



Registration of a Charge

Company name: **BAXTERS RETAIL STORES LIMITED**

Company number: **06564318**



X71VLV48

Received for Electronic Filing: **16/03/2018**

Details of Charge

Date of creation: **15/03/2018**

Charge code: **0656 4318 0001**

Persons entitled: **EDINBURGH ALTERNATIVE FINANCE LTD (TRADING AS LENDINGCROWD)**

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:

HELEN MCKAY



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 6564318

Charge code: 0656 4318 0001

The Registrar of Companies for England and Wales hereby certifies that a charge dated 15th March 2018 and created by BAXTERS RETAIL STORES LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 16th March 2018 .

Given at Companies House, Cardiff on 20th March 2018

The above information was communicated by electronic means and authenticated by the Registrar of Companies under section 1115 of the Companies Act 2006



Companies House



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES

DATED: 15.3 . 2018

BAXTERS RETAIL STORES LIMITED
as the Chargor

and

EDINBURGH ALTERNATIVE FINANCE LIMITED
(trading as **LENDING CROWD**)

as Agent for the Lenders

DEBENTURE

INDEX

Clause No.	Heading	Page No.
1	DEFINITIONS AND INTERPRETATION	1
2	COVENANT TO PAY	4
3	CHARGE	4
4	PROHIBITION ON OTHER CHARGES	6
5	CONVERSION OF FLOATING CHARGE	6
6	COVENANTS	7
7	SET-OFF	8
8	ENFORCEMENT	8
9	OFFICE OF RECEIVER	11
10	APPLICATION OF ENFORCEMENT PROCEEDS	12
11	PROTECTION OF SECURITY	12
12	FURTHER ASSURANCE AND FURTHER SECURITY	14
13	ATTORNEY	15
14	EXPENSES	15
15	INDEMNITY	16
16	AVOIDANCE OF PAYMENTS	16
17	ASSIGNMENT BY THE AGENT	16
18	NOTICES	16
19	EVIDENCE OF INDEBTEDNESS	16
20	COUNTERPARTS	17
21	GOVERNING LAW AND JURISDICTION	17

THIS DEBENTURE is dated 15.3 2018

and made by

- (1) **BAXTERS RETAIL STORES LIMITED** a company incorporated under the Companies Acts with registered number 06564318 and having its registered office at Voice & Co, 14 Jessops Riverside, Brightside Lane, Sheffield, South Yorkshire, S9 2RX; (the “**Chargor**”)

in favour of

- (2) **EDINBURGH ALTERNATIVE FINANCE LIMITED (trading as LENDING CROWD)**, a company incorporated under the Companies Acts with registered number SC468392 and having its registered office at 23 Manor Place, Edinburgh EH3 7DX as Agent for the Lenders as defined in the Loan Contract referred to below (the “**Agent**”)

CONSIDERING THAT:

- (i) the Lenders have agreed to make a loan facility available under the Loan Contract (as defined below);
- (ii) one of the conditions precedent to the availability of the facilities referred to in paragraph (i) above is that the Chargor grants to the Agent this Debenture.

NOW IT IS HEREBY AGREED AND DECLARED AS FOLLOWS:

1 DEFINITIONS AND INTERPRETATION

1.1 In this Debenture:

“**Administrator**” means any administrator appointed pursuant to this Debenture;

“**Default**” has the meaning given to it in the Loan Contract;

“**Financial Collateral**” shall have the meaning given to that expression in the Financial Collateral Regulations;

“**Financial Collateral Regulations**” means the Financial Collateral Arrangements (No. 2) Regulations 2003 (S.I. 2003 No. 3226);

“**Insurances**” means the Chargor’s interest in all contracts and policies of insurance which are from time to time taken out or effected by or on behalf of the Chargor in connection with the Secured Assets;

“**Lenders**” means the providers of the loan under the Loan Contract whose details are held by the Agent;

“**Loan Contract**” means the loan contract constituted by the key contract terms and loan conditions dated on or about the date of the Chargor’s execution of this Debenture between the Chargor, the Lenders and the Agent;

“**Receiver**” means any receiver or administrative receiver appointed in respect of the Secured Assets (whether pursuant to this Debenture, pursuant to any statute, by a court or otherwise) and includes joint receivers;

“**Secured Assets**” means the property, rights, assets and income of the Chargor charged to the Agent (whether by way of fixed or floating charge) by this Debenture and each and every part of those and shall, where the context admits or requires, include either the whole or any part of those;

“**Secured Liabilities**” means all present and future obligations and liabilities of the Chargor to the Lenders (or any of them) under or in connection with the Loan Contract, whether actual, contingent, sole, joint and/or several or otherwise, including, without prejudice to the foregoing generality, all obligations to indemnify the Lenders/ (or any of them) under the Loan Contract; and

“**Security Financial Collateral Arrangements**” shall have the meaning given to that expression in the Financial Collateral Regulations.

- 1.2 Unless otherwise stated or referred to in Clause 1.1, terms and expressions defined in the Loan Contract shall have the same meaning in this Debenture.
- 1.3 Unless a contrary indication appears, any reference in this Debenture to:
 - 1.3.1 the “**Chargor**”, the “**Agent**” and the “**Lenders**” shall be construed so as to include their respective successors in title, permitted assigns and permitted transferees and, in the case of the Agent, shall include any person for the time being the Agent under the Loan Contract;
 - 1.3.2 a “**person**” includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium or partnership (whether or not having separate legal personality).
- 1.4 Unless any provision of this Debenture or the context otherwise requires, any reference in this Debenture to a provision of law is a reference to that provision as amended or re-enacted.
- 1.5 In this Debenture the singular includes the plural and *vice versa*. Clause headings are for ease of reference only and a reference to a Clause is to be construed as a reference to a clause of this Debenture.

- 1.6 Any reference to, or to any specified provision of, this Debenture, the Loan Contract or any other document shall be construed as reference to, or to such specified provision of, this Debenture, the Loan Contract or such other document as in force for the time being and as amended, novated, supplemented, extended or restated (which, as the Chargor specifically agrees and acknowledges in relation to the Loan Contract may include, without limitation (i) any increase or reduction in any amount made available under the Loan Contract and/or any alteration and/or any addition to the purposes for which any such amount or increased or reduced amount may be used; (ii) any ancillary facilities provided in substitution for or in addition to the facilities originally made available under the Loan Contract; (iii) any rescheduling of the indebtedness incurred under the Loan Contract or change in the final repayment of such indebtedness, whether in isolation or in connection with any of the foregoing; (iv) any substitution of any existing borrower under the Loan Contract for any other borrower and/or any addition of any new borrowers under the Loan Contract; and (v) any combination of any of the foregoing) in each case in accordance with the terms of the Loan Contract or, as the case may be, with the agreement of the relevant parties and (where any consents are required to be obtained as a condition to such amendment, novation, supplement, extension or restatement being permitted) with the requisite consents.
- 1.7 Any appointment of a Receiver under Clause 8 (Enforcement) may be made by any successor in title or permitted assign or permitted transferee of the Agent and the Chargor by its execution of this Debenture irrevocably appoints each such successor or assign or transferee to be its attorney in the terms and for the purposes stated in Clause 13 (Attorney).
- 1.8 The provisions of this Debenture shall continue notwithstanding the earlier termination of the Loan Contract or the Loan Contract being declared void. If the Loan Contract is terminated or declared void, any reference in this Debenture to the Loan Contract (or a provision of the Loan Contract) shall be construed as a reference to the Loan Contract or that provision in its form as of the date of this Debenture as subsequently amended, supplemented, varied or replaced by the parties to the Loan Contract and for these purposes the provisions of the Loan Contract shall be deemed to be valid and binding and this Debenture shall not in any way be affected or impaired if any provisions of the Loan Contract are or become invalid, illegal or unenforceable.
- 1.9 A person who is not a party to this Debenture has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any term of this Debenture.
- 1.10 The terms of any side letters between any parties in relation to the Loan Contract are incorporated in this Debenture to the extent required to ensure that any purported disposition of the Secured Assets contained in this Debenture is a valid disposition in accordance with Section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.

- 1.11 The charges and mortgages granted by the Chargor under this Debenture are given with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994.
- 1.12 Paragraph 14 of Schedule B1 to the Insolvency Act 1986 applies to any floating charge created by this Debenture.

2 COVENANT TO PAY

The Chargor undertakes to the Agent for itself and as trustee for the Lenders that it will pay or discharge to the Agent all the Secured Liabilities on demand in writing when the Secured Liabilities become due for payment or discharge (whether by acceleration or otherwise).

3 CHARGE

3.1 Fixed Charge (Land)

The Chargor with full title guarantee and as a continuing security for payment and discharge of the Secured Liabilities hereby charges in favour of the Agent by way of fixed charge any and all estates or interests in any freehold, leasehold or other immovable property now or after the date of this Debenture belonging to it wherever situated and all buildings, erections and structures (whether in the course of construction or otherwise) and fixtures and fittings and fixed plant and machinery now or after the date of this Debenture on all such property and all improvements and additions to those and with the benefit of all leases, underleases, tenancies, agreements for lease, rights, covenants, undertakings, warranties, guarantees, indemnities and conditions from time to time affecting the same (subject to the provisions of this Debenture) but otherwise free from any security.

3.2 Fixed Charge (Other Assets)

The Chargor with full title guarantee and as a continuing security for payment and discharge of the Secured Liabilities hereby charges in favour of the Agent by way of first fixed charge:

- 3.2.1 all the goodwill and uncalled capital both present and future of the Chargor (including future calls whether made by the directors of the Chargor or by a receiver, administrative receiver, administrator or liquidator);
- 3.2.2 so far as chargeable, all plant, machinery, vehicles, computers and office and other equipment of the Chargor and all related spare parts, equipment, tools and fuel (excluding stock in trade) and all patents, trade marks, trade and business names, service marks, registered designs, design rights, database rights and copyrights (including any applications to any register) both present and future of the Chargor together with all trade secrets and know-how,

confidential or proprietary knowledge and information and all other intellectual property rights now or after the date of this Debenture owned by the Chargor in any country, together, in each and every case, with the benefit of any licences or other agreements relating to the use or exploitation of rights of any such nature owned by the Chargor;

- 3.2.3 all book and other debts now or at any time during the continuance of the security created by this Debenture due or owing to the Chargor and all balances now or after the date of this Debenture standing to the credit of any account of the Chargor with any branch or office of the Agent or any other financial institution;
- 3.2.4 so far as chargeable, all the benefit of and rights under or in respect of all contracts, agreements, deeds, undertakings, guarantees, warranties, indemnities, other documents, concessions and franchises now or hereafter entered into by or granted to or vested in or novated or assigned to the Chargor (including any contract for sale of or other dealing with any of the assets charged by this Debenture);
- 3.2.5 all rights, titles and interest of the Chargor to and in the proceeds of all present or future Insurances (including any rights of subrogation arising from such Insurances);
- 3.2.6 all rights to which the Chargor or its liquidator or administrator is now or may hereafter become entitled in respect of the proceeds of any order of a competent court made pursuant to Sections 214, 238(3) 239(3) or 423(2) of the Insolvency Act 1986;
- 3.2.7 all the Chargor's present and future rights to recover any value added tax on any supplies made to it and any sum so recovered;
- 3.2.8 all the proceeds of any payment of any claim, award, judgement, sum or damages payable to the Chargor and all the Chargor's rights and remedies in existence now or after the date of this Debenture arising in respect of those;
- 3.2.9 all rental income, licence fees and any other such income and all the proceeds of sale or other disposal of any property now or after the date of this Debenture owned by the Chargor and all right, title and interest to and in the same and all the benefit of the same and the right to make demand for and receive the same.

3.3 Floating Charge

The Chargor with full title guarantee and as a continuing security for payment and discharge of the Secured Liabilities hereby charges in favour of the Agent by way of a first floating charge all the undertaking and assets of the Chargor whatsoever and

wheresoever situated both present and future including, but not limited to, its uncalled capital for the time being, its heritable and moveable property and other property, assets and rights in Scotland or governed by the laws of Scotland, together with, (if and insofar as the charges on its undertaking and assets created in this Debenture may for any reason be ineffective as fixed charges or if and insofar as such fixed charges shall for any reason be released) all of the property, assets and rights described in Clauses 3.1 (Fixed Charge (Land)) and 3.2 (Fixed Charge (Other Assets)), but so that the Chargor is not to be at liberty to create any mortgage or charge or other security on or over, and so that no lien shall in any case or in any manner arise on or affect any part of, its undertaking and assets either in priority to or *pari passu* with the charge created by this Debenture and further that the Chargor shall have no power to part with or dispose of any part of such undertaking and assets without the prior written consent of the Agent.

4 PROHIBITION ON OTHER CHARGES

- 4.1 Without prejudice to any other provision of this Debenture, the Chargor shall not without the prior written consent of the Agent create or allow to come into being any security upon any part of the property (including real and leasehold property wherever situated), assets, undertaking or uncalled capital of the Chargor or any of its subsidiaries.
- 4.2 The Chargor shall immediately on its execution of this Debenture deposit with the Agent and during the continuance of the security created by this Debenture the Agent shall be entitled to hold all deeds and documents of title relating to the Secured Assets and the Chargor shall on demand by the Agent at the cost of the Chargor execute such documents and such further or other legal or other mortgages, charges, assignments or assurances in such form and in such terms as the Agent may reasonably require of any freehold and leasehold properties acquired by it after the date of this Debenture and the fixed plant and machinery on such properties to secure the payment or discharge to the Agent of the Secured Liabilities.

5 CONVERSION OF FLOATING CHARGE

The Agent may at any time by notice in writing to the Chargor convert the floating charge created by this Debenture into a fixed charge with reference to any assets specified in such notice and the Chargor will, if then legally entitled to do so, immediately at its own cost execute over such assets a fixed charge in favour of the Agent in such form as the Agent shall reasonably require but so that the floating charge created by this Debenture shall automatically without notice convert into a fixed charge in respect of any asset (i) which shall without the prior written consent of the Agent become subject to a fixed charge in favour of any person other than the Agent instantly upon such fixed charge coming into effect or (ii) in respect of which any person shall levy, or attempt to levy, any distress, execution, sequestration or other process instantly upon such event occurring and shall automatically without notice convert into a fixed charge in respect of all the Secured Assets instantly upon any such event occurring if

and when any petition for the making of an administration order in relation to the Chargor shall be presented provided that this Clause 5 will not apply to any Secured Assets situated in Scotland.

6 COVENANTS

The Chargor hereby covenants to the Agent that it shall carry on and conduct its business and affairs in a proper and efficient manner and, unless otherwise specifically permitted in the Loan Contract, it shall:

- 6.1 observe and perform in all material respects all covenants and stipulations from time to time affecting its freehold, leasehold or heritable property or the mode of use or enjoyment of the same and not without the prior consent in writing of the Agent enter into any onerous or restrictive obligations affecting any such property or make any structural or material alteration to such property or do or suffer to be done on any such property anything which is "development" as defined in Section 55 of the Town and Country Planning Act 1990 or Section 26 of the Town & Country Planning (Scotland) Act 1997, nor do or suffer or omit to be done any act, matter or thing whereby any provision of any Act of Parliament, order or regulation from time to time in force affecting any such property is materially infringed;
- 6.2 observe and perform all covenants and stipulations from time to time affecting its patents, trade marks and service marks, brand and trade names, registered designs, design rights and copyrights and all other intellectual or intangible property or rights and all applications for the protection of the same and any licence or ancillary or connected rights or benefits from time to time relating to the same and preserve, maintain and renew when necessary or desirable all such licences and rights and not permit the same to be abandoned or cancelled or to lapse;
- 6.3 keep all buildings and erections and all plant, machinery, fixtures, fittings, vehicles, computers and equipment and effects and every part of the same in good and substantial repair and in working order and condition fair wear and tear excepted and not pull down or remove or sell or otherwise dispose of any of the same without the prior consent in writing of the Agent;
- 6.4 immediately after being required to do so by the Agent, make good any want of repair in such buildings and all other erections, trade and other fixtures and fixed plant and machinery;
- 6.5 pay (not later than the date on which interest, fines or penalties become due), and indemnify the Agent and any Receiver against, all existing and future rents, rates, taxes, duties, charges, assessments, impositions and outgoings whatsoever (whether imposed by legally binding agreement, statute or otherwise and whether in the nature of capital or revenue) now or at any time during the continuance of the security created by this Debenture payable by it in respect of the Secured Assets or any part of them. If

any such sums shall be paid by the Agent or by any such Receiver, the same shall be repaid by the Chargor on demand.

- 6.6 not vary, surrender, cancel, assign, charge or otherwise dispose of or permit to be forfeit its leasehold interest in any premises or any credit sale, hire purchase, leasing, rental licence or like agreement for any material equipment used in its business or agree any rent review other than, in each case, pursuant to an existing binding obligation which has been disclosed to and accepted by the Agent in writing but shall generally fulfil its obligations under every such lease and agreement and when required produce to the Agent evidence of all payments from time to time due from the Chargor under such leases or agreements;
- 6.7 pay into an account with the Agent (or as the Agent may direct) all monies which it receives in respect of those of the Secured Assets referred to in Clause 3.2.3, Clause 3.2.4 and Clause 3.2.5 and pay or otherwise deal with such monies standing in such account in accordance with the directions (if any) from time to time given by the Agent; and
- 6.8 maintain its centre of main interests (COMI) for the purposes of the Council Regulation (EC) No 1346/2000 on Insolvency Proceedings, in the United Kingdom.

7 SET-OFF

Without prejudice to any of its other rights, remedies or powers, the Agent shall be entitled to hold all sums which are now or which may at any time hereafter be at the credit of any account or accounts in the name of the Chargor with the Agent as security for the Secured Liabilities and to apply without notice to the Chargor any such sums in and towards discharge of the Secured Liabilities. The Agent shall not be obliged to exercise its rights under this Clause 7, which shall be without prejudice and in addition to any right of set-off, compensation, combination of accounts, lien or other right to which it is at any time otherwise entitled (whether by operation of law, contract or otherwise).

8 ENFORCEMENT

- 8.1 In addition to the Agent's statutory rights, the floating charge created by this Debenture shall become enforceable upon and the Agent's powers of appointment and other rights and powers shall become exercisable at any time after:
 - 8.1.1 the occurrence of a Default; or
 - 8.1.2 the receipt of any request from the board of directors of the Chargor; or
 - 8.1.3 the taking (or purported taking) by any person of any step towards the winding up or dissolution of the Chargor or towards the appointment of any

administrator, trustee, administrative receiver, receiver, liquidator or the like to the Chargor or the whole or any part of its property

and the Agent may then (or as soon afterwards as permitted by law) by instrument in writing appoint any person or persons (if more than one with power to act both jointly and separately) to be an administrator of the Chargor or (subject, if applicable, to Section 72A of the Insolvency Act 1986) a receiver of the Secured Assets. In addition, and without prejudice to the foregoing provisions of this Clause 8.1, in the event that any person appointed to be a Receiver shall be removed by a court or shall otherwise cease to act as such, then the Agent shall be entitled so to appoint another person as Receiver in his place.

8.2 An Administrator shall have and be entitled to exercise, in addition to and without limiting all the powers of an administrator under the Insolvency Act 1986, all the powers set out in Schedule 2 of the Insolvency Act 1986 and a Receiver appointed in terms of this Debenture shall have and be entitled to exercise all powers conferred by the Insolvency Act 1986 and all the powers set out in Schedule 2 of the Insolvency Act 1986 and, in addition, but without limiting any general powers referred to previously in this Clause 8.2 (and without prejudice to the Agent's power of sale), the Administrator or Receiver (as the case may be) shall have power to do the following things:

8.2.1 to take possession of, collect and get in all or any part of the Secured Assets and for that purpose to take any proceedings in the name of the Chargor or otherwise;

8.2.2 to carry on or concur in carrying on the business of the Chargor and to raise money from the Agent or others on the security of any part or parts of the Secured Assets;

8.2.3 without the restrictions imposed by Section 103 of the Law of Property Act 1925 or the need to observe the provisions of Sections 99 and 100 of the Law of Property Act 1925, to sell or concur in selling, let or concur in letting and to terminate or to accept surrenders of leases or tenancies or to grant options over or assign any of the Secured Assets on such terms and conditions as he shall in his absolute discretion think fit and to carry any such transactions into effect in the name of and on behalf of the Chargor;

8.2.4 to make any arrangement or compromise which the Agent or he shall think fit;

8.2.5 in respect of freehold and leasehold property:

(a) to make re-arrangements with any lessees, tenants or other persons from whom any rents may be receivable and to negotiate and agree or refer to arbitration any revision of rent under any leases in respect of which the rental may fall to be reviewed and to accept service or serve any notice

received or required or deemed desirable in connection with any such review or with the exercise of any options;

- (b) to do any repairs and make any structural or other alterations in or to any property which forms part of the Secured Assets;
- (c) to reconstruct, alter, improve, decorate, furnish and maintain the whole or any part of the buildings on any property forming part of the Secured Assets;
- (d) to perform, treat as repudiated, rescind or vary any contract or agreement for or which relates in any way to any development, improvement, reconstruction or repair of any property forming part of the Secured Assets or any part of it or which is in any other way connected with it;
- (e) in connection with any development, to obtain planning permissions, bye-law consents and any other permissions, enter into agreements under the Highways Acts and any other agreements requisite for the development, to enter into and arrange bonds and to dedicate any part of any property forming part of the Secured Assets as a public highway;
- (f) to sell plant, machinery and other fixtures separately from the property to which they may be annexed;
- (g) without prejudice to the generality of any of the foregoing powers, to continue and perform any development or any part of it, to enter into a building contract or any other contract or agreement for or relating to any development for any such purposes as set out above, to purchase such materials and other articles and things as he may think fit, to discontinue the development or any part of it and to repudiate and rescind any such building contract or such other contract or agreement;

8.2.6 to appoint managers, officers and agents for the purposes set out above in this Clause 8.2 at such salaries as he may determine;

8.2.7 to call up all or any portion of the uncalled capital of the Chargor;

8.2.8 to exercise all powers as are described in Schedule 1 to the Insolvency Act 1986;

8.2.9 to do all such other acts and things as may be considered to be incidental or conducive to any of the matters or powers aforesaid and which he lawfully may or can do.

8.3 At any time after a Default has occurred or if requested by the Chargor, the Agent may exercise without further notice and without the restrictions contained in Section 103 of

the Law of Property Act 1925 and whether or not it shall have appointed a Receiver, all the powers conferred on mortgagees by the Law of Property Act 1925 as varied or extended by this Debenture and all the powers and discretions conferred by this Debenture either expressly or by reference on a Receiver appointed under this Debenture.

- 8.4 The statutory powers of leasing conferred on the Agent shall be extended so as to authorise the Agent to lease and make agreements for leases at a premium or otherwise and accept surrenders of leases and grant options as the Agent shall consider expedient and without the need to observe any of the provisions of Sections 99 and 100 of the Law of Property Act 1925.
- 8.5 During the continuance of this security, no statutory or other power of granting or agreeing to grant or of accepting or agreeing to accept surrenders of leases or tenancies of the freehold and leasehold property charged by this Debenture or any part of it shall be capable of being exercised by the Chargor without the previous consent in writing of the Agent, nor shall Section 93 of the Law of Property Act 1925 dealing with the consolidation of mortgages apply to the security created by this Debenture.
- 8.6 To the extent that Secured Assets constitute Financial Collateral and are subject to a Security Financial Collateral Arrangement created by or pursuant to this Debenture, the Agent shall have the right, at any time after this Debenture becomes enforceable, to appropriate all or any part of those Secured Assets in or towards the payment or discharge of the Secured Liabilities. The value of any Secured Assets appropriated in accordance with this Clause 8.6 shall be the price of those Secured Assets at the time the right of appropriation is exercised as listed on any recognised market index, or determined by such other method as the Agent may select (including independent valuation). The Chargor agrees that the methods of valuation provided for in this Clause 8.6 are commercially reasonable for the purposes of Regulation 18 of the Financial Collateral Regulations. To the extent that Secured Assets constitute Financial Collateral, the Chargor agrees that such Secured Assets shall be held or designated so as to be under the control of the Agent for all purposes of the Financial Collateral Regulations.

9 OFFICE OF RECEIVER

- 9.1 Any Receiver appointed under Clause 8 (Enforcement) shall be the agent of the Chargor for all purposes and (subject to the provisions of the Insolvency Act 1986) the Chargor alone shall be responsible for his contracts, engagements, acts, omissions, defaults and losses and for liabilities incurred by him and for his remuneration and his costs, charges and expenses and the Agent shall not incur any liability for those (either to the Chargor or any other person) by reason of the Agent making his appointment as such Receiver or for any other reason whatsoever.
- 9.2 Any Receiver appointed under Clause 8 (Enforcement) shall be entitled to remuneration for his services and the services of his firm appropriate to the

responsibilities involved. Subject to Section 58 of the Insolvency Act 1986, the remuneration of the Receiver may be fixed by the Agent (and may be or include a commission calculated by reference to the gross amount of all money received or otherwise and may include remuneration in connection with claims, actions or proceedings made or brought against the Receiver by the Chargor or any other person or the performance or discharge of any obligation imposed upon him by statute or otherwise) but such remuneration shall be payable by the Chargor alone and the amount of such remuneration shall form part of the Secured Liabilities and accordingly be secured on the Secured Assets under the floating charge constituted by this Debenture.

10 APPLICATION OF ENFORCEMENT PROCEEDS

10.1 All monies received by the Agent or any Receiver under or by virtue of this Debenture following enforcement of the security created by this Debenture or of any security interest constituted pursuant to this Debenture shall be applied, subject to the claims of any creditors ranking in priority to or *pari passu* with the claims of the Agent under this Debenture, in the following order:

10.1.1 firstly, in or towards payment of all costs, charges and expenses of or incidental to the appointment of the Receiver and the exercise of all or any of his powers, including his remuneration and all outgoings paid by and liabilities incurred by him as a result of such exercise;

10.1.2 secondly, in or towards satisfaction of the Secured Liabilities in such order as the Agent shall in its absolute discretion decide; and

10.1.3 thirdly, any surplus shall be paid to the Chargor or any other person entitled to it.

10.2 Nothing contained in this Debenture shall limit the right of the Receiver or the Agent (and the Chargor acknowledges that the Receiver and the Agent are so entitled) if and for so long as the Receiver or the Agent, in their discretion, shall consider it appropriate, to place all or any monies arising from the enforcement of any security interest constituted pursuant to this Debenture or any security created by this Debenture into a suspense account, without any obligation to apply the same or any part of those monies in or towards the discharge of any of the Secured Liabilities.

11 PROTECTION OF SECURITY

11.1 The security created by and any security interest constituted pursuant to this Debenture shall be a continuing security notwithstanding any settlement of account or other matter or thing whatsoever and in particular (but without prejudice to the generality of the foregoing) shall not be considered satisfied by an intermediate repayment or

satisfaction of part only of the Secured Liabilities and shall continue in full force and effect until total and irrevocable satisfaction of all the Secured Liabilities.

- 11.2 The security created by and any security interest constituted pursuant to this Debenture shall be in addition to and shall not in any way prejudice or be prejudiced by any collateral or other security, right or remedy which the Agent may now or at any time after the date of this Debenture hold for all or any part of the Secured Liabilities.
- 11.3 No failure on the part of the Agent to exercise and no delay on its part in exercising any right, remedy, power or privilege under or pursuant to this Debenture or any other document relating to or securing all or any part of the Secured Liabilities will operate as a waiver of such right, remedy or power or privilege, nor will any single or partial exercise of any right or remedy preclude any other or further exercise of it or the exercise of any other right or remedy. The rights and remedies provided in this Debenture and any such other document are cumulative and not exclusive of any right or remedies provided by law.
- 11.4 Each of the provisions in this Debenture shall be severable and distinct from one another and if at any time any one or more of such provisions is or becomes or is declared null and void, invalid, illegal or unenforceable in any respect under any law or otherwise howsoever, the validity, legality and enforceability of the remaining provisions of this Debenture shall not in any way be affected or impaired by that occurrence.
- 11.5 If the Agent receives or is deemed to be affected by notice, whether actual or constructive of any subsequent security or other interest affecting all or any part of the Secured Assets and/or the proceeds of sale(s) of the Secured Assets the Agent may open a new account or accounts in the name of the Chargor and, if or insofar as the Agent does not open a new account or accounts, it shall nevertheless be treated as if it had done so at the time when it receives such notice and as and from that time all payments made by the Chargor to the Agent (whether in its capacity as trustee or otherwise) shall, notwithstanding any instructions by the Chargor to the contrary, be credited or treated as having been credited to the new account or accounts and shall not operate to reduce the amount due by the Chargor to the Agent at the time the notice was received.
- 11.6 Neither the security created by, nor any security interest constituted pursuant to, this Debenture nor the rights, powers, discretions and remedies conferred upon the Agent by this Debenture or by law shall be discharged, impaired or otherwise affected by reason of:
- 11.6.1 any present or future security, guarantee, indemnity or other right or remedy held by or available to the Agent being or becoming wholly or in part void, voidable or unenforceable on any ground whatsoever or by the Agent from time to time exchanging, varying, realising, releasing or failing to perfect or enforce any of the same; or

- 11.6.2 the Agent compounding with, discharging or releasing or varying the liability of, or granting any time, indulgence or concession to, the Chargor or any other person or renewing, determining, varying or increasing any accommodation or transaction in any manner whatsoever or concurring in accepting or varying any compromise, arrangement or settlement or omitting to claim or enforce payment from the Chargor or any other person; or
 - 11.6.3 any act or omission which would not have discharged or affected the liability of the Chargor had it been a principal debtor instead of cautioner or by any act or omission which but for this provision might operate to exonerate the Chargor from the Secured Liabilities; or
 - 11.6.4 any legal limitation, disability, incapacity or other similar circumstance relating to the Chargor.
- 11.7 The Agent shall not be obliged, before exercising any of the rights, powers or remedies conferred upon it by or pursuant to this Debenture or by law, to:
- 11.7.1 take any action or obtain judgement or decree in any court against the Chargor; or
 - 11.7.2 make or file any claim to rank in a winding-up or liquidation of the Chargor; or
 - 11.7.3 enforce or seek to enforce any other security taken, or exercise any right or plea available to the Agent, in respect of any of the Chargor's obligations under the Loan Contract.

12 FURTHER ASSURANCE AND FURTHER SECURITY

- 12.1 The Chargor shall execute and do all such assurances, acts and things as the Agent may require for perfecting or protecting the security created by or pursuant to this Debenture over the Secured Assets or for facilitating the realisation of such assets and the exercise of all powers, authorities and discretions conferred on the Agent or on any Receiver by this Debenture and shall in particular (but without limitation) promptly after being requested to do so by the Agent or any Receiver, execute all assignments and transfers (in favour of the Agent or any Receiver or to such nominee as either shall direct) of the Secured Assets which come into existence after the date of this Debenture and give all notices orders and directions which the Agent or any Receiver may think expedient for the purposes specified in this Clause 12.1.
- 12.2 The Chargor (at its own cost) will on demand in writing by the Agent execute and deliver in such form as the Agent may require:
- 12.2.1 a legal mortgage, standard security or other fixed security over the Chargor's freehold, leasehold, heritable or other property; and/or

12.2.2 a fixed charge or assignment in security of any Secured Asset subject to a floating charge under Clause 3.3 (Floating Charge); and/or

12.2.3 a chattel mortgage over such chattels, plant and machinery as the Agent may specify;

and the Chargor will do and concur in all such other acts or things as the Agent may deem necessary to vest in the Agent title to all or any of the Secured Assets.

13 ATTORNEY

13.1 The Chargor hereby irrevocably appoints the Agent and any Receiver to be its attorney for it and on its behalf and in its name or otherwise to create or constitute, or to make any alteration or addition or deletion in or to, any documents which the Agent or the Receiver may require for perfecting or protecting the title of the Agent or the Receiver to the Secured Assets or for vesting any of the Secured Assets in the Agent or the Receiver or its nominee or any purchaser and to re-deliver the same thereafter and otherwise generally to sign, seal and deliver and perfect any fixed security, floating charge, transfer, disposition, assignment, security and/or assurance or any writing, assurance, document or act which may be required or may be deemed proper by the Agent on or in connection with any sale, lease, disposition, realisation, getting in or other enforcement by the Agent or the Receiver of all or any of the Secured Assets.

13.2 The Chargor hereby ratifies and confirms and agrees to ratify and confirm whatever any such attorney shall do in the exercise or purported exercise of all or any of the powers, authorities and discretions referred to in this Clause 13.

14 EXPENSES

14.1 The Chargor binds and obliges itself for the whole expenses of completing and enforcing the security created by this Debenture and the expenses of any discharge of it.

14.2 All costs, charges and expenses incurred and all payments made by the Agent or any Receiver under this Debenture in the lawful exercise of the powers conferred by this Debenture, whether or not occasioned by any act, neglect or default of the Chargor, shall carry interest from the date of the same being incurred or becoming payable at the Default Rate. The amount of all such costs, charges, expenses and payments and all interest thereon and all remuneration payable under this Debenture shall be payable by the Chargor on demand and shall be a Secured Liability. All such costs, charges, expenses and payments shall be paid and secured as between the Agent or any Receiver and the Chargor on the basis of a full and unqualified indemnity.

15 INDEMNITY

The Agent, every Receiver and every attorney, manager, agent or other person appointed by the Agent or any such Receiver in connection with this Debenture shall be entitled to be indemnified out of the Secured Assets in respect of all liabilities and expenses incurred by it or him in the execution or purported execution of any of the powers, authorities or discretions vested in it or him pursuant to this Debenture and against all actions, proceedings, costs, claims and demands in respect of any matter or thing done or omitted in any way relating to the Secured Assets and the Agent and any Receiver may retain and pay all sums in respect of the same out of any monies received under the powers conferred by this Debenture.

16 AVOIDANCE OF PAYMENTS

- 16.1 No assurance, security or payment which may be avoided or adjusted under the law, including under any enactment relating to bankruptcy or insolvency and no release, settlement or discharge given or made by the Agent on the faith of any such assurance, security or payment, shall prejudice or affect the right of the Agent to recover the Secured Liabilities from the Chargor (including any monies which it may be compelled to pay or refund under the provisions of the Insolvency Act 1986 and any costs payable by it pursuant to or otherwise incurred in connection therewith) or to enforce the charges contained in this Debenture to the full extent of the Secured Liabilities.
- 16.2 Any amount which has been paid by the Chargor to a Receiver or the Agent and which is, in the opinion of the Agent, capable of being reduced or restored or otherwise avoided, in whole or in part, in the liquidation or administration of the Chargor shall not be regarded as having been irrevocably paid for the purposes of this Debenture.

17 ASSIGNMENT BY THE AGENT

The Agent may assign and transfer all of its rights and obligations under this Debenture to a replacement Agent. On such assignment and transfer taking effect, the replacement Agent shall be and be deemed to be acting for itself and as trustee for the Lenders for the purposes of this Debenture in place of the previous Agent.

18 NOTICES

All notices, requests, demands and other communications to be given under this Debenture shall be given and/or be deemed to be given in the same manner as notices to be given under the Loan Contract.

19 EVIDENCE OF INDEBTEDNESS

In any action, proceedings or claim relating to this Debenture or the charges contained in this Debenture, a statement as to any amount due to the Agent or of the Secured Liabilities or any part of the Secured Liabilities which is certified as being correct by

an officer of the Agent shall, save in the case of manifest error, be conclusive evidence that such amount is in fact owing.

20 **COUNTERPARTS**

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

21 **GOVERNING LAW AND JURISDICTION**

This Debenture shall be governed by, and construed in all respects in accordance with, the laws of England and, for the benefit of the Agent, the Chargor irrevocably submits to the non-exclusive jurisdiction of the English courts but without prejudice to the ability of the Agent to proceed against the Chargor in any other appropriate jurisdiction.

IN WITNESS WHEREOF the Chargor has executed and delivered this Debenture as a Deed and the Agent has executed this Debenture on the day and year first before written

SIGNATORIES

THE CHARGOR

Executed and delivered as a Deed by
**BAXTERS RETAIL STORES
LIMITED** acting by:

STUART REDDISH.

Print Full Name

before this witness

NICK BROCK.

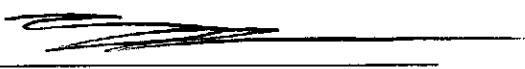
Print Full Name

Address

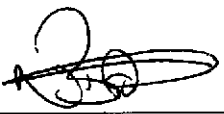
SPENCER HOUSE

3 SPENCER PARADE

NORTHAMPTON NN1 5HN.



Director




Witness

THE AGENT

Signed on behalf of EDINBURGH
ALTERNATIVE FINANCE LIMITED

HELEN CHRISTINA McLAKE
Print Full Name



Authorised Signatory