



**Registration of a Charge**

Company name: **SOCIETY OF MOTOR MANUFACTURERS AND TRADERS  
LIMITED(THE)**

Company number: **00074359**

Received for Electronic Filing: **08/02/2021**



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**Details of Charge**

Date of creation: **29/01/2021**

Charge code: **0007 4359 0005**

Persons entitled: **SMMT CORPORATE TRUSTEE BOARD LIMITED AS TRUSTEE OF THE  
S.M.M.T PENSION AND DEATH BENEFITS SCHEME**

Brief description:

**Contains fixed charge(s).**

**Contains negative pledge.**

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**Authentication of Form**

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

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**Authentication of Instrument**

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

Certified by:

**JACKIE AKEHURST**



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

Company number: 74359

Charge code: 0007 4359 0005

The Registrar of Companies for England and Wales hereby certifies that a charge dated 29th January 2021 and created by SOCIETY OF MOTOR MANUFACTURERS AND TRADERS LIMITED(THE) was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 8th February 2021 .

Given at Companies House, Cardiff on 9th February 2021

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



**Companies House**



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES

## SECURITY AGREEMENT

DATED 29 JANUARY 2021

BETWEEN

THE SOCIETY OF MOTOR MANUFACTURERS AND TRADERS LIMITED

- and -

SMMT CORPORATE TRUSTEE BOARD LIMITED  
as trustee of the S.M.M.T Pension and Death Benefits Scheme

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THIS DEED is dated 29 January 2021 between:

- (1) THE SOCIETY OF MOTOR MANUFACTURERS AND TRADERS LIMITED (registered number 00074359) (the **Chargor**); and
- (2) SMMT Corporate Trustee Board Limited (registered number 10410090) as trustee of the S.M.M.T Pension and Death Benefits Scheme and any other person or persons who is or are for the time being a trustee of the S.M.M.T Pension and Death Benefits Scheme (the **Trustee**).

IT IS AGREED as follows:

## 1. INTERPRETATION

### 1.1 Definitions

In this Deed:

**Acceptable Account Manager** means a financial institution that:

- (a) has a current Requisite Rating;
- (b) is regulated and approved for business by the Prudential Regulation Authority or Financial Conduct Authority (as applicable), or in each case its applicable successor, either directly or on the basis of rights in European Union law;
- (c) is domiciled in a Nominated Jurisdiction; and
- (d) is not affected by an Insolvency Proceeding.

**Account** means the securities account ( ) held with, and maintained in England and Wales by, the Account Manager by the Chargor pursuant to the Account Agreement (as may be renumbered at any time, and together with any sub-account or replacement account thereof, and together with any cash account linked to such securities account into which any Securities Income may be deposited or held), the value of which at the date of this Deed is not less than £12,000,000.

**Act** means the Law of Property Act 1925.

**Business Day** means a day (other than a Saturday or a Sunday) on which banks are open for general business in London.

**Clearance System** means a person whose business is or includes the provision of clearance services or security accounts or any nominee or depositary for that person.

**Companies** means the companies listed in Schedule 1 (Companies) as such schedule may be amended from time to time by the Parties.

**Creditors' Process** means, in relation to a person, any expropriation, attachment, sequestration, distress or execution (or any analogous event in any jurisdiction) which affects any of the assets of that person, and is not discharged within fourteen (14) days.

**Account Manager** means HSBC UK Bank plc Securities Services or any replacement account manager in accordance with the provisions of Clause 6.14.

**Account Agreement** means the agreement dated 17 May 2018 between the Account Manager and the Chargor as supplemented by a mandate dated 22 January 2021 in relation to the Account together with related mandates and any replacement agreement from time to time.

**Demand** means any demand made on the Chargor by the Trustee under Clause 2 (Covenant to pay) in relation to the Secured Scheme Liabilities of a Company.

**Eligible Replacement Securities** means debt or equity securities in which the Trustee would be permitted to invest assets of the Scheme recognising any restrictions on investment contained within the applicable trust deed and/or the rules of the Scheme but ignoring any restrictions on employer-related investment.

**Event of Default** means an event specified as such in Clause 7 (Default) and Clause 6.11 (Value of Securities – Payment to Trustee).

**Financial Collateral Regulations** means the Financial Collateral Arrangements (No. 2) Regulations 2003.

**Fitch** means Fitch Ratings Limited or any successor to its ratings business.

**Implementation Date** has the meaning given to it in Clause 20(a) (Release where oversecured).

**Insolvency Event** means in respect of any Company:

- (a) an 'insolvency event' as defined in Section 121 of the Pensions Act 2004 or regulations made from time to time thereunder; or
- (b) the receipt by the Pension Protection Fund of an application or notification from the Trustee or the Pensions Regulator that such Company is unlikely to continue as a going concern, which is purported to be made in accordance with Section 129 of the Pensions Act 2004 or regulations made from time to time thereunder.

**Insolvency Proceedings** means in respect of any person:

- (a) any procedure or step is taken with a view to a moratorium or a composition, assignment or similar arrangement with any of its creditors;
- (b) a meeting of its shareholders, directors or other officers is convened for the purpose of considering any resolution for, to petition for or to file documents with a court or any registrar for, its winding-up, administration, dissolution or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise), or any such resolution is passed;
- (c) any person presents a petition, or files documents with a court or any registrar, for its winding-up, administration, dissolution or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise);
- (d) any Security Interest is enforced by any person over any of its assets;
- (e) an order for its winding-up, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) is made;

- (f) any liquidator, trustee in bankruptcy, judicial custodian, compulsory manager, receiver, administrative receiver, administrator or similar officer is appointed in respect of it or any of its assets;
- (g) its shareholders, directors or other officers or that person itself request(s) or apply/ies to court for the appointment of, or give(s) notice of their intention to appoint, a liquidator, trustee in bankruptcy, judicial custodian, compulsory manager, receiver, administrative receiver, administrator or similar officer; or
- (h) any other analogous step or procedure is taken in any jurisdiction.

**Material Adverse Effect** means a material adverse effect on:

- (a) the ability of the Chargor to perform its payment obligations under this Deed;
- (b) the business, operations, property, assets or financial condition of the Chargor or any of its Subsidiaries;
- (c) the validity or enforceability of, or the effectiveness, making or ranking of, this Deed; or
- (d) the validity or enforceability, or the effectiveness or ranking of, any right or remedy of the Trustee under this Deed.

**Moody's** means Moody's Investors Services Limited or any successor to its ratings business.

**Net Enforcement Proceeds** means, in relation to any Security Asset:

- (a) any proceeds of sale or enforcement; and/or
- (b) any Securities Income,

collected or received by the Trustee (or any Receiver) arising from that Security Asset following the enforcement of this Security, less all costs, expenses, remuneration and other items relating thereto contemplated in Subparagraph 12(a) (Application of Proceeds).

**Nominated Jurisdiction** means any state which is a member of the European Union or the Organisation for Economic Co-operation and Development, or Hong Kong, and for the purpose of this definition the following states shall (in addition to the full members of the organisation) be treated as members of the Organisation for Economic Co-operation and Development:

- (a) each of the Channel Islands;
- (b) the Isle of Man;
- (c) Gibraltar; and
- (d) Bermuda.

**Party** means a party to this Deed.

**Pension Protection Fund** means the Board of the Pension Protection Fund as established under Part 2 of the Pensions Act 2004.



**Pensions Regulator** means the body of that name and referred to as the "Regulator" in the Pensions Act 2004.

**Receiver** means a receiver and manager or a receiver or an administrator or an administrative receiver, in each case, appointed under this Deed.

**Release Request** has the meaning given to it in Clause 20(a) (Release where Oversecured).

**Requisite Rating** means a current long-term issuer rating of:

- (a) A- or better by Fitch; or
- (b) A3 or better by Moody's; or
- (c) A- or better by S&P.

**Reservations** means:

- (a) the principle that equitable remedies are remedies which may be granted or refused at the discretion of the court and damages may be regarded as an adequate remedy;
- (b) the limitation on enforcement as a result of laws relating to bankruptcy, insolvency, liquidation, reorganisation, court schemes, moratoria, administration and other laws affecting the rights of creditors generally;
- (c) the statutory time-barring of claims;
- (d) defences of set off or counterclaim;
- (e) rules against penalties and similar principles;
- (f) the fact that security which is described as fixed security may in fact be floating security;
- (g) the possibility that an undertaking to assume liability for, or indemnify a person against, non-payment of stamp duty may be void;
- (h) the fact that a court may refuse to give effect to a purported contractual obligation to pay costs imposed upon another person in respect of costs of an unsuccessful litigation brought against that person or may not award by way of costs all of the expenditure incurred by a successful litigant in proceedings brought before that court or that a court may stay proceedings if concurrent proceedings based on the same grounds and between the same parties have previously been brought before another court; and/or
- (i) any steps for perfection not required by the terms of this Deed to be taken,

and any other reservations or qualifications of law contained in any legal opinion delivered to the Trustee in respect of this Deed.

**S&P** means Standard and Poor's Rating Services, a Division of the McGraw Hill Companies, Inc. or any successor to its ratings business.

**Scheme** means the S.M.M.T Pension and Death Benefits Scheme.

**Secured Liabilities** means the Secured Scheme Liabilities and all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally and in any capacity whatsoever) of the Chargor under this Deed.

**Secured Scheme Liabilities** means all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally and in any capacity whatsoever) of each Company to make payments to the Scheme.

**Securities** means the securities now or at any time recorded in, and represented by, the Account.

**Securities Income** means any dividend, interest or other distribution or income of any kind paid or payable at any time in relation to any of the Securities.

**Securities Related Assets** means:

- (a) the Securities;
- (b) any Securities Income;
- (c) any right, money, shares, securities or property accruing, offered or issued at any time in relation to the above by way of redemption, substitution, exchange, bonus, preference or otherwise, under option rights or otherwise; and
- (d) any right against any Clearance System.

**Security Assets** means all assets of the Chargor the subject of any Security Interest created, or purported to be created, by this Deed.

**Security Interest** means any mortgage, charge, pledge, lien, assignment, hypothecation or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.

**Security Period** means the period beginning on the date of this Deed and ending on the date on which all Secured Liabilities which may be or become due have been unconditionally and irrevocably paid and discharged in full.

**SMMT Securities Account** means:

- (a) the securities ( ) held with, and maintained in England and Wales by, the Account Manager by the Chargor pursuant to the Account Agreement (as may be renumbered at any time, and together with any sub-account or replacement account thereof, and together with any cash account linked to such securities account into which any Securities Income may be deposited or held); or
- (b) any account or related cash account with another custodian to which the securities held in the SMMT Securities Account are transferred after the date of this Deed.

**Standstill Period** has the meaning ascribed to it in Clause 6.11(a).

**Subsidiary** means:

- (a) a subsidiary within the meaning of Section 1159 of the Companies Act 2006; and

- (b) unless the context otherwise requires, a subsidiary undertaking within the meaning of Section 1162 of the Companies Act 2006.

**Tax** means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any related penalty or interest payable in connection with any failure to pay or any delay in paying any of the same).

**Tax Deduction** means: a deduction or withholding for or on account of Tax from a payment under this Deed.

## 1.2 Construction

- (a) In this Deed, unless the contrary intention appears, a reference to:
- (i) **assets** includes present and future properties, revenues and rights of every description and includes uncalled capital;
  - (ii) an **authorisation** includes an authorisation, consent, approval, resolution, licence, exemption, filing, registration or notarisation;
  - (iii) **disposal** means a sale, transfer, grant, lease or other disposal, whether voluntary or involuntary, and **dispose** will be construed accordingly;
  - (iv) **this Security** means any Security Interests created by this Deed;
  - (v) a **person** includes any individual, firm, company, corporation, unincorporated association or body (including a partnership, trust, joint venture or consortium), government, state, agency, organisation or other entity whether or not having separate legal personality;
  - (vi) a **regulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law but, if not having the force of law, being of a type with which persons to which it applies are accustomed to comply) of any governmental, inter-governmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation;
  - (vii) **Sterling** or **£** is a reference to the lawful currency for the time being of the United Kingdom;
  - (viii) a **provision of law** is a reference to that provision as extended, applied, amended or re-enacted and includes any subordinate legislation;
  - (ix) a **Clause**, a **Subclause**, a **Paragraph**, a **Subparagraph** or a **Schedule** is a reference to a clause, a subclause, a paragraph or a subparagraph of, or a schedule to, this Deed;
  - (x) a **Party** or any other person includes its successors in title, permitted assigns and permitted transferees and this Deed shall be binding on and enforceable by any person who is for the time being a trustee of the Scheme including any person who succeeds or replaces a trustee of the Scheme (and this Subparagraph (x) shall be in addition to, and not affect, the provisions of the Trustee Act dealing with transfers of assets and liabilities from one trustee to another);

- (xi) this **Deed** (or any specified provision of it) or any other document shall be construed as a reference to this Deed, that provision or that document as in force for the time being and as amended, restated, varied, supplemented or novated from time to time;
  - (xii) **including** shall not be construed narrowly but be taken as reading **including without limitation**;
  - (xiii) a **time of day** is a reference to London time; and
  - (xiv) words importing the singular shall include the plural and vice versa.
- (b) Unless the contrary intention appears, a reference to a **month** or **months** is a reference to a period starting on one day in a calendar month and ending on the numerically corresponding day in the next calendar month or the calendar month in which it is to end, except that:
- (i) if the numerically corresponding day is not a Business Day, the period will end on the next Business Day in that month (if there is one) or the preceding Business Day (if there is not);
  - (ii) if there is no numerically corresponding day in that month, that period will end on the last Business Day in that month; and
  - (iii) notwithstanding Subparagraph (i) above, a period which commences on the last Business Day of a month will end on the last Business Day in the next month or the calendar month in which it is to end, as appropriate.
- (c) Unless expressly provided to the contrary in this Deed, a person who is not a party to this Deed may not enforce any of its terms under the Contracts (Rights of Third Parties) Act 1999 and, notwithstanding any term of this Deed, no consent of any third party is required for any variation (including any release or compromise of any liability) or termination of this Deed. As contemplated by Subparagraph (a)(x) above, any person who is for the time being a trustee of the Scheme may enforce or enjoy the benefit of any term of this Deed pursuant to the Contracts (Rights of Third Parties) Act 1999.
- (d) If the Trustee considers that an amount paid to it under this Deed is capable of being avoided or otherwise set aside on the liquidation or administration of the payer or otherwise, then that amount will not be considered to have been irrevocably paid for the purposes of this Deed.
- (e) Unless the context otherwise requires, a reference to a Security Asset includes the proceeds of sale of that Security Asset.
- (f) The headings in this Deed do not affect its interpretation.
- (g) It is intended by the Parties that this document takes effect as a deed notwithstanding the fact that a Party may only execute this document under hand.

## 2. COVENANT TO PAY

The Chargor must, on demand following the occurrence of any Insolvency Event, pay or discharge the Secured Scheme Liabilities when due and also covenants that it shall pay,

perform and discharge the Secured Liabilities set out in Clause 6.11(a) as and when the same fall due for payment, performance or discharge in accordance with the terms of this Deed.

### **3. CREATION OF SECURITY**

#### **3.1 General**

- (a) All the Security Interests created under this Deed:
  - (i) are created in favour of the Trustee;
  - (ii) are created over present and future assets of the Chargor;
  - (iii) are continuing security for the payment of all the Secured Liabilities; and
  - (iv) are made with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994.
- (b) If the rights of the Chargor under a document cannot be secured without the consent of a party to that document:
  - (i) the Chargor must notify the Trustee promptly;
  - (ii) this Security will secure all amounts which the Chargor may receive, or has received, under that document but exclude the document itself; and
  - (iii) unless the Trustee otherwise requires, the Chargor must use reasonable endeavours to obtain the consent of the relevant party to that document being secured under this Deed.
- (c) The payment obligations of the Chargor under this Deed shall survive the enforcement of the whole or any part of the Security Assets.

#### **3.2 Security Assets**

- (a) The Chargor charges and agrees to charge, by way of first fixed charge, all of its present and future claims, rights, title and interest in or to, or in respect of:
  - (i) the Securities Related Assets;
  - (ii) the Account; and
  - (iii) to the extent that any asset which is expressed to be assigned under Paragraph (b) below is not effectively assigned, such asset.
- (b) The Chargor assigns and agrees to assign absolutely, subject to a proviso for re-assignment on redemption, all of its rights, title and interest in and to the Account Agreement, all rights and remedies in connection with the Account Agreement and any proceeds and claims arising from it.

**3.3 Limit on amount recoverable pre-Insolvency**

Prior to the occurrence of an Insolvency Event in relation to any Company, the total amount which may be:

- (a) recovered from the Chargor pursuant to any Demands in relation to any Company's Secured Scheme Liabilities; and/or
- (b) applied by the Trustee against any Company's Secured Scheme Liabilities from any Net Enforcement Proceeds,

shall not exceed 100% of the amount specified in Subclause 3.4(a)(iii) (Limit on amount recoverable post Insolvency Event).

**3.4 Limit on amount recoverable post Insolvency Event**

- (a) Following the occurrence of an Insolvency Event in relation to any Company, the total amount which may be:
  - (i) recovered from the Chargor pursuant to any Demands in relation to any Company's Secured Scheme Liabilities; and/or
  - (ii) applied by the Trustee against any Company's Secured Scheme Liabilities from any Net Enforcement Proceeds,

shall not exceed:

- (iii) £12,000,000.
- (b) Any payment by the Chargor pursuant to any Demand and/or any application of Net Enforcement Proceeds (including as contemplated by Paragraph 17.6(b) (Appropriations)), where such payment or application is made after the occurrence of an Insolvency Event in relation to any Company, shall reduce the amount referred to in Paragraph (a)(iii) above.

**4. PAYMENTS****4.1 Funds**

Payments under this Deed to the Trustee must be made for value on the due date at such times and in such funds as the Trustee may specify to the Chargor as being customary at the time for the settlement of transactions in the relevant currency in the place for payment.

**4.2 Currency**

Any amount payable under this Deed is payable in Sterling.

**4.3 No set-off or counterclaim**

All payments made by the Chargor under this Deed shall be calculated and must be made without (and be free and clear of any deduction for) set-off or counterclaim.

#### **4.4 Business Days**

If a payment under this Deed is due on a day which is not a Business Day, the due date for that payment will instead be the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).

### **5. REPRESENTATIONS**

#### **5.1 Representations**

The representations set out in this Clause 5 are made by the Chargor to the Trustee.

#### **5.2 Status**

- (a) It is a limited liability company, duly incorporated and validly existing under the laws of its jurisdiction of original incorporation.
- (b) Each of its Subsidiaries is a limited liability company, duly incorporated and validly existing under the laws of its jurisdiction of original incorporation.
- (c) It and each of its Subsidiaries has the power to own its assets and carry on its business as it is being conducted.

#### **5.3 Powers and authority**

- (a) It has the power to enter into, perform and deliver, and has taken all necessary action to authorise the entry into, performance and delivery of, this Deed and the transactions contemplated by this Deed.
- (b) No limit on its powers will be exceeded as a result of the grant of this Deed.

#### **5.4 Legal validity**

Subject to the Reservations, the obligations expressed to be assumed by it in this Deed are legal, binding, valid and enforceable obligations.

#### **5.5 Non-conflict**

The entry into and performance by it of, and the transactions contemplated by, this Deed do not and will not conflict with:

- (a) any law or regulation applicable to it or any of its Subsidiaries;
- (b) its or any of its Subsidiaries' constitutional documents; or
- (c) any document which is binding upon it or any of its Subsidiaries or any of its or its Subsidiaries' assets or constitute a default or termination event (howsoever described) under any such document.

#### **5.6 No insolvency**

No Insolvency Proceedings or Creditors' Process have been taken or threatened in relation to it and no Insolvency Event applies to any Company.

**5.7 No default**

No event or circumstance is outstanding which constitutes (or, with the expiry of a grace period, the giving of notice, the making of any determination or any combination of the foregoing, would constitute) a default or termination event (howsoever described) under any document which is binding on it or any of its Subsidiaries or any of its or its Subsidiaries' assets to an extent or in a manner which has or is reasonably likely to have a Material Adverse Effect.

**5.8 Authorisations**

All authorisations required by it in connection with the entry into, performance, validity and enforceability of, and the transactions contemplated by, this Deed have been obtained or effected (as appropriate) and are in full force and effect.

**5.9 Litigation**

No litigation, arbitration or administrative proceedings are current or, to its knowledge, pending or threatened against it or any of its Subsidiaries, which have or, if adversely determined, are reasonably likely to have a Material Adverse Effect.

**5.10 Nature of security**

- (a) This Deed creates those Security Interests it purports to create and is not liable to be amended or otherwise set aside in the insolvency, liquidation or administration of the Chargor or otherwise.
- (b) The Security Interests created by this Deed constitute a first priority Security Interest of the type described over the Security Assets and the Security Assets are not subject to any prior or pari passu Security Interest.

**5.11 Adverse claims**

The Chargor has not received or acknowledged notice of any adverse claim by any person in respect of the Security Assets.

**5.12 Adverse covenants**

There are no covenants, agreements, stipulations, reservations, conditions, interests, rights or other matters whatever, which materially adversely affect the Security Assets.

**5.13 Centre of main interest and establishments**

For the purposes of the Council of the European Union Regulation No. 1346/2000 on Insolvency Proceedings (**the Regulations**) the Chargor's "centre of main interest" (as that term is used in Article 3(1) of the Regulations) is situated in England and Wales and it has no "establishment" (as that term is used in Article 21 of the Regulation) in any other jurisdiction.

**5.14 Securities**

- (a) It is the sole legal and beneficial owner of the Security Assets.
- (b) It has claims and rights in respect of the Securities Related Assets and the Account only against the Account Manager and accordingly it has no claim or right (including



a right to call for delivery) in respect of any Securities Related Asset or the Account against any person other than the Account Manager.

- (c) The Securities have been duly authorised and validly issued and are and will be free from any restrictions on transfer or rights of pre-emption.

### **5.15 Times for making representations**

- (a) The representations set out in this Clause 5 are made by the Chargor on the date of this Deed.
- (b) The representations set out in this Clause 5 are deemed to be repeated by the Chargor:
  - (i) at any time that any Securities are deposited into the Account; and
  - (ii) on 31 March and 1 April of each year during the Security Period.
- (c) When a representation is repeated, it is applied to the circumstances existing at the time of repetition.

## **6. COVENANTS**

### **6.1 General**

The Chargor agrees to be bound by the covenants set out in this Clause 6 so long as any Secured Liabilities are outstanding.

### **6.2 Notification of breach**

The Chargor must notify the Trustee of any breach of any of the provisions of this Deed promptly upon becoming aware of its occurrence.

### **6.3 Authorisations**

The Chargor must promptly obtain, maintain and comply with the terms of any authorisation required under any law or regulation to enable it to perform its obligations under, or for the validity or enforceability of, this Deed.

### **6.4 Compliance with laws**

The Chargor must comply in all respects with all laws to which it is subject where failure to do so has or is reasonably likely to have a Material Adverse Effect.

### **6.5 Pari passu ranking**

The Chargor must ensure that its payment obligations under this Deed rank at least pari passu with all its other present and future unsecured payment obligations, except for obligations mandatorily preferred by laws of general application to companies.

### **6.6 Disposals and negative pledge**

The Chargor must not:

- (a) create, purport to create or permit to subsist any Security Interest on any Security Asset (other than this Security) nor on the SMMT Securities Account or the securities or cash held in that account or any related sub-account;
- (b) (save as may be expressly permitted by this Deed) sell, assign, transfer, withdraw from the Account, licence, lease or otherwise dispose of in any manner (or purport to do so) all or any part of, or any interests in, any Security Asset;
- (c) create or grant (or purport to create or grant) any interest in any Security Asset nor any securities or cash at any time recorded in, and represented by, the SMMT Securities Account in favour of a third party; or
- (d) direct the Account Manager to sell, transfer, withdraw from the Account, licence, lease or otherwise dispose of any Securities, save that, provided the value of all Securities is equal to or greater than £12,000,000 the Chargor may request the Trustee to instruct the Account Manager to withdraw Securities from the Account in order immediately to:
  - (i) invest the proceeds of sale in purchasing Eligible Replacement Securities for the Chargor which have an open market value of at least as much as the Securities to be withdrawn; and
  - (ii) place those Eligible Replacement Securities in the Account,

and the Trustee shall promptly comply with any such request provided this Security has not at that time become enforceable and provided also that following the placing of those Eligible Replacement Securities in the Account, the aggregate value of all Securities is equal to or greater than £12,000,000. The Parties acknowledge, for the avoidance of doubt, that the Account Manager shall have no obligation to ensure that any securities are Eligible Replacement Securities.

## **6.7 Changes to rights**

The Chargor must not take or allow the taking of any action on its behalf which may result in the rights attaching to any of its Security Assets being altered in any material respect.

## **6.8 Calls**

- (a) The Chargor must pay all calls, instalments or other payments due and payable in respect of any Securities Related Asset.
- (b) If the Chargor fails to do so, the Trustee may pay the calls, instalments or other payments on behalf of the Chargor. The Chargor must immediately on request reimburse the Trustee for any payment made by the Trustee under this Subclause 6.8.

## **6.9 Other obligations in respect of Security Assets**

- (a) The Chargor must comply with all other conditions and obligations assumed by it in respect of any Security Asset.
- (b) The Trustee is not obliged to:
  - (i) perform any obligation of the Chargor;

- (ii) make any payment, or to make any enquiry as to the nature or sufficiency of any payment received by it or the Chargor; or
- (iii) present or file any claim or take any other action to collect or enforce the payment of any amount to which it may be entitled under this Deed,

in respect of any Security Asset.

#### **6.10 Voting rights and income**

- (a) Before this Security becomes enforceable:
  - (i) the voting rights, powers and other rights in respect of the Securities Related Assets may be exercised by the Chargor, provided that the Chargor must not do so in such a manner which has the effect of changing the terms of such Securities Related Assets or which is prejudicial to the interests of the Trustee; and
  - (ii) the Securities Income from time to time may be paid directly to the Chargor provided that the value of the Securities is equal to or greater than £12,000,000 at the time of any such payment and remains so following payment. In the event that the value of the Securities is less than £12,000,000, all Securities Income shall remain in the Account and continue to form part of the Security Assets.
- (b) After this Security has become enforceable, the Trustee may exercise (in the name of the Chargor and without any further consent or authority on the part of the Chargor) any voting rights and any powers or rights which may be exercised by the legal or beneficial owner of any Security Asset, any person who is the holder of any Security Asset or otherwise.

#### **6.11 Value of Securities – payment to Trustee**

- (a) If the value of the Securities falls below an aggregate of £10,000,000 for a continuous period of three (3) months (the “**Standstill Period**”) (and it is agreed by the Parties that if the value of the Securities is greater than £10,000,000 for a period of less than five (5) Business Days during that period, the 3 month period will not re-start), the Chargor shall, within ten (10) Business Days of demand by the Trustee, pay to the Trustee for the benefit of the Scheme, the sum of £10,000,000.
- (b) At any time during the Standstill Period the Chargor may remedy the shortfall in the value of the Securities by transferring additional assets to the Account in sufficient amounts to increase the value of the Securities above £10,000,000. The Standstill Period shall end following such transfer and the Chargor shall not be required to make any payment to the Scheme.
- (c) Failure by the Chargor to make payment in accordance with this Clause 6.11(a) or to remedy the shortfall in the value of the Securities in accordance with Clause 6.11(b) shall be an Event of Default.
- (d) The Parties agree that to satisfy the obligation of the Chargor to pay the amount due under this Clause 6.11 in part or in whole, the Trustee may direct the Account Manager to sell Securities to the value of £10,000,000 which amount shall be applied towards the sum due from the Chargor to the Trustee.

**6.12 Clearance systems**

The Chargor must, after this Security becomes enforceable, if so requested by the Trustee, instruct any Clearance System to transfer any Securities Related Asset held by it for the Chargor or its nominee to an account of the Trustee or its nominee with that Clearance System and take whatever action the Trustee may request for the dematerialisation or rematerialisation of any Security Asset held in a Clearance System. Without prejudice to the rest of this Clause 6 (Covenants), the Trustee may, at the expense of the Chargor, take whatever action is required for the dematerialisation or rematerialisation of any Security Assets held in a Clearance System.

**6.13 Deposit of documents**

In respect of all Security Assets, the Chargor shall immediately upon execution of this Deed or (if later) immediately upon acquisition of an interest in any Security Asset deliver to the Trustee duly executed stock notes and/or any other document representing or evidencing any benefit or entitlement to such Security Asset.

**6.14 Account Manager arrangements**

The Chargor must:

- (a) immediately serve a notice of assignment, substantially in the form of Part 1 of Schedule 2 (Forms of Notice for Account Manager) on the Account Manager; and
- (b) use its best endeavours to ensure that the Account Manager acknowledges that notice, substantially in the form of Part 2 of Schedule 2 (Forms of Notice for Account Manager).

**6.15 Account Agreement**

- (a) The Chargor must not terminate or make or agree to any amendment or waiver of the Account Agreement without the prior written consent of the Trustee.
- (b) The Chargor shall ensure that any replacement Account Manager acknowledges and accepts that it is bound by the terms of this Security Agreement as if it were the original Account Manager.
- (c) Subject to the other provisions of this Deed, before this Security becomes enforceable, all of the rights and powers of the Chargor or the Trustee under the Account Agreement may be exercised in any manner which the Chargor may direct in writing provided that the Chargor must not do so in such a manner which does not comply with any provision of this Deed, or has the effect of changing the terms of such Securities Related Assets or which is prejudicial to the interests of the Trustee.
- (d) After this Security has become enforceable the Trustee may exclusively exercise all of the rights and powers of the Chargor under the Account Agreement. The Chargor indemnifies the Trustee against any cost, loss or liability incurred by it as a consequence of acting in respect of the Account Agreement.

## 6.16 Information and Statements

- (a) The Chargor shall provide the Trustee with all information which it may reasonably request in relation to the Security Assets and any communication received by it from the Account Manager in relation to them.
- (b) The Chargor shall deliver to the Trustee all statements relating to the Account immediately following receipt of the same and in any event not less than every three (3) months after the date of this Deed or as may reasonably be requested by the Trustee. If the value of the Securities falls below £10,000,000 (ten million pounds sterling) the Chargor shall deliver or shall procure the delivery of statements relating to the Account on a daily basis. The Parties agree that the value of the Securities shall be determined by the Trustee using such statements.

## 6.17 Acceptable Account Manager

- (a) The Chargor must promptly notify the Trustee upon it becoming aware that the Account Manager has ceased to be an Acceptable Account Manager.
- (b) If the Account Manager ceases to be an Acceptable Account Manager the Chargor must:
  - (i) open a new account with another financial institution which is an Acceptable Account Manager (the **Replacement Account**) and transfer all the Securities from the Account to the Replacement Account; and
  - (ii) grant Security Interests over the Replacement Account on the same terms as set out in this Deed,

each as soon as reasonably practicable and in any event within 30 days of the earlier of:

- (A) the Chargor becoming aware that the Account Manager has ceased to be an Acceptable Account Manager; and
- (B) a written request by the Trustee,

save that if this Security has become enforceable the Chargor shall only take the steps set out in Paragraphs (b)(i) and (ii) above if required to do so by the Trustee.

## 6.18 Investment restrictions

For the purposes of the definition of "Eligible Replacement Securities", the Trustee shall, on request by the Chargor, keep the Chargor informed as to any restrictions on investment contained within the trust deed and/or rules of the Scheme and any material changes thereto.

## 6.19 Notifiable events

- (a) The Chargor shall promptly notify the Trustee upon becoming aware that:
  - (i) any event has occurred in respect of a Company or the Chargor which would (or would if the Chargor were an employer in relation to the Scheme within the meaning set out in Section 318 of the Pensions Act 2004 and regulations made thereunder) require notification to the Pensions Regulator in

accordance with Section 69 of the Pensions Act 2004 and any regulations and directions made thereunder;

- (ii) any representation made or deemed to be made by the Chargor under this Deed is or proves to have been incorrect or misleading when made or deemed to be made; and
  - (iii) any representation made by the Chargor under this Deed would be (if it were deemed to be repeated at any time) incorrect or misleading when made or deemed to be made.
- (b) If on or about 28 February of each year, the Chargor is aware that any representation which is to be repeated under Subclause 5.15(b) (Times for making representations) will be or is reasonably likely to be incorrect or misleading when repeated pursuant to Subclause 5.15(b) (Times for making representations), the Chargor shall promptly notify the Trustee.

## **7. DEFAULT**

### **7.1 Events of Default**

Each of the events set out in this Clause 7 is an Event of Default.

### **7.2 Breach of this Deed**

The Chargor does not comply with any term of this Deed unless the non-compliance is capable of remedy and:

- (a) in the case of a failure to pay caused by an administrative or technical error and payment is made within three (3) Business Days of its due date; or
- (b) in any other case, is remedied within fourteen (14) days of the earlier of: (1) the Trustee giving notice; and (2) the Chargor becoming aware of the non-compliance.

### **7.3 Misrepresentation**

A representation made or repeated by the Chargor in this Deed is incorrect or misleading in any material respect when made or deemed to be repeated, unless the circumstances giving rise to the misrepresentation:

- (a) are capable of remedy; and
- (b) are remedied within fourteen (14) days of the earlier of the Trustee giving notice and the Chargor becoming aware of the circumstances giving rise to the misrepresentation.

### **7.4 Insolvency**

An Insolvency Event occurs in respect of a Company or the Chargor.

### **7.5 Insolvency proceedings**

- (a) Except as provided in Paragraph (b) below, any Insolvency Proceeding occurs in respect of the Chargor.

- (b) Paragraph (a) above does not apply to a petition for winding-up presented by a creditor which is being contested in good faith and with due diligence and is discharged or struck out prior to being advertised and in any event within fourteen (14) days.

## **7.6 Creditors' process**

Any Creditors' Process occurs and affects any assets of any Company or the Chargor.

## **7.7 Cessation of business**

A Company or the Chargor ceases, or threatens to cease, to carry on business.

## **7.8 Effectiveness of this Deed**

- (a) It is or becomes unlawful for the Chargor to perform any of its obligations under this Deed.
- (b) This Deed is not effective in accordance with its terms or is alleged by the Chargor to be ineffective in accordance with its terms for any reason.
- (c) The Chargor repudiates this Deed or evidences an intention to repudiate this Deed.

## **7.9 Material adverse change**

Any event or series of events occurs which, in the opinion of the Trustee, has or is reasonably likely to have a Material Adverse Effect.

# **8. WHEN SECURITY BECOMES ENFORCEABLE**

## **8.1 Event of Default**

This Security will become immediately enforceable if an Event of Default occurs.

## **8.2 Discretion**

After this Security has become enforceable, the Trustee may in its absolute discretion enforce all or any part of this Security in any manner it sees fit.

## **8.3 Power of sale**

The power of sale and other powers conferred by Section 101 of the Act, as amended by this Deed, will be immediately exercisable at any time after this Security has become enforceable.

# **9. ENFORCEMENT OF SECURITY**

## **9.1 General**

- (a) For the purposes of all powers implied by statute, the Secured Liabilities are deemed to have become due and payable on the date of this Deed.
- (b) Section 103 of the Act (restricting the power of sale) and Section 93 of the Act (restricting the right of consolidation) do not apply to this Security.

## **9.2 No liability as mortgagee in possession**

Neither the Trustee nor any Receiver will be liable, by reason of entering into possession of a Security Asset, to account as mortgagee in possession or for any loss on realisation or for any default or omission for which a mortgagee in possession might be liable, including any liability in connection with the Security Assets for:

- (a) any loss on realisation;
- (b) any failure to present any interest coupon or any bond or stock drawn for repayment;
- (c) any failure to pay any call or instalment;
- (d) the acceptance of any offer or the notification of the Chargor of any such offer;
- (e) any failure to ensure that the correct amounts are paid or received in respect of the Security Assets;
- (f) any negligence, omission or default by its nominees; or
- (g) any other loss of any nature whatsoever.

## **9.3 Privileges**

Each Receiver and the Trustee is entitled to all the rights, powers, privileges and immunities conferred by the Act on mortgagees and receivers duly appointed under the Act, except that Section 103 of the Act does not apply.

## **9.4 Protection of third parties**

No person (including a purchaser) dealing with the Trustee or a Receiver or its or his agents will be concerned to enquire:

- (a) whether the Secured Liabilities have become payable;
- (b) whether any power which the Trustee or a Receiver is/are purporting to exercise has become exercisable or is being properly exercised;
- (c) whether any money remains due in respect of the Secured Liabilities;
- (d) how any money paid to a Trustee or to that Receiver is to be applied; or
- (e) about any propriety or regularity on the part of a Trustee or of a Receiver in relation to any of the dealings referred to in this Clause 9.

## **9.5 Redemption of prior mortgages**

- (a) At any time after this Security has become enforceable, the Trustee may:
  - (i) redeem any prior Security Interest against any Security Asset; and/or
  - (ii) procure the transfer of that Security Interest to themselves; and/or



- (iii) settle and pass the accounts of the prior mortgagee, chargee or encumbrancer; any accounts so settled and passed will be, in the absence of manifest error, conclusive and binding on the Chargor.
- (b) The Chargor must pay to the Trustee, immediately on demand, the costs and expenses incurred by the Trustee in connection with any such redemption and/or transfer, including the payment of any principal or interest.

## **9.6 No duties**

Neither the Trustee nor a Receiver shall, in respect of any of the Security Assets, have any duty or incur any liability for:

- (a) ascertaining or taking any action in respect of any calls, instalments, conversions, exchanges, maturities, tenders or other matters relating to any Security Assets or the nature or sufficiency of any payment whether or not the Trustee or a Receiver has or is deemed to have knowledge of such matters; or
- (b) taking any necessary steps to preserve rights against prior parties or any other rights relating to any of the Security Assets.

## **10. RECEIVER**

### **10.1 Appointment of Receiver**

- (a) Except as provided below, the Trustee may appoint any one or more persons to be a Receiver of all or any part of the Security Assets if:
  - (i) this Security has become enforceable; or
  - (ii) the Chargor so requests the Trustee in writing at any time.
- (b) Any appointment under Paragraph (a) above may be by deed, under seal or in writing under its hand.
- (c) Except as provided below, any restriction imposed by law on the right of a mortgagee to appoint a Receiver (including under Section 109(1) of the Act) does not apply to this Deed.
- (d) The Trustee is not entitled to appoint a Receiver solely as a result of the obtaining of a moratorium (or anything done with a view to obtaining a moratorium) under Section 1A of the Insolvency Act 1986.

### **10.2 Removal**

The Trustee may by writing (subject to any requirement for an order of the court in the case of an administrative receiver) remove any Receiver appointed by them and may, whenever they think fit, appoint a new Receiver in the place of any Receiver whose appointment may for any reason have terminated.

### **10.3 Remuneration**

The Trustee may fix the remuneration of any Receiver appointed by them from time to time, the maximum rate specified in Section 109(6) of the Act will not apply and the remuneration

of the Receiver shall be a debt secured by this Deed which shall be due and payable immediately upon its being paid by the Trustee.

#### **10.4 Agent of the Chargor**

- (a) A Receiver will be deemed to be the agent of the Chargor for all purposes and accordingly will be deemed to be in the same position as a Receiver duly appointed by a mortgagee under the Act. The Chargor alone is responsible for the contracts, engagements, acts, omissions, defaults and losses of a Receiver and for liabilities incurred by a Receiver.
- (b) The Trustee will not incur any liability (either to the Chargor or to any other person) by reason of the appointment of a Receiver or for any other reason.

#### **10.5 Relationship with Trustee**

To the fullest extent allowed by law, any right, power or discretion conferred by this Deed (either expressly or impliedly) or by law on a Receiver may after this Security becomes enforceable be exercised by the Trustee in relation to any Security Asset without first appointing a Receiver and notwithstanding the appointment of a Receiver.

### **11. POWERS OF RECEIVER**

#### **11.1 General**

- (a) A Receiver has all of the rights, powers and discretions set out below in this Clause 11 in addition to those conferred on it by any law; this includes all the rights, powers and discretions conferred on a receiver (or a receiver and manager) under the Act and the Insolvency Act 1986.
- (b) If there is more than one Receiver holding office at the same time, each Receiver may (unless the document appointing him states otherwise) exercise all of the powers conferred on a Receiver under this Deed individually and to the exclusion of any other Receiver.

#### **11.2 Possession**

A Receiver may take immediate possession of, get in and collect any Security Asset.

#### **11.3 Carry on business**

A Receiver may carry on any business of the Chargor in any manner he thinks fit.

#### **11.4 Employees**

- (a) A Receiver may appoint and discharge managers, officers, agents, accountants, servants, workmen and others for the purposes of this Deed upon such terms as to remuneration or otherwise as he thinks fit.
- (b) A Receiver may discharge any person appointed by the Chargor.

**11.5 Borrow money**

A Receiver may raise and borrow money either unsecured or on the security of any Security Asset either in priority to this Security or otherwise and generally on any terms and for whatever purpose which he thinks fit.

**11.6 Sale of assets**

- (a) A Receiver may sell, exchange, convert into money and realise any Security Asset by public auction or private contract and generally in any manner and on any terms which he thinks fit.
- (b) The consideration for any such transaction may consist of cash, debentures or other obligations, shares, stock or other valuable consideration and any such consideration may be payable in a lump sum or by instalments spread over any period which he thinks fit.

**11.7 Compromise**

A Receiver may settle, adjust, refer to arbitration, compromise and arrange any claim, account, dispute, question or demand with or by any person who is or claims to be a creditor of the Chargor or relating in any way to any Security Asset.

**11.8 Legal actions**

A Receiver may bring, prosecute, enforce, defend and abandon any action, suit or proceedings in relation to any Security Asset which he thinks fit.

**11.9 Receipts**

A Receiver may give a valid receipt for any moneys and execute any assurance or thing which may be proper or desirable for realising any Security Asset.

**11.10 Subsidiaries**

A Receiver may form a Subsidiary of the Chargor and transfer to that Subsidiary any Security Asset.

**11.11 Delegation**

A Receiver may delegate his powers in accordance with this Deed.

**11.12 Lending**

A Receiver may lend money or advance credit to any customer of the Chargor.

**11.13 Protection of assets**

A Receiver may do any act to protect any Security Asset as he thinks fit.

**11.14 Financial collateral**

- (a) To the extent that the Security Assets constitute "financial collateral" and this Deed and the obligations of the Chargor under this Deed constitute a "security financial collateral arrangement" (in each case for the purpose of and as defined in the

Financial Collateral Regulations) each Receiver and the Trustee shall have the right on and at any time after this Security has become enforceable to appropriate with immediate effect all or any part of that financial collateral in or towards the satisfaction of the Secured Liabilities.

- (b) The value of any Security Asset appropriated under Subparagraph (a) above shall be such amount as the Trustee or Receiver reasonably determines having taken into account advice obtained by it from an independent investment or accountancy firm selected by it, as converted, where necessary, into sterling at a market rate of exchange selected by the Trustee or Receiver as appropriate prevailing at the time of appropriation.
- (c) The Trustee or Receiver, as appropriate, will account to the Chargor for any amount by which the value of the appropriated Security Asset exceeds the Secured Liabilities and the Chargor shall remain liable to the Trustee for any amount by which the value of the appropriated Security Asset is less than the Secured Liabilities.
- (d) The Chargor agrees that the method of valuing the Security Assets under Subparagraph (b) above is commercially reasonable.

#### **11.15 Currency conversion**

For the purpose of, or pending the discharge of, any of the Secured Liabilities a Receiver may convert any monies received, recovered or realised under this Deed (including the proceeds of any previous conversion under this Clause 11) from their existing currencies of denomination into such other currencies of denomination as the Receiver may think fit. Any such conversion shall be effected at the then prevailing spot selling rate of exchange for such currency against the existing currency. Each reference in this Clause 11 to a currency extends to funds of that currency and, for the avoidance of doubt, funds of one currency may be converted into different funds of the same currency.

#### **11.16 Other powers**

A Receiver may:

- (a) do all other acts and things which he may consider desirable or necessary for realising any Security Asset or incidental or conducive to any of the rights, powers or discretions conferred on a Receiver under or by virtue of this Deed or law;
- (b) exercise in relation to any Security Asset all the powers, authorities and things which he would be capable of exercising if he were the absolute beneficial owner of that Security Asset;
- (c) treat any part of the Security Assets consisting of money as if it were the proceeds of a sale or other disposal; and
- (d) use the name of the Chargor for any of the above purposes.

### **12. APPLICATION OF PROCEEDS**

Any moneys received by the Trustee or any Receiver after this Security has become enforceable must be applied in the following order of priority:

- (a) in or towards payment of or provision for all costs and expenses incurred by the Trustee or any Receiver under or in connection with this Deed, of all remuneration due to any Receiver under or in connection with this Deed and the discharge of any liabilities incurred by any Receiver in, or incidental to, the exercise of any of their powers;
- (b) in or towards payment of or provision for the Secured Liabilities; and
- (c) in payment of the surplus (if any) to the Chargor or other person entitled to it.

This Clause 12 is subject to the payment of any claims having priority over this Security. This Clause 12 does not prejudice the right of the Trustee to recover any shortfall from the Chargor.

### **13. EXPENSES AND INDEMNITY**

#### **13.1 Amendment costs**

If the Chargor requests an amendment, waiver or consent, or delivers any Proposals, the Chargor shall, within three (3) Business Days of demand, reimburse the Trustee for the amount of all costs and expenses (including legal fees) reasonably incurred by the Trustee in responding to, evaluating, negotiating or complying with that request or those Proposals.

#### **13.2 Enforcement and preservation costs**

The Chargor shall, within three (3) Business Days of demand, pay to the Trustee the amount of all costs and expenses (including legal fees) incurred by the Trustee in connection with the enforcement of or the preservation of any rights under this Deed or this Security and any proceedings instituted in any jurisdiction by or against the Trustee as a consequence of taking, holding or enforcing this Deed or this Security.

#### **13.3 Stamp taxes and fees**

The Chargor shall pay and, within three (3) Business Days of demand, indemnify the Trustee against any cost, loss or liability that the Trustee incurs in relation to all stamp duty, stamp duty reserve tax, registration and other similar Tax and fees payable in respect of this Deed.

#### **13.4 Chargor default**

The Chargor shall, within three (3) Business Days of demand, indemnify the Trustee against any cost, expense, loss or liability incurred by the Trustee as a result of:

- (a) the occurrence of any Event of Default in relation to the Chargor;
- (b) investigating any event which it reasonably believes is an Event of Default in relation to the Chargor; or
- (c) any default by the Chargor in the performance of any of the obligations expressed to be assumed by it in this Deed.

#### **13.5 Value added taxes**

- (a) Any amount payable under this Deed by the Chargor is exclusive of any value added tax or any other Tax of a similar nature which might be chargeable in connection with that amount. If any such Tax is chargeable, the Chargor must pay to the Trustee (in

addition to and at the same time as paying that amount) an amount equal to the amount of that Tax.

- (b) If the Chargor is required by this Deed to reimburse or indemnify the Trustee for any cost or expense, the Chargor shall reimburse or indemnify (as the case may be) the Trustee for the full amount of such cost or expense, including such part thereof as a value added tax or any other Tax of a similar nature, save to the extent that the Trustee reasonably determine that it is entitled to a credit or repayment in respect of such Tax from the relevant tax authority.

### **13.6 Tax gross-up**

- (a) The Chargor must make all payments to be made by it under this Deed without any Tax Deduction, unless a Tax Deduction is required by law.
- (b) If the Chargor is aware or becomes aware that it must make a Tax Deduction (or that there is a change in the rate or the basis of a Tax Deduction), it must promptly notify the Trustee.
- (c) If a Tax Deduction is required by law to be made by the Chargor or the Trustee, the amount of the payment due from the Chargor will be increased to an amount which (after making the Tax Deduction) leaves an amount equal to the payment which would have been due if no Tax Deduction had been required.
- (d) If the Chargor is required to make a Tax Deduction, the Chargor must make the minimum Tax Deduction required by law and must make any payment required in connection with that Tax Deduction within the time allowed by law.
- (e) Within 30 days of making either a Tax Deduction or a payment required in connection with a Tax Deduction, the Chargor must deliver to the Trustee evidence satisfactory to it (acting reasonably) that the Tax Deduction has been made or (as applicable) the appropriate payment has been paid to the relevant taxing authority.

## **14. DELEGATION**

### **14.1 Power of Attorney**

The Trustee or any Receiver may delegate by power of attorney or in any other manner to any person any right, power or discretion exercisable by them or it under this Deed.

### **14.2 Terms**

Any such delegation may be made upon any terms (including power to sub-delegate) which the Trustee or any Receiver may think fit.

### **14.3 Liability**

Neither the Trustee nor any Receiver will be in any way liable or responsible to the Chargor for any loss or liability arising from any act, default, omission or misconduct on the part of any delegate or sub-delegate.

## **15. FURTHER ASSURANCES**

The Chargor must, at its own expense, take whatever action the Trustee or a Receiver may require for:

- (a) creating, perfecting or protecting any Security Interest intended to be created by this Deed; or
- (b) facilitating the realisation of any Security Asset, or the exercise of any right, power or discretion exercisable, by the Trustee or any Receiver or any of their or its delegates or sub-delegates in respect of any Security Asset.

Including:

- (i) the execution of any transfer, conveyance, assignment or assurance of any property, whether to the Trustee or its nominee; or
- (ii) the giving of any notice, order or direction and the making of any registration,

which, in any such case, the Trustee may think expedient.

## **16. POWER OF ATTORNEY**

The Chargor, by way of security, irrevocably and severally appoints the Trustee, each Receiver and any of the foregoing's delegates or sub-delegates to be its attorney to take any action which the Chargor is obliged to take under this Deed. The Chargor ratifies and confirms whatever any attorney does or purports to do under its appointment under this Clause 16.

## **17. PRESERVATION OF SECURITY**

### **17.1 Continuing security**

This Security is continuing and will extend to the ultimate balance of the Secured Liabilities regardless of any intermediate payment or discharge in whole or in part.

### **17.2 Reinstatement**

- (a) If any discharge, release or arrangement is made by the Trustee in whole or in part on the faith of any payment, security or other disposition which is avoided, set aside, refunded or reduced under any applicable law or proves to have been invalid or must be restored in insolvency, liquidation, administration or otherwise without limitation, the liability of the Chargor under this Deed will continue as if the discharge, release or arrangement had not occurred.
- (b) The Trustee may concede or compromise any claim that any payment, security or other disposition is liable to avoidance or restoration.

### **17.3 Waiver of defences**

The liabilities and obligations of the Chargor under this Deed shall remain in full force and effect and will not be affected by any act, omission, neglect, event or thing which, but for this

provision, would reduce, release or prejudice any of its obligations under this Deed (without limitation and whether or not known to the Chargor or the Trustee) including:

- (a) any time, waiver, consent or other accommodation granted to, or composition with, any person;
- (b) any release of any person under the terms of any composition or arrangement;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any person;
- (d) any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- (e) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any person;
- (f) any amendment, novation, supplement, extension or restatement (however fundamental and whether or not more onerous, and of whatsoever nature) or replacement of this Deed, and Secured Liability or any other document or security, including any agreement or document relating to the Scheme;
- (g) any unenforceability, illegality, invalidity or non-provability of any obligation of any person under this Deed, or any Secured Liability or any other document or security; or
- (h) any insolvency or similar proceedings.

#### **17.4 Chargor intent**

Without prejudice to the generality of Clause 17.3 (Waiver of defences) the Chargor expressly confirms that it intends that this Security shall extend from time to time to any (however fundamental) variation, increase, extension or addition of or to any of the Secured Liabilities.

#### **17.5 Immediate recourse**

The Chargor waives any right it may have of first requiring the Trustee (or any trustee, agent or appointee on its behalf) to proceed against or enforce any other right or security or claim payment from any person before claiming from the Chargor under this Deed. This waiver applies irrespective of any law to the contrary.

#### **17.6 Appropriations**

- (a) The Trustee (or any trustee, agent or appointee on its behalf) may at any time during the Security Period without affecting the liability of the Chargor under this Deed:
  - (i) refrain from applying or enforcing any other moneys, security or rights held or received by the Trustee (or any trustee or agent on its behalf) in respect of those amounts; or



- (ii) apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and the Chargor shall not be entitled to the benefit of the same; and
- (b) hold in an interest bearing suspense account any Net Enforcement Proceeds and any moneys received from the Chargor or on account of the Chargor's liability under this Deed including, without prejudice to the generality of the foregoing, until an Insolvency Event has occurred in relation to any Company.

## **17.7 Non-competition**

Unless:

- (a) the Security Period has expired; or
- (b) the Trustee otherwise directs,

the Chargor will not exercise any rights which it may have by reason of performance by it of its obligations under this Deed or by reason of any amount being payable, or liability arising, under this Deed:

- (i) be subrogated to any rights, security or moneys held, received or receivable by the Trustee;
- (ii) to claim any contribution or indemnity from any other guarantor of any Company's obligations or liabilities to make payments to the Scheme or in respect of any payment made or moneys received on account of the Chargor's liability under this Deed;
- (iii) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Trustee in respect of any Company's obligations or liabilities to make payments to the Scheme, or under or pursuant to any other guarantee or security taken by the Trustee pursuant to or in connection with such obligations or liabilities of any Company;
- (iv) to bring legal or other proceedings for an order requiring any Company to make any payment, or perform any obligation, in respect of any Secured Liability;
- (v) to exercise any right of set-off against any Company; and/or
- (vi) to claim, rank, prove or vote as a creditor of any Company, or its estate in competition with the Trustee (or any trustee or agent on its behalf).

If the Chargor receives any payment, distribution, benefit or security in relation to such rights it shall hold that payment, distribution, benefit or security on trust for the Trustee and immediately pay or transfer the same to the Trustee or in accordance with any directions given by the Trustee.

## **17.8 Additional security**

This Security is in addition to and is not in any way prejudiced or affected by, and shall not merge with any other judgment, guarantee, security, right or remedy now or subsequently

obtained or held by the Trustee for the discharge and performance of any of the Secured Liabilities.

## 18. CHANGES TO THE PARTIES

### 18.1 Assignments and transfers by the Chargor

The Chargor may not assign or transfer any of its rights and obligations under this Deed.

### 18.2 Assignments and transfers by the Trustee

- (a) The Chargor acknowledges that:
  - (i) the rights and obligations of the Trustee under this Deed may be transferred in whole or in part to the Pension Protection Fund as a result of the operation of Section 161 of and Schedule 6 to the Pensions Act 2004; and
  - (ii) the rights and obligations under this Deed shall be binding upon and enure for the benefit of any person who is for the time being a trustee of the Scheme including any person who succeeds or replaces a trustee of the Scheme.
- (b) The Trustee may at any time and from time to time (without consent of or notice to the Chargor) assign and/or transfer any or all of its rights and/or obligations under this Deed to any person or persons.

## 19. AMENDMENTS

- (a) Any amendment of this Deed shall be in writing and signed by, or on behalf of, each Party.
- (b) The Parties may agree any amendments of any kind to this Deed, or to release the Chargor from this Deed, provided any such amendment or release is in writing and signed by, or on behalf of, each Party.

## 20. RELEASE WHERE OVERSECURED

- (a) The Chargor may, only when the value of the Security Assets exceeds £12,000,000 (twelve million pounds sterling), submit to the Trustee a request (the **Release Request**) that some or all of the Security Assets be released from this Security. A Release Request must specify a date (the **Implementation Date**) with effect from which, if approved by the Trustee, the release is to be implemented.
- (b) The Chargor must, at the same time that it submits a Release Request to the Trustee, also provide the Trustee with:
  - (i) an Eligible Valuation in respect of:
    - (A) the assets and liabilities of the Scheme; and
    - (B) the Security Assets; and
  - (ii) evidence of the amount of Deficit-Reduction Contributions made since the date of the most recent Eligible Valuation of the assets and liabilities of the Scheme.

- (c) The Trustee must, subject to Paragraph (e) below, consent to a Release Request to the extent set out in paragraph (d) below if (but only to the extent that) the value of the Security Assets as at the date of that Release Request (as set out in the relevant Eligible Valuation) exceeds the Deemed Value of this Security at that time.
- (d) If the Trustee is satisfied that the value of the Security Assets (as set out in the relevant Eligible Valuation) as at the date of the Release Request exceeds the Deemed Value of this Security at that time then the Chargor and the Trustee shall, to the extent practicable, take whatever action is necessary to release the Security Assets from this Security to the extent that the value of the Security Assets as at the date of the Release Request exceeds the Deemed Value of this Security and provided that after such release, Security Assets to the value of not less than £12,000,000 (twelve million pounds sterling) shall remain in the Account and subject to the Security Interests created by this Deed.
- (e) Paragraphs (c) and (d) above shall not apply if this Security has become enforceable.
- (f) At the end of the Security Period, the Trustee must, at the request and cost of the Chargor, take whatever action is necessary to release the Security Assets from this Security.
- (g) The definitions applicable to this Clause 20, if not found in Clause 1.1, are set out in Schedule 3.

## **21. REMEDIES AND WAIVERS**

No failure to exercise nor any delay in exercising any right or remedy under this Deed against the Chargor shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise, or the exercise of any other right or remedy. The rights and remedies provided are cumulative and not exclusive of any rights or remedies provided by law.

## **22. SET-OFF**

The Trustee may set off any matured obligation owed to it by the Chargor under this Deed (to the extent beneficially owned by the Trustee) against any obligation (whether or not matured) owed by the Trustee to the Chargor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Trustee may convert either obligation at a market rate of exchange selected by it (acting reasonably) for the purpose of the set-off.

## **23. SEVERABILITY, REMEDIES AND WAIVERS**

- (a) If a term of this Deed is or becomes illegal, invalid or unenforceable in any respect in any jurisdiction, that shall not affect:
  - (i) the legality, validity or enforceability in that jurisdiction of any other term of this Deed; or
  - (ii) the legality, validity or enforceability in other jurisdictions of that or any other term of this Deed.
- (b) No failure to exercise, nor any delay in exercising, on the part of the Trustee, any right or remedy under this Deed shall operate as a waiver of any such right or remedy

or constitute an election to affirm this Deed. No election to affirm this Deed on the part of the Trustee shall be effective unless it is in writing. No single or partial exercise of any right or remedy shall prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Deed are cumulative and not exclusive of any rights or remedies provided by law.

## **24. COUNTERPARTS**

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

## **25. CERTIFICATES AND DETERMINATIONS**

Any certification or determination by the Trustee of an amount under this Deed is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

## **26. NOTICES**

### **26.1 In writing**

- (a) Any communication in connection with this Deed must be in writing and, unless otherwise stated, may be given in person, by post or email.
- (b) Unless it is agreed to the contrary, any consent or agreement required under this Deed must be given in writing.

### **26.2 Contact details**

- (a) The contact details of the Chargor for this purpose are:

Address: 71 Great Peter Street, London SW1P 2BN  
 Email: [ssamuels@smt.co.uk](mailto:ssamuels@smt.co.uk) and [gbland@smt.co.uk](mailto:gbland@smt.co.uk)  
 Attention: Samuel Sefton and Geoff Bland.

- (b) The contact details of the Trustee are:

Address: Independent Trustee Services Limited,  
 4<sup>th</sup> Floor, Cannon Place, London, EC4N 6HL  
 Email: [Dinesh\\_Visavadia@itslimited.org.uk](mailto:Dinesh_Visavadia@itslimited.org.uk)  
 Attention: Dinesh Visavadia.

### **26.3 Effectiveness**

- (a) Except as provided below, any communication in connection with this Deed will be deemed to be given as follows:
  - (i) if delivered in person, at the time of delivery;
  - (ii) if posted, five days after being deposited in the post, postage prepaid, in a correctly addressed envelope; and
  - (iii) if by email, when received in legible form.

- (b) A communication given under Paragraph (a) above but not received on a Business Day or after 5 p.m. on a Business Day will only be deemed to be given on the next Business Day.

## **27. LANGUAGE**

Any notice given in connection with this Deed must be in English.

## **28. GOVERNING LAW**

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

## **29. ENFORCEMENT**

### **29.1 Jurisdiction**

- (a) The English courts have non-exclusive jurisdiction to settle any dispute in connection with this Deed (including a dispute relating to the existence, validity or termination of this Deed or any non-contractual obligation arising out of or in connection with this Deed).
- (b) The Parties agree that the English courts are the most appropriate and convenient courts to settle any such dispute and accordingly no Party will argue to the contrary.
- (c) Notwithstanding Paragraph (a) above, the Trustee shall not be prevented from taking proceedings relating to any such dispute in any other courts with jurisdiction. To the extent allowed by law, the Trustee may take concurrent proceedings in any number of jurisdictions.

### **29.2 Waiver of immunity**

The Chargor irrevocably and unconditionally:

- (a) agrees not to claim any immunity from proceedings brought by the Trustee against it in relation to this Deed and to ensure that no such claim is made on its behalf;
- (b) consents generally to the giving of any relief or the issue of any process in connection with those proceedings;
- (c) waives generally all immunity it or its assets or revenues may otherwise have in any jurisdiction, including immunity in respect of:
  - (i) the giving of any relief by way of injunction or order for specific performance or for the recovery of assets or revenues; and
  - (ii) the issue of any process against its assets or revenues for the enforcement of a judgment or, in an action in rem, for the arrest, detention or sale of any of its assets and revenues; and
- (d) agrees that in any proceedings in England this waiver shall have the fullest scope permitted by the English State Immunity Act 1978 and that this waiver is intended to be irrevocable for the purposes of the English State Immunity Act 1978.

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

**SCHEDULE 1****COMPANIES**

<b>Company name</b>	<b>Registration number</b>	<b>Address</b>
The Society of Motor Manufacturers and Traders Limited	00074359	71 Great Peter Street,  London SW1P 2BN
Odette International Limited	04039150	71 Great Peter Street,  London SW1P 2BN
SMMT Industry Forum Limited	08229698	71 Great Peter Street,  London SW1P 2BN

## SCHEDULE 2

### FORMS OF NOTICE FOR ACCOUNT MANAGER

#### PART 1

#### NOTICE TO ACCOUNT MANAGER

**[On the letterhead of the Chargor]**

To: *[Account Manager]*

*[Date]*

Dear Sirs,

**Security Agreement dated [●] between [Chargor]  
and [●] and [●] as Trustee of the [● pension scheme] (the Security Document)**

- (a) This letter constitutes notice to you that under the Security Document we have:
- (i) charged (by way of first fixed charge) in favour of SMMT Corporate Board Trustee Limited as Trustee of the S.M.M.T Pension and Death Benefits Scheme and any other person or persons who is or are for the time being a trustee of the S.M.M.T Pension and Death Benefits Scheme (the **Trustee**) all of our present and future claims, rights, title and interest in or to, or in respect of:
    - (A) the securities account ( [REDACTED] ) held with, and maintained in England and Wales by, you by us pursuant to the Agreement (as defined below) (as may be renumbered at any time, and together with any sub-account or replacement account thereof, and together with any cash account linked to such securities account into which any income arising from those securities may be deposited or held (the **Account**); and
    - (B) any securities (the **Securities**) and cash at any time held in the Account; and
  - (ii) assigned by way of security to the Trustee all of our rights, title and interest in and to the agreement dated *[insert date]* between us and you (the **Agreement**), all rights and remedies in connection with the Agreement and any proceeds and claims arising from it our rights, title and interest in respect of the Agreement.
- (b) We confirm that:
- (i) we will remain liable under the Agreement to perform all the obligations assumed by us under the Agreement;
  - (ii) none of the Trustee, its agents, any receiver or any other person will at any time be under any obligation or liability to you under or in respect of the Agreement, the Securities or the Account;
  - (iii) other than as set out in paragraph (e)(i) below, we remain entitled to exercise all our rights, powers and discretions under or in relation to the Agreement, the Securities or the Account (including the right to receive any income or cash referred to in paragraph (d)(i) below provided that at the time of and immediately following such



payment the value of the Securities in the Account is not less than £12,000,000 and you should continue to give notices under the Agreement to us, unless and until you receive notice from the Trustee to the contrary stating that the security constituted by the Security Document has become enforceable. In this event, all the rights, powers and discretions will be exclusively exercisable by, and notices must be given to, the Trustee or as it directs (to our exclusion and to the exclusion of any directions given at any time by us); and

- (iv) we have agreed that we will not amend or waive any provision of or terminate the Agreement or close the Account without the prior consent of the Trustee.
- (c) We irrevocably instruct and authorise you to disclose to the Trustee any information relating to the Agreement, the Account or the Securities requested from you by the Trustee.
- (d) We confirm that after you have received notice from the Trustee that the security constituted by the Security Document has become enforceable:
  - (i) you shall not pay over to us any dividend, interest or other distribution or income of any kind paid or payable at any time in relation to any of the Securities or pay us any cash held in the Account;
  - (ii) the Trustee may exercise any voting rights and any powers or rights which may be exercised by the legal or beneficial owner of any Securities, any person who is the holder of any Securities or otherwise;
  - (iii) you shall not act upon any instruction received from us without the prior consent of the Trustee; and
  - (iv) all sums payable by you to us under the Agreement or in respect of the Securities or the Account shall be only released in accordance with the written instructions of the Trustee.
- (e) We hereby notify you that:
  - (i) notwithstanding paragraph (d) above, we are only permitted to withdraw Securities from the Account with the prior written consent of the Trustee; and
  - (ii) you are and will at all times be permitted to assume and rely upon the correctness of anything communicated to you by the Trustee including, without limitation, statements that the security constituted by the Security Document has become enforceable.
- (f) We acknowledge that you may comply with the instructions in this letter without any further permission from us.
- (g) We agree that you shall have no liability for any obligations of any party under the Security Agreement. Other than observing the requirements of this notice your only obligation is to comply with the terms of the Account Agreement within its terms.
- (h) The instructions in this letter may not be revoked or amended without the prior written consent of the Trustee.
- (i) This letter and any non-contractual obligations arising out of or in connection with it are governed by English law.

Please confirm your agreement to the above by signing the attached acknowledgement and returning it to the Trustee at [●] with a copy to ourselves.

Yours faithfully,

.....  
(Authorised Signatory)  
[Chargor]

**PART 2****ACKNOWLEDGEMENT OF ACCOUNT MANAGER****[On the letterhead of the Account Manager]**

To: [●] and [●] as Trustee of the [● pension scheme] and any other person or person who is or are for the time being a trustee of the [● pension scheme]

Copy: [Chargor]

[Date]

Dear Sirs,

**Security Agreement dated [●] between [Chargor]  
and [●] and [●] as Trustee of the [● pension scheme] (the Security Document)**

- (a) We confirm receipt from [Chargor] (the **Chargor**) of a notice dated [●](the **Notice**) of:
- (i) a charge upon the terms of the Security Document over all of the Chargor's present and future claims, rights, title and interest in or to, or in respect of the Account (as defined in the Notice), the Securities (as defined in the Notice) and any cash held at any time in the Account; and
  - (ii) an assignment on the terms of the Security Document of all the Chargor's rights, title and interest in and to the Agreement (as defined in the Notice), all rights and remedies in connection with the Agreement and any proceeds and claims arising from it the Chargor's rights, title and interest in respect of the Agreement.
- (b) We confirm that we:
- (i) accept the instructions contained in the Notice and agree to comply with the Notice;
  - (ii) have not received notice of the interest of any third party in the Agreement, the Account, the Securities or such cash;
  - (iii) will not permit any of the Securities to be disposed of, or withdrawn from the Account, without your prior written consent;
  - (iv) will pay all sums due, and give notices, under the Agreement as directed in that Notice;
  - (v) will not amend or waive any provision of the Agreement without the prior consent of the Trustee; and
  - (vi) will not terminate the Agreement or close the Account without giving 30 days prior written notice to the Trustee.
- (c) We confirm our address for notices is as set out below.

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

Yours faithfully,

.....  
(Authorised signatory)  
[Account Manager]

Address for notices:

[•]

### SCHEDULE 3

#### RELEASE WHERE OVERSECURED

#### DEFINED TERMS

#### 1. Definitions

**Deemed Value** as at a Measurement Date means:

- (a) in respect of a Pension Protection Fund Recognised Arrangement which provides for a person to enter into a guarantee (other than a bank guarantee or letter of credit issued by a Regulated Entity) or for security to be granted, in each case in favour of the Trustee, the amount set opposite the description of that arrangement in the table below or (in the case of security only) the value of the assets which are subject to that security as set out in the most recent Eligible Valuation of those assets, if lower:

Description of arrangement	Deemed Value
Guarantee or security where the liability of the guarantor or chargor, or the amount recoverable from the guarantor or chargor (or the charged assets), is expressed to be limited to a fixed amount (and where a distinction is made between pre-insolvency and post-insolvency recoveries, the fixed amount associated with post-insolvency recoveries shall be relevant).	That fixed amount.
Guarantee or security where the liability of the guarantor or chargor, or the amount recoverable from the guarantor or chargor (or the charged assets), is expressed to be limited to either (A) an amount equal to the sum which, if added to the assets of the Scheme, would (on a specified date) result in the Scheme being funded to at least a specified percentage, calculated on the basis set out in Section 179 of the Pensions Act 2004, were a valuation on that basis to be conducted on or as at that date or to (B) the lower of the amount referred to in (A) and a fixed amount ("F") (and where a distinction is made between pre-insolvency and post-insolvency recoveries, (F) shall be the fixed amount associated with post-insolvency.)	The amount equal to the sum which, if added to the assets of the Scheme, would (on the Measurement Date) result in the Scheme being funded to at least that percentage, calculated on the basis set out in Section 179 of the Pensions Act 2004, based on the assets and liabilities of the Scheme as set out in the most recent Eligible Valuation prior to the Measurement Date and adding any Eligible Deficit-Reduction Contributions as at that Measurement Date or, where (B) applies, the lower of such amount and F.

<p>Guarantee or security where the liability of the guarantor or chargor, or the amount recoverable from the guarantor or chargor (or the charged assets), is expressed to be limited to either (A) an amount equal to the entire aggregate liability (on a specified date) of every employer (within the meaning set out in Section 318 of the Pensions Act 2004 and regulations made thereunder) in relation to the Scheme, were a debt under Section 75 of the Pensions Act 1995 to have become due on that date or to (B) the lower of the amount referred to in (A) and a fixed amount ("F") (and where a distinction is made between pre-insolvency and post-insolvency recoveries, (F) shall be the fixed amount associated with post-insolvency.).</p>	<p>The amount equal to the sum which, if added to the assets of the Scheme, would (on the Measurement Date) result in the Scheme being funded to at least 125 per cent., calculated on the basis set out in Section 179 of the Pensions Act 2004, based on the assets and liabilities of the Scheme as set out in the most recent Eligible Valuation prior to the Measurement Date and adding any Eligible Deficit-Reduction Contributions as at that Measurement Date or, where (B) applies, the lower of such amount and F.</p>
--	---

- (b) in respect of a Pension Protection Fund Recognised Arrangement which is a letter of credit or a bank guarantee issued by a Regulated Entity the undrawn and unexpired portion of that letter of credit or bank guarantee; or
- (c) if this Deed is deemed not to be or for whatever reason is not or ceases to be a Pension Protection Fund Recognised Arrangement, the Deemed Value shall be £12,000,000.

**Deficit-Reduction Contributions** means deficit-reduction contributions made to the Scheme calculated on the basis specified by the Pension Protection Fund in its most recently published policies.

**Eligible Deficit-Reduction Contributions** as at a Measurement Date means any Deficit-Reduction Contributions made or to be made to the Scheme between:

- (a) the date of the most recent Eligible Valuation prior to the Measurement Date; and
- (b) the Measurement Date, provided that:
  - (i) the Eligible Deficit-Reduction Contributions as at a Reference Date shall only include Deficit-Reduction Contributions which were validly certified to the Pension Protection Fund in accordance with its policies no later than six (6) days after that Reference Date; and
  - (ii) the Eligible Deficit-Reduction Contributions as at an Implementation Date shall comprise all Deficit-Reduction Contributions certified by the Scheme Actuary in a statement as to the amount of such contributions which qualify as Deficit-Reduction Contributions.

**Eligible Valuation** means:

- (a) in relation to the assets or liabilities of the Scheme, either:

- (i) a valuation of those assets and liabilities carried out on the basis set out in Section 179 of the Pensions Act 2004 and which has been provided to the Pension Protection Fund in accordance with Section 179 of the Pensions Act 2004; or
  - (ii) a statement provided to the Trustee by the Scheme Actuary, setting out prudent approximations of the asset and liability figures which would have resulted if the Scheme Actuary had conducted a valuation on the basis set out in Section 179 of the Pensions Act 2004 as at a specific date; and
- (b) in relation to an asset charged in favour of the Trustee, a valuation of that asset which complies with all requirements published by the Pension Protection Fund (whether in relation to the date or method of the valuation or otherwise) for the recognition of security over such an asset for the purposes of calculating the risk-based levy in accordance with Part 2 of the Pensions Act 2004 and which has been certified to the Pension Protection Fund in accordance with those requirements,

and references to "the most recent Eligible Valuation prior to" a date shall mean the Eligible Valuation which was so provided or certified on or prior to, and whose effective date is closest to, that date.

**Measurement Date** means the date on which any of the variables in this Schedule is measured.

**Pension Protection Fund Recognised Arrangement** means an arrangement constituted by an agreement in Pension Protection Fund Standard Form which satisfies all criteria specified by the Pension Protection Fund for recognition as a contingent asset for the purposes of calculating the risk-based levy in accordance with Part 2 of the Pensions Act 2004 and which has been the subject of a valid certification to the Pension Protection Fund in Pension Protection Fund Standard Form.

**Pension Protection Fund Standard Form** means, in relation to an agreement or a certificate, the standard form of that agreement or certificate most recently published by the Pension Protection Fund prior to the date on which that agreement was entered into or that certificate was given.

**Reference Date** means the 1 April immediately preceding any Implementation Date.

**Regulated Entity** means an entity which satisfies all criteria specified by the Pension Protection Fund for the issuer of a letter of credit or bank guarantee which will be recognised as a contingent asset for the purposes of calculating the risk-based levy in accordance with Part 2 of the Pensions Act 2004.

**Scheme Actuary** means the actuary to the Scheme.

SIGNATORIES

Chargor

Executed as a deed by )  
**THE SOCIETY OF MOTOR** )  
**MANUFACTURERS AND TRADERS** )  
**LIMITED** )  
on being signed by: )  
Darren Morris )  
and Mike Hawes )

DocuSigned by:  
22265A70880049A...  
Director

DocuSigned by:  
AFB53D6016464C7...  
Director/Secretary

Executed as a deed by **DINESH VISAVADIA** )  
duly authorised by )  
**INDEPENDENT TRUSTEE SERVICES** )  
**LIMITED** to sign on its behalf as director and )  
**ROBERT ASSINDER** a director of )  
**SMMT CORPORATE TRUSTEE BOARD** )  
**LIMITED** )

DocuSigned by:  
AEBFE3F73A3D484...  
On behalf of Director  
Dinesh Visavadia

DocuSigned by:  
63947677FCEE414...  
Director  
Robert Assinder