company")]

*[the Wash-Out Agreement (the "Wash-Out Agreement") dated [•] made between [•] (the "Company") and yourselves]

relating to [•].

We hereby give you notice that the Company has assigned to Oversea-Chinese Banking Corporation Limited (the "Bank") all its right, title, benefit and interest [under the Contract and] in and to all moneys payable by you to the Company under the *[Contract] [LOI] [L/C] [Wash-Out Agreement].

Notwithstanding such assignment the Company remains liable to perform all its obligations under the *[Contract] [LOI] [L/C] [Wash-Out Agreement] and the Bank shall have no liability whatsoever in respect thereof.

We hereby irrevocably instruct you to pay all moneys payable by you to the Company under the *[Contract] [LOI] [L/C] [Wash-Out Agreement] to account no. [•] with the Bank. These instructions may not be revoked or varied without the Bank's prior written consent.

We would also confirm that.

- (a) you have received no other notice or assignment, charge or other disposition in relation to the *[Contract] [LOI] [L/C] [Wash-Out Agreement]; and
- (b) you presently have no right of set-off between yourselves and the Company in relation to the *[Contract] [LOI] [L/C] [Wash-Out Agreement]

Please inform the Bank if the above is not correct.

Henceforth, you shall not be entitled to set-off any moneys whatsoever payable to the Company's account against all and any claims whatsoever which you may have from time to time against the Company.

Yours faithfully

for and on behalf of Kyen Resources UK Ltd
Name:
Designation:

* amend as appropriate

SCHEDULE 1A

ACKNOWLEDGEMENT OF NOTICE OF ASSIGNMENT

[Letterhead of Debtor]

From : *[Seller]/[Purchaser]/[L/C or LOI issuer][counterparty to Wash-Out Agreement]

To : OCBC BANK
Attention: []

Dear Sirs,

[name of contract/agreement]

We hereby acknowledge receipt of a notice of assignment dated [•] from [•] in respect of the above Agreement, in favour of yourselves and confirm that we have not received any prior notice of assignment in respect of the same and will comply with the directions to us therein contained.

Dated , 200[•]

Yours faithfully,
For and on behalf of
Kyen Resources UK Ltd

By: _____

Name: _____

Title: _____

Schedule 2

Fundamental requirements of Letters of Indemnity

1. Particulars of cargo and vessel.
2. Date of relevant bills of lading.
3. Warranty as to title of seller free from liens and encumbrances and entitlement of seller to transfer title to the Company.
4. Undertaking to deliver to the Company original bills of lading within one year of date of relevant bill of lading.
5. Indemnity for losses, flowing from inability to transfer/deliver bills of lading to the Company.
6. LOI to be addressed to the Company and the Bank or to be addressed to the Company with provision entitling the Company to assign the benefit to the Bank.

Executed and Delivered as a deed
for and on behalf of Kyen Resources UK Ltd
acting by



.....
Director

Name: Victor Kuo Yen Fu

in the presence of:

.....
Witness Name: Long Tai pin

Witness Address: #19, Jalan Mawar, Singapore 163019

Witness Occupation: Head of Treasury & Trade Finance