

# MR01

## Particulars of a charge



Companies House

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

☒ **What this form is NOT for**  
You may not use this form to  
register a charge where there is no  
instrument Use form MR08

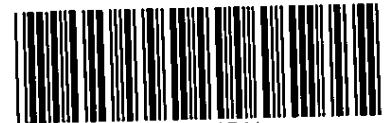
For further information, please  
refer to our guidance at  
[www.companieshouse.gov.uk](http://www.companieshouse.gov.uk)  
COMPANIES HOUSE

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



You must enclose a certified copy of the instrument with this form. This will  
be scanned and placed on the public record

FRIDAY



\*R38Z5KGA\*

RCS

30/05/2014

#10

### 1 Company details

Company number 00901522

Company name in full R&R Ice Cream UK Limited

15 For official use

→ Filing in this form  
Please complete in typescript or in  
bold black capitals

All fields are mandatory unless  
specified or indicated by \*

### 2 Charge creation date

Charge creation date 14/05/2014

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

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

Name Barclays Bank PLC

Name

Name

Name

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

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

# MRO1

## Particulars of a charge

|             |   |  |
|-------------|---|--|
| <b>4</b>    | <b>Description</b>  |  |
|             | Please give a short description of any land (including buildings), ship, aircraft or intellectual property registered (or required to be registered) in the UK which is subject to this fixed charge or fixed security  | <b>Continuation page</b><br>Please use a continuation page if you need to enter more details |
| Description | <p>Freehold interests in the real estate listed in Schedule 2 of the enclosed certified copy of the Supplemental Debenture, including, but not limited to, Land at Leeming Bar Industrial Estate, Leeming Bar, Northallerton (for more details please refer to the certified copy of the Supplemental Debenture)</p> <p>Intellectual property listed in Schedule 3 of the enclosed certified copy of the Supplemental Debenture, including, but not limited to, the Kelly's &amp; Device, Spoony's Device and ZZAPP trademarks (for more details please refer to the certified copy of the Supplemental Debenture)</p> <p>For full details, please refer to the certified copy of the Supplemental Debenture dated 14 May 2014 between, amongst others, R&amp;R Ice Cream PLC and R&amp;R Ice Cream UK Limited (the "Chargors") and Barclays Bank PLC (the "Security Trustee") attached</p> |  |
| <b>5</b>    | <b>Fixed charge or fixed security</b>   |  |
|             | <p>Does the instrument include a fixed charge or fixed security over any tangible or intangible (or in Scotland) corporeal or incorporeal property not described above? Please tick the appropriate box</p> <p><input checked="" type="checkbox"/> <b>Yes</b></p> <p><input type="checkbox"/> <b>No</b></p>   |  |
| <b>6</b>    | <b>Floating charge</b>  |  |
|             | <p>Is the instrument expressed to contain a floating charge? Please tick the appropriate box</p> <p><input checked="" type="checkbox"/> <b>Yes</b> Continue</p> <p><input type="checkbox"/> <b>No</b> Go to <b>Section 7</b></p> <p>Is the floating charge expressed to cover all the property and undertaking of the company?</p> <p><input checked="" type="checkbox"/> <b>Yes</b></p>  |  |
| <b>7</b>    | <b>Negative Pledge</b>  |  |
|             | <p>Do any of the terms of the charge prohibit or restrict the chargor from creating any further security that will rank equally with or ahead of the charge? Please tick the appropriate box</p> <p><input checked="" type="checkbox"/> <b>Yes</b></p> <p><input type="checkbox"/> <b>No</b></p>  |  |

MR01

Particulars of a charge

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**Trustee statement <sup>①</sup>**

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

☐

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

9

**Signature**

Please sign the form here

Signature

Signature

X *Richard & Ellis International*  
*LTD*

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

# MRO1

## Particulars of a charge



### Presenter information

We will send the certificate to the address entered below. All details given here will be available on the public record. You do not have to show any details here but, if none are given, we will send the certificate to the company's Registered Office address.

Contact name **Kaiwen Zeng**

Company name **Kirkland & Ellis International LLP**

Address **30 St Mary Axe**

Post town **London**

County/Region

Postcode **E C 3 A 8 A F**

Country

DX

Telephone **020 7469 2461**



### Certificate

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



### Checklist

**We may return forms completed incorrectly or with information missing**

**Please make sure you have remembered the following:**

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



### Important information

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



### How to pay

**A fee of £13 is payable to Companies House in respect of each mortgage or charge filed on paper**

Make cheques or postal orders payable to 'Companies House'



### Where to send

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

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

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

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



### Further information

For further information, please see the guidance notes on the website at [www.companieshouse.gov.uk](http://www.companieshouse.gov.uk) or email [enquiries@companieshouse.gov.uk](mailto:enquiries@companieshouse.gov.uk)

**This form is available in an alternative format. Please visit the forms page on the website at [www.companieshouse.gov.uk](http://www.companieshouse.gov.uk)**



**FILE COPY**

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

Company number: 901522

Charge code: 0090 1522 0015

The Registrar of Companies for England and Wales hereby certifies that a charge dated 14th May 2014 and created by R&R ICE CREAM UK LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 30th May 2014

P.

Given at Companies House, Cardiff on 2nd June 2014



**Companies House**



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

**Execution Version**

**Dated** 14 May 2014

**THE CHARGING COMPANIES LISTED IN SCHEDULE 1 TO THIS DEBENTURE**  
as the Chargors

**and**

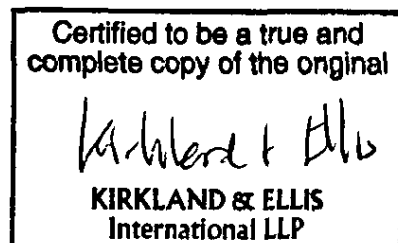
**BARCLAYS BANK PLC**  
as Security Trustee

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**SUPPLEMENTAL DEBENTURE**

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This debenture is subject to the terms  
of the Intercreditor Deed (as defined herein)



*Kirkland & Ellis International LLP*

*except for material related  
pursuant to S 859C Companies  
Act 2006*

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**THIS DEED** is dated 14 May 2014

**BETWEEN:**

- (1) **THE COMPANIES** listed in Schedule 1 (*The Chargors*) as (the “**Chargors**”), and
- (2) **BARCLAYS BANK PLC** as security trustee for itself and the other Secured Parties (defined below) (the “**Security Trustee**”)

**RECITALS:**

- (1) This deed is supplemental to a debenture dated 5 November 2010 between R&R Ice Cream plc, R&R Ice Cream UK Limited, Richmond Foods Limited, Ruby Acquisitions Limited and Kelly’s of Cornwall Limited, each as a Chargor, and Barclays Bank PLC as Security Trustee (each as defined therein) and to which Fredericks Holdings Limited acceded to as a New Chargor (as defined therein) pursuant to a security accession deed dated 22 August 2013 between Fredericks Holdings Limited as New Chargor and Barclays Bank PLC as Security Trustee (as defined therein) (together, the “**Original Debenture**”)

**BACKGROUND:**

- (A) The Parent wishes to issue Senior Secured Notes (defined below) on the terms and subject to the conditions set out in the Senior Secured Notes Indenture (defined below)
- (B) It is a condition precedent to the issuance of the Senior Secured Notes pursuant to the Senior Secured Notes Indenture that the Chargors shall have executed and delivered this Debenture
- (C) The Security Trustee holds the benefit of this Debenture on trust for itself and the other Secured Parties (defined below) on the terms and conditions of the Intercreditor Deed (defined below)

**IT IS AGREED** as follows

**1. DEFINITIONS AND INTERPRETATION**

**1.1 Definitions:** In this Deed:

“**Account Bank**” means any bank or financial institution with which a Chargor maintains a bank account,

“**Additional Senior Secured Notes Debt Instrument**” has the meaning given that term in the Intercreditor Deed,

“**Administrator**” means an administrator appointed under Schedule B1 of the Insolvency Act 1986,

**“Bank Account”** means any account with any bank or financial institution in which any Chargor now or in the future has an interest including any replacement or substitute account or subdivision or sub-account of that account and to the extent of such interest, all credit balances now or in the future on such accounts and all Related Rights,

**“Charged Assets”** means the assets and undertakings from time to time which are the subject of any Security created or purported to be created by or pursuant to this Deed and, where the context permits, the proceeds of sale of such assets,

**“Charged Investments”** means Investments forming part of the Charged Assets,

**“Charged Real Property”** means all Real Property forming part of the Charged Assets and any buildings, fixtures, fittings, fixed plant or machinery from time to time situated on or forming part of such Real Property and all Related Rights,

**“Charges”** means Security from time to time created or expressed to be created by or pursuant to this Deed,

**“Chargors”** means the companies detailed in Schedule 1 (*The Chargors*) and any Group Company which accedes to this Deed pursuant to Clause 21 (*Assignment and Transfer and New Chargors*),

**“Debtors”** means (i) Borrowers and the Guarantors (each as defined in the Senior Revolving Facility Agreement), and any Subsidiary which has granted security in respect of the Secured Documents, and (ii) the Issuer and the Guarantors (each as defined in the Senior Secured Notes Indenture);

**“Declared Default”** means:

- (a) an Event of Default which is continuing in respect of which a notice of the exercise of the remedies has been served under clause 28 15 (*Acceleration*) of the Senior Revolving Facility Agreement, or
- (b) an event of default under the Senior Secured Notes Indenture in respect of which a notice of the exercise of the remedies has been served under the terms of the Original Senior Secured Notes Indenture or any Additional Senior Secured Notes Indenture or following which automatic acceleration of the Senior Secured Notes has occurred

**“Delegate”** means a delegate, sub-delegate, attorney or co-trustee appointed, directly or indirectly, pursuant to Clause 9 3 (*Delegation*),

**“Derivative Rights”** include:

- (a) all rights relating to Investments which are deposited with or registered in the name of any Security Trustee, depositary, custodian, nominee, fiduciary, investment manager or clearing system or other similar person or its nominee, in

each case whether or not on a fungible basis (including rights against such person), and

- (b) all other rights or cash or other assets attaching or relating to or accruing or offered on or deriving now or subsequently from Investments or from such rights (whether by way of redemption, conversion, exercise of option rights, substitution, exchange, preference, bonus or otherwise),

**“Facility Agent”** means the Agent as defined in and under the terms of the Senior Revolving Facility Agreement,

**“Fixtures”** means trade and other fixtures and fittings and fixed plant, machinery and other apparatus;

**“Hedging Agreement”** has the meaning given that term in the Intercreditor Deed,

**“Insurance Policy”** means any contract or policy of insurance (including life insurance or assurance) in which any Chargor may from time to time have an interest as a beneficiary under its terms,

**“Intellectual Property”** means all patents, trademarks, service marks, brand and business names, copyrights (including any rights in computer software), design rights, registered designs, moral rights, inventions (including any software), topography and similar rights, database rights, domain name rights, confidential information, know-how and all other intellectual property rights and interests (whether or not registered) (including, without limitation, all scheduled intellectual property) and the benefit of all applications and rights to use such assets and all Related Rights,

**“Intercreditor Deed”** means an intercreditor deed dated 5 November 2010 as amended on 9 May 2013 and as amended and restated on or around the date hereof and made between, *inter alios*, the Security Trustee, the Senior Revolving Facility Agent, the Parent, the Senior Revolving Facility Lenders (each as defined therein) and the Senior Secured Notes Trustee (as amended, restated, supplemented, acceded to and/or waived from time to time),

**“Investments”** means

- (a) any shares, stocks, debentures, certificates of deposit, securities, bonds or other securities,
- (b) all interests in collective investment schemes, and
- (c) all warrants, options and other rights to subscribe or acquire any investment referred to in paragraph (a) or (b),

including, without limitation, the Scheduled Investments, in each case whether held directly by the Chargor or by any security trustee, security agent, finance party, depositary, custodian, nominee, fiduciary, investment manager or clearing system on its

behalf and all Related Rights (including all rights against such person) and all Derivative Rights,

**“LPA”** means the Law of Property Act 1925,

**“Monetary Claims”** means any book and other debts and monetary claims owing to any Chargor and any proceeds of such debts and claims (including any claims or sums of money deriving from or in relation to any Intellectual Property, any Investment, any claim, return of premium or the proceeds paid or payable in respect of any Insurance Policy, any court order or judgment, any contract or agreement to which any Chargor is a party and any other assets, property, rights or undertaking of any Chargor, but excluding the Bank Accounts),

**“Nestlé Licence”** means the Licence granted to the Parent by Nestlé UK Ltd dated 11 September 2001 (as may be amended and/or restated or varied from time to time);

**“Non Priority Hedging Liabilities”** has the meaning given that term in the Intercreditor Deed,

**“Notice of Document Assignment”** means a notice of assignment in the form set out in Part 1 (*Form of Notice of Assignment of Relevant Document*) of SCHEDULE 8 (*Notices of Assignment*) or such other form as the Security Trustee may approve, acting reasonably,

**“Notice of Insurance Assignment”** means a notice of assignment in the form set out in Part 2 (*Form of Notice of Assignment to Insurers*) of SCHEDULE 8 or such other form as the Security Trustee may approve, acting reasonably,

**“Parent”** means R&R Ice Cream plc (with company registration number 05777981),

**“Personal Chattels”** means plant, machinery, office equipment, computers, vehicles, goods and other chattels (including all spare parts, replacements, modifications and additions) but not Fixtures on Real Property charged under Clause 3 2(a) (*Real Property*) or stock in trade or work in progress and all Related Rights,

**“Planning Acts”** means the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Planning (Hazardous Substances) Act 1990, the Planning (Consequential Provisions) Act 1990, the Planning and Compensation Act 1991, the Planning and Compulsory Purchase Act 2004 and any re-enactment, variation or modification of any of them and any orders, regulations or permissions made, issued or granted under or by virtue of the foregoing Acts or any of them,

**“Real Property”** means freehold, leasehold or immoveable property anywhere in the world (including, without limitation, the Scheduled Real Property) and any buildings, fixtures, fittings, fixed plant or machinery from time to time situated on or forming part of such property, and includes all Related Rights,

**“Receiver”** means a receiver, receiver and manager or other receiver appointed in respect of the Charged Assets by the Security Trustee pursuant to this Deed or otherwise,

**“Related Rights”** means, in relation to any asset

- (a) the proceeds of sale of any part of that asset,
- (b) all rights under any licence, agreement for sale or agreement for lease in respect of that asset,
- (c) all rights, powers, benefits, claims, contracts, warranties, negotiable instruments, remedies, Security, guarantees, indemnities or covenants for title in respect of that asset, and
- (d) any moneys and proceeds paid or payable in respect of that asset, “Release Date” has the meaning ascribed thereto in Clause 16 11 (*Final Redemption*),

**“Relevant Account”** means the Scheduled Bank Accounts (and any renewal or redesignation of any such account) and any other Bank Account that may from time to time be identified in writing as a Relevant Account by the Security Trustee and any Chargor (and any replacement or substitute account or any subdivision or sub account of such account),

**“Relevant Documents”** means the documents specified in SCHEDULE 9 (*Relevant Documents*),

**“Scheduled Bank Accounts”** means the Bank Accounts described in SCHEDULE 5 (*Details of the Scheduled Bank Accounts*),

**“Scheduled Intellectual Property”** means the Intellectual Property described in SCHEDULE 3 (*Details of the Scheduled Intellectual Property*),

**“Scheduled Investments”** means the Investments described in SCHEDULE 4 (*Details of the Scheduled Investments*),

**“Scheduled Real Property”** means the Real Property described in SCHEDULE 2 (*Details of the Scheduled Real Property*) and all Related Rights;

**“Secured Documents”** means, together, the Senior Revolving Facility Finance Documents, the Senior Secured Notes Documents and the Second Lien Debt Documents and **“Secured Document”** shall mean any one of them,

**“Secured Liabilities”** means all present and future obligations and other liabilities of any nature, whether actual, contingent or limited, of the Debtors (or any of them) which are or become due, owing or incurred under or in connection with the Secured Documents, to the Security Trustee (in any capacity whatsoever) and/or the Secured Parties and/or any Receiver or any legal successor (including by way of transfer or assignment) of the Security Trustee and/or any Secured Party and/or any Receiver (including, without

limitation, under or in relation to any amendments, supplements, new or increased advances or utilisations, extensions (whether of maturity or otherwise), replacements and/or restatements (however fundamental and of whatsoever nature and whether or not more onerous) of any of the Secured Documents), whether incurred solely or jointly and/or severally and whether as principal or surety or in any other capacity whatsoever, in any currency or currencies, including all interest accruing thereon, after as well as before judgment, and all costs, charges and expenses (to the extent payable by the relevant Debtor pursuant to the terms of the Secured Documents) incurred in connection therewith except for any liabilities which, if they did constitute part of the Secured Liabilities, would result in this Deed contravening section 678 or 679 of the Companies Act 2006 and **"Secured Liability"** shall be construed accordingly,

**"Secured Parties"** has the meaning given to that term in the Intercreditor Deed,

**"Security"** means "Security" as defined in the Senior Revolving Facility Agreement and **"Lien"** as defined in the Senior Secured Notes Indenture;

**"Security Accession Deed"** means a deed of accession to this Deed in such form as the Security Trustee and the Debtors' Agent may agree,

**"Security Trustee"** means Barclays Bank PLC as Security Trustee for the Secured Parties appointed pursuant to clause 16 (*The Security Trustee*) of the Intercreditor Deed or any other person appointed as Security Trustee pursuant to the terms of the Intercreditor Deed,

**"Senior Revolving Facility Agreement"** means the senior revolving credit facility agreement dated 25 October 2010 as amended and restated on 5 November 2010, as amended on 30 March 2012, 26 April 2013 and pursuant to an amendment letter dated 2 May 2014 and made between, among others, R&R Ice Cream plc as Parent, Barclays Capital, the investment banking division of Barclays Bank PLC, Credit Suisse International and HSBC Bank PLC as arrangers, Barclays Bank PLC as Agent and Security Trustee and the Original Lenders (as each term is defined therein) (as amended, amended and restated, acceded to and/or supplemented from time to time),

**"Senior Revolving Facility Finance Documents"** has the meaning given to that term in the Intercreditor Deed and includes any Hedging Agreement to the extent that it is in respect of Priority Hedging Liabilities,

**"Senior Secured Noteholders"** means the holders from time to time of the Senior Secured Notes,

**"Senior Secured Notes"** has the meaning given that term in the Intercreditor Deed,

**"Senior Secured Notes Documents"** means the Senior Secured Notes Indenture, the Senior Secured Notes, the Senior Secured Notes Security, the Senior Secured Notes Guarantees, any Hedging Agreement to the extent that it is in respect of Non Priority Hedging Liabilities and the Intercreditor Deed,

**“Senior Secured Notes Guarantees”** has the meaning given to that term in the Intercreditor Deed,

**“Senior Secured Notes Indenture”** means the indenture dated on or about the date of this Deed pursuant to which the Senior Secured Notes are issued (or any guarantees therefore are given) and includes any Additional Senior Secured Notes Debt Instrument;

**“Senior Secured Notes Security”** has the meaning given to that term in the Intercreditor Deed,

**“Senior Secured Notes Trustee”** means Deutsche Trustee Company Limited as trustee for the Senior Secured Noteholders,

**“this Deed”** means this debenture as varied, amended or supplemented from time to time,

**“Transaction Security”** means the Security created or expressed to be created in favour of the Security Trustee or any other Secured Party pursuant to the Transaction Security Documents, and

**“Transaction Security Documents”** has the meaning given to that term in the Intercreditor Deed,

**1.2 Intercreditor Deed:** Unless otherwise expressly defined in this Deed or the context otherwise required, words and expressions defined in the Intercreditor Deed shall have the same meaning in this Deed or any notice given in relation to this Deed

**1.3 Construction:**

- (a) The provisions of Clauses 1.2 (*Construction*) of the Intercreditor Deed shall apply to this Deed with all necessary modifications as if they were expressly set out in full in this Deed
- (b) **“rights”** shall be construed as including rights, benefits, privileges, consents, authorities, discretions, remedies and powers and **“right”** shall be construed accordingly
- (c) A reference to **“Secured Liabilities”** includes any liabilities which would be treated as such but for the liquidation or dissolution or similar event affecting a Debtor
- (d) Any reference to the Security Trustee, the Senior Secured Notes Trustee, a Chargor, the Secured Parties or the Facility Agent shall be construed so as to include its or their (and any subsequent) successors and any permitted transferees in accordance with their respective interests.
- (e) References in this Deed to any Clause or Schedule shall be to a clause or schedule of this Deed unless otherwise specified

- 1.4 Law of Property (Miscellaneous Provisions) Act 1989:** The terms of the documents under which the Secured Liabilities arise and of any side letters relating thereto between each Chargor and any of the Secured Parties are incorporated herein to the extent required for any purported disposition of the Charged Assets contained in this Deed to be a valid disposition in accordance with section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989
- 1.5 Deed:** This document is to take effect as a deed notwithstanding that the Security Trustee has executed it under hand only
- 1.6 Law of Property (Miscellaneous Provisions) Act 1994:** The obligations of the Chargors under this Deed and any document entered into pursuant to this Deed shall be in addition to the covenants deemed to be included in this Deed or such other document by virtue of Part I of the Law of Property (Miscellaneous Provisions) Act 1994
- 1.7 Schedules:** Any failure to state any Intellectual Property, Real Property or Investments of any Chargor on the date of this Deed in any of SCHEDULE 2 (*Details of the Scheduled Real Property*), SCHEDULE 3 (*Details of the Scheduled Intellectual Property*) or SCHEDULE 4 (*Details of the Scheduled Investments*) will not affect any Charges over such assets
- 1.8 Covenants and Representations:**
- (a) Each covenant of a Chargor contained in this Deed remains in force until the Release Date
  - (b) The representations and warranties set out in this Deed are made on the date of this Deed and are, unless otherwise stated herein, deemed to be repeated by a Chargor on each Utilisation Date and on the first day of each Interest Period with reference to the circumstances existing at the time of repetition
- 1.9 Intercreditor Deed:** Notwithstanding any other provision of this Deed, the Security constituted by this Deed and the exercise of any right or remedy by the Security Trustee hereunder shall be subject to the Intercreditor Deed. In the event of any conflict between the terms of the Intercreditor Deed and the terms of this Deed, the terms of the Intercreditor Deed shall prevail.
- 2. COVENANT TO PAY**
- 2.1 Covenant to Pay:** Each Chargor shall promptly on demand pay or discharge to the Security Trustee the Secured Liabilities when the same have become due in the manner provided for in the Secured Documents
- 2.2 Interest:** If a Chargor fails to pay any Secured Liabilities on the due date for payment of that sum, such Chargor shall on demand pay to the Security Trustee interest on all such sums from the due date until the date of payment (both before and after judgment) save to the extent otherwise agreed and without double counting between the relevant Chargor and the Security Trustee calculated and payable in accordance with the rate and in the



manner specified to apply to default interest (if the Secured Liabilities arise thereunder) in the Senior Secured Notes Indenture or otherwise in the Senior Revolving Facility Agreement to the extent set forth therein. Any such interest not paid when due shall be compounded and bear interest calculated as provided above

### **3. SECURITY**

#### **3.1 Creation of Charges:** All Charges and assignments under this Deed are

- (a) made in favour of the Security Trustee (for the benefit of itself and the other Secured Parties),
- (b) made with full title guarantee, and
- (c) granted as security for the payment, discharge and performance of all Secured Liabilities

All Charged Assets are excluded from the Charges created pursuant to Clause 3.2 (*Fixed Charges*) to the extent specifically assigned pursuant to Clause 3.3 (*Assignment by way of Security*)

#### **3.2 Fixed Charges:** Subject to Clause 3.10 (*Excluded Assets*) and Clause 3.12 (*Ranking*), each Chargor charges

##### **(a) Real Property:**

- (i) by way of first legal mortgage the Scheduled Real Property and all other Real Property in England or Wales now belonging to it, and
- (ii) by way of first fixed charge all its rights, title and interest now or subsequently in Real Property not mortgaged pursuant to paragraph (i) above,

##### **(b) Investments:**

- (i) by way of first fixed charge all its rights, title and interest in the Scheduled Investments and all other Investments now belonging to it, and
- (ii) by way of first fixed charge all its rights, title and interest in all Investments now or subsequently belonging to it not referred to in paragraph (i) above,

- (c) **Monetary Claims and Related Rights:** by way of first fixed charge all its rights, title and interest now or subsequently in all Monetary Claims and all Related Rights except to the extent that such assets are for the time being effectively charged pursuant to paragraph (e) below or effectively assigned by way of Security pursuant to Clause 3.3 (*Assignment by way of Security*)),

- (d) **Intellectual Property:** by way of first fixed charge all its rights, title and interest now or subsequently in Intellectual Property including, without limitation, the Scheduled Intellectual Property (other than any Intellectual Property which is for the time being effectively assigned by way of Security pursuant to Clause 3.3 (*Assignment by way of Security*),
- (e) **Bank Accounts:** by way of first fixed charge all its rights, title and interest now or subsequently in the Bank Accounts (including the Scheduled Bank Accounts),
- (f) **Insurance Policies:** by way of first fixed charge all its rights, title and interest now or subsequently in the Insurance Policies and all Related Rights,
- (g) **Personal Chattels:** by way of first fixed charge all its rights, title and interest now or subsequently in the Personal Chattels (including Scheduled Personal Chattels), and
- (h) **Goodwill and uncalled capital:** by way of first fixed charge all its rights, title and interest now or subsequently in.
  - (i) all its uncalled capital, and
  - (ii) all its goodwill

### 3.3 Assignment by way of Security:

- (a) Subject to Clause 3.12 (*Ranking*), each Chargor hereby assigns and agrees to assign absolutely (subject to the right to reassignment on redemption pursuant to Clause 16.11 (*Final Redemption*)) all rights, title and interest present or future of such Chargor in respect of
  - (i) the Relevant Documents listed in Part I of SCHEDULE 9 (*Relevant Documents*) together with the benefit of all its rights, claims and remedies in respect of such Relevant Documents,
  - (ii) all rights and claims in respect of the Relevant Accounts,
  - (iii) all rights, claims and remedies in respect of the Insurance Policies, and
  - (iv) all rights, claims and remedies in respect of the Intellectual Property
- (b) Until the occurrence of a Declared Default, each Chargor shall be entitled to exercise all its rights in relation to the Insurance Policies, Relevant Accounts, Intellectual Property and the Relevant Documents, subject to the other provisions of this Deed

### 3.4 Floating Charge:

- (a) Subject to Clause 3 12 (*Ranking*), each Chargor charges by way of first floating charge its undertaking and all its assets both present and future other than any asset in England and Wales effectively mortgaged, charged or assigned under Clause 3 2 (*Fixed Charges*) or Clause 3 3 (*Assignment by way of Security*) including any assets comprised within a Charge which is reconverted under Clause 3 8 (*Reconversion*) The floating charge created by each Chargor under this Clause shall be a qualifying floating charge for the purposes of paragraph 14 of Schedule B1 of the Insolvency Act 1986
- (b) The floating charges created by this Clause 3.4 (*Floating Charge*) shall be deferred in point of priority to all fixed Security validly and effectively created by a Chargor under the Secured Documents in favour of the Security Trustee as Security for the Secured Liabilities

### 3.5 Automatic Crystallisation:

Notwithstanding any other provision of this Deed (and without prejudice to any law which may have a similar effect), the floating charge created under this Deed will automatically be converted with immediate effect and without notice into a fixed charge as regards the Charged Assets subject to such floating charge but subject to Clause 3 7 (*Moratorium*)

- (a) upon the convening of any meeting of the members of the relevant Debtor to consider a resolution to wind up the Debtor,
- (b) upon the presentation of a petition to wind up the relevant Debtor which is not discharged within 14 days or in any event before such petition is heard,
- (c) upon the presentation of a petition or making of an application for a warrant of execution, warrant of *fiat facias*, third party debt order or charging order or a person otherwise levying any distress, execution, attachment, expropriation, sequestration or other legal process against any of the Charged Assets charged by way of the floating charge, or
- (d) any Chargor creates or attempts to create any Security or trust over any of the Charged Assets secured by the floating charge created by Clause 3 4 (*Floating Charge*),
- (e) a resolution is passed or an order is made or a petition or application is presented for the administration, dissolution or a reorganisation that is not permitted under the Secured Documents or constitutes an Event of Default in relation to any Chargor, or
- (f) an Administrator or Receiver is appointed in respect of any Chargor or the Security Trustee receives notice of an intention to appoint an Administrator pursuant to paragraph 15 or 26 of Schedule B I of the Insolvency Act 1986 in respect of any Chargor

### 3.6 Crystallisation of Floating Charge by notice:

The Security Trustee may at any time by notice in writing to any Chargor convert the floating charge created by such Chargor pursuant to Clause 3.4 (*Floating Charge*) with immediate effect into a fixed charge as regards such assets as may be specified (whether generally or specifically) in such notice if

- (a) a Declared Default has occurred, or
- (b) the Security Trustee reasonably considers in good faith (acting on the instructions of the Instructing Group) those assets to be in danger of being seized or sold under or pursuant to any form of distress, attachment, execution, sequestration or other legal process or otherwise to be in jeopardy), or
- (c) the Security Trustee reasonably considers in good faith (acting on the instructions on the Instructing Group) that it is necessary in order to protect the priority of Security, or
- (d) a petition for compulsory winding-up or a petition for a creditors' voluntary winding-up has been presented or a resolution has been passed for a creditors' voluntary winding-up or a petition has been presented for the making of an administration order, or an administrator has been appointed or notice has been given of intention to appoint an administrator pursuant to paragraph 15 or 26 of Schedule B1 of the Insolvency Act 1986 in respect of any Chargor.

**3.7 Moratorium:** No floating charge created by this Deed may be converted into a fixed charge on assets for which a moratorium is in force if and for so long as such conversion would breach paragraph 13 of Schedule A1 of the Insolvency Act 1986

**3.8 Reconversion:** Any charge which has converted into a fixed charge under Clause 3.5 (*Automatic Crystallisation*) or Clause 3.6 (*Crystallisation of Floating Charge by notice*) may be reconverted into a floating charge by notice in writing given at any time by the Security Trustee to the Chargor concerned in relation to the assets specified in such notice.

**3.9 Fixed and Floating Security:** If for any reason any Security in respect of any asset created or purported to be created pursuant to this Clause 3 as a fixed charge or assignment does not, or ceases to, take effect as a fixed charge or assignment, then it shall take effect as a first floating charge in respect of such asset. However, it is the intent of the parties that the Security over other Charged Assets shall remain unaffected

**3.10 Excluded Assets:** If the rights of any Chargor under any instrument or agreement cannot be the subject of any Charges or assignment which this Deed purports to create under Clause 3.2(a) (*Real Property*), 3.2(c) (*Monetary Claims and Related Rights*), 3.2(d) (*Intellectual Property*), 3.2(e) (*Bank Accounts*) 3.2(g) (*Personal Chattels*) or Clause 3.3 (*Assignment by way of Security*) without the consent of another party

- (a) the Chargor shall notify the Security Trustee promptly,

- (b) this Deed will charge all amounts which the relevant Chargor may receive, or has received, under that document, and
- (c) the relevant Chargor will use all reasonable endeavours to promptly obtain the consent of the relevant third party for such rights to be charged or assigned under this Deed and, if such consent is obtained, such rights shall immediately become subject to an effective fixed charge or assignment pursuant to Clause 3.2 (*Fixed Charges*) or an assignment under Clause 3.3 (*Assignment by way of Security*) and the Chargor shall promptly provide a copy of such consent to the Security Trustee

Each Chargor will use reasonable endeavours to ensure that instruments and agreements which it enters into after the date of this Deed do not contain restrictions which would cause them to be excluded from the charges pursuant to paragraph (c) above

**3.11 Security Trust:** The Security Trustee holds the benefit of this Deed on trust for the Secured Parties on the terms of the Secured Documents

**3.12 Ranking:** The ranking of the Security created pursuant to this Deed is subject to the Intercreditor Deed and the application of proceeds pursuant to this Deed is provided for in the Intercreditor Deed

#### **4. REAL PROPERTY OBLIGATIONS**

##### **4.1 Acquisition of Real Property:**

- (a) Each Chargor shall promptly notify the Security Trustee of any acquisition by it or on its behalf of any Real Property after the date of this Deed ("**After-acquired Property**").
- (b) If title to the relevant After-acquired Property is or is to be registered at the Land Registry, such Chargor shall, as soon as reasonably practicable, notify the Security Trustee of the relevant title number and will make the relevant Land Registry enter
  - (i) a notice of the legal mortgage referred to in paragraph (c) below on the charges register of such property, and
  - (ii) the restriction set out in Clause 4.5(a) (*Registered Land*) (as repeated in such legal mortgage) on the proprietorship register of such property

In the case of any other After-acquired Property in England or Wales, the relevant Chargor shall apply to register this Deed at the Land Charges Registry if, for any reason, the title deeds and documents relating thereto are not deposited with the Security Trustee. In relation to any After-acquired Property anywhere else in the world, such Chargor shall take such equivalent action as the Security Trustee shall deem appropriate in accordance with the Agreed Security Principles

- (c) Each Chargor shall, promptly on request of the Security Trustee and at the cost of the relevant Chargor, execute and deliver to the Security Trustee a legal mortgage in such form as the Security Trustee may reasonably require in favour of the Security Trustee over any After-acquired Property acquired by it
- (d) If the consent of the landlord in whom the reversion of any lease comprised in any After-acquired Property is vested is required for a Chargor to create any fixed charge or legal mortgage, that Chargor will
  - (i) use all reasonable endeavours to obtain such landlord's consent;
  - (ii) notify the Security Trustee in writing upon receipt of such consent, and
  - (iii) not be required to create a fixed charge or legal mortgage over such After-acquired Property until it has received the landlord's consent

**4.2 Delivery of Title Documents:** Each Chargor shall, upon the execution of this Deed or, if later, upon receipt, deposit with the Security Trustee all deeds, certificates and other documents evidencing title relating to any Real Property subject to Security created in this Deed. If any such documents are at the relevant time at the Land Registry, such Chargor shall, promptly following a demand by the Security Trustee, provide or procure the provision to the Security Trustee of such undertakings and such letters addressed to the Land Registry as the Security Trustee may reasonably require. The relevant Chargor will be deemed to be in compliance with this Clause if it deposits such deeds, certificates and other document or provides or procures such undertakings and letters pursuant to the terms of the Original Debenture

**4.3 Leasing and Other Undertakings:** Each Chargor shall (whether in exercise of any statutory power or otherwise)

- (a) not without the prior written consent of the Security Trustee, grant, or agree to grant, any lease or tenancy of all or any part of any Charged Real Property or confer or agree to confer upon any person any contractual licence or right to occupy or use any Charged Real Property save as permitted under the Secured Documents;
- (b) comply with the provisions of SCHEDULE 7 (*Real Property Undertakings*),
- (c) comply with all laws or material regulations, directives, consents, authorisations, covenants or planning permissions relating to or affecting any Charged Real Property to the extent that failure to so comply would materially and adversely affect the value of the Charged Real Property;
- (d) pay any applicable rents and comply with all material obligations imposed on it and enforce the performance of all material obligations owed to it by any person under any lease, licence or other agreement giving the right to occupy any Charged Real Property and shall not do anything or permit anything to be done

which could result in the termination or forfeiture of any such lease, licence or other agreement prior to the expiration of its term, and

- (e) not determine or extend or renew on substantially different terms or accept any surrender of any lease, tenancy, licence or right to occupy comprised in the Charged Real Property or agree to do any of these things without the prior written consent of the Security Trustee, save where to do so would not have a material adverse effect on the value of the Charged Real Property;

**4.4 Real Property Representations and Warranties:** Save as disclosed in writing to the Security Trustee prior to the date of this Deed, each Chargor represents and warrants to the Security Trustee that

- (a) it is the sole legal and beneficial owner of all the Scheduled Real Property listed against its name in SCHEDULE 2 (*Details of the Scheduled Real Property*) and no other person has any legal or beneficial interest or rights on, over or in any part of the Charged Real Property (other than as disclosed to the Security Trustee),
- (b) all of the Real Property owned by such Chargor is free from any mortgage, charge, rent charge or other Security (save for those created by or pursuant to this Deed or those permitted by the Secured Documents);
- (c) so far as each Chargor is aware having made due and careful enquiry, no part of the Charged Real Property is subject to any agreements, stipulations, reservations, conditions, interest, rights, restrictions, covenants, easements or other matters which materially and adversely affects or might materially and adversely affect the value of the Security created by this Deed and nothing has arisen or been created or is subsisting which could be or could create an overriding interest over such Charged Real Property;
- (d) so far as each Chargor is aware having made due and careful enquiry, there subsists no breach of any Planning Acts, by-laws or local authority or statutory requirements which materially and adversely affects or which materially or adversely affects the value of the Charged Real Property owned by such Chargor,
- (e) the Charged Real Property or any part of it is free from any lease, tenancy other than as disclosed to the Security Trustee and so far as each Chargor is aware having made due and careful enquiry the Charged Real Property is free from any licence or right to occupy, other than as disclosed to the Security Trustee, and
- (f) except for the Scheduled Real Property, neither it nor any of its Subsidiaries owns any estate or interest in any Real Property save as disclosed to the Security Trustee prior to the date of this Deed

**4.5 Registered Land:**

- (a) Each Chargor consents to an application being made to the Land Registry for a restriction in the following terms to be entered on the Proprietorship Register of

such of the Charged Real Property as is now or hereafter registered at the Land Registry under the Land Registration Act 2002:

“No disposition of the registered estate by the proprietor of the registered estate is to be registered without a written consent signed by the proprietor for the time being of the Charge dated [●] in favour of Barclays Bank PLC referred to in the Charges Register or their conveyancer.”

- (b) To the extent that the Secured Parties are under an obligation to make further advances, each Chargor shall also make an application (and consents to an application being made) to the Land Registry for a note of such obligation to be entered on the Charges Register of any registered land forming part of the Charged Real Property
- (c) Each Chargor hereby certifies, in respect of any part of its Charged Real Property title to which is registered at the Land Registry, that the Charges created by this Deed do not contravene any of the provisions of the constitution of such Chargor

**4.6 Right to Remedy:** If a Chargor fails to perform any obligation or comply with its undertakings contained in this Deed affecting its Charged Real Property, that Chargor must allow the Security Trustee or its agents and contractors (following notice of such being provided by the Security Trustee)

- (a) to enter any part of its Charged Real Property and carry out any repairs or other works which the Chargor has failed to do, and
- (b) to comply with or object to any notice served on that Chargor in respect of its Charged Real Property.

and the Chargor shall reimburse the Security Trustee on demand for all costs and expenses incurred by the Security Trustee in doing so together with interest from the date of payment by the Security Trustee until the reimbursement calculated in accordance with Clause 2 4 (*Interest*)

**5. OTHER OBLIGATIONS**

**5.1 Negative pledge and disposals:** Subject to Clause 5 3 (*Monetary Claims*), except with the consent of the Security Trustee, each Chargor shall not:

- (a) create or permit to subsist any Security over any Charged Assets save as expressly permitted pursuant to the Secured Documents and the Security under the Original Debenture, or
- (b) sell, transfer, assign, lease, hire out, grant, lend or otherwise dispose of any of the Charged Assets or the equity of redemption therein or permit any person to do any such thing except as permitted pursuant to the terms of this Deed and the Secured Documents (including, for the avoidance of doubt, the Original Debenture).



## 5.2 Investments:

- (a) **Deposit of Documents:** Each Chargor shall, upon the execution of this Deed or, if later, upon its becoming entitled to the relevant Investment, deliver (or procure delivery) to the Security Trustee subject to the last two sentences of this paragraph (a)
- (i) all certificates and other documents of title or evidencing title in respect of each of the Scheduled Investments listed against its name in SCHEDULE 4 (*Details of the Scheduled Investments*) and each of the other Charged Investments belonging to it,
  - (ii) all stock transfer forms and other documents which the Security Trustee may reasonably request in such form and executed in such manner as the Security Trustee may reasonably require with a view to perfecting or maintaining the Charges over the Charged Investments or, upon a Declared Default, registering any Charged Investment in the name of the Security Trustee or its nominees, and
  - (iii) such declarations of trust in relation to any Investments in which a Chargor has an interest but which are not held in its sole name as the Security Trustee may reasonably require

All documents required by this Clause 5 2(a) shall be in such form as the Security Trustee shall require. The relevant Chargor will be deemed to be in compliance with this Clause if it has or does deposit such certificates, documents of title, stock transfer forms and other documents pursuant to the terms of the Original Debenture

### (b) Voting Rights and Distributions:

- (i) Until the Charges have become enforceable in accordance with Clause 6 2 (*Enforceability of Security*), the relevant Chargor shall be entitled to
  - (A) receive and retain all dividends, distributions and other amounts paid on or derived from any shares or stock comprised in its Charged Investments, and
  - (B) exercise or direct the exercise of the voting rights and other rights and powers attached to its Charged Investments in any manner as it sees fit other than in a manner which
    - (1) is in breach of any Secured Document or which would be reasonably likely to impair the validity or enforceability of the Charges or the value of such Charged Investments, or
    - (2) would cause the Security Trustee or its nominee to incur any cost or expense or render itself subject to any liability

for which it has not previously been indemnified to its satisfaction) or would otherwise prejudice the Security Trustee

(ii) After the Charges have become enforceable in accordance with Clause 6.2 (*Enforceability of Security*)

- (A) the Security Trustee or the Receiver shall be entitled but not obliged to exercise any voting rights and any other rights and powers attached to any Charged Investments in such manner as it considers fit as if it were the sole beneficial owner of the Charged Investment (including all powers given to trustees under Part II of the Trustee Act 2000);
- (B) the Security Trustee or the Receiver shall be entitled but not obliged to transfer the Charged Investments of each Chargor on behalf of the relevant Chargor to such nominee as the Security Trustee shall select,
- (C) each Chargor shall comply, or procure the compliance, with any directions of the Security Trustee or any Receiver in respect of the exercise of any rights and powers exercisable in relation to such Charged Investments and shall promptly execute and/or deliver to the Security Trustee or any Receiver such forms of proxy as it or he requires with a view to enabling such person as it or he selects to exercise those rights,
- (D) the Security Trustee or the Receiver shall be entitled but not obliged to receive and retain all dividends, distributions and other moneys paid on the Charged Investments and apply the same in accordance with Clause 8.1 (*Application*),
- (E) any Derivative Rights shall, if received by the Chargor or its nominee, be held on trust for and forthwith paid or transferred to the Security Trustee or the Receiver

(c) **Calls:**

- (i) Each Chargor shall promptly pay all calls or other payments which may at any time become due in respect of any of its Charged Investments
- (ii) If a Chargor fails to comply with paragraph (i) above, the Security Trustee may pay the calls or other payments on behalf of the Chargor concerned. Such Chargor must promptly on request from the Security Trustee reimburse the Security Trustee for any such payment plus interest from the date of payment by the Security Trustee until the date of reimbursement at the rate and in accordance with Clause 2.4 (*Interest*)

- (d) **Offers** If any Investments are offered for subscription or purchase by way of rights in respect of any of the Charged Investments:
- (i) if those Investments are vested in any Chargor or its nominee, such Chargor shall forthwith notify the Security Trustee of the offer and if the Security Trustee so requires by notice to such Chargor, such Chargor shall accept or procure the acceptance of the offer and make any payments required in connection with such acceptance, or
  - (ii) if those Investments are vested in the Security Trustee or its nominee and if the Security Trustee so requires by notice to such Chargor, such Chargor shall immediately put the Security Trustee in funds to enable it or its nominee to accept the offer and make any payments required in connection with such acceptance
- (e) **Representations regarding Investments:** Each Chargor represents and warrants to the Security Trustee that.
- (i) it is the sole legal and beneficial owner of the Scheduled Investments listed against its name in SCHEDULE 4 (*Details of the Scheduled Investments*),
  - (ii) the constitutions of the Scheduled Investments do not restrict or otherwise limit the relevant Chargor's right to transfer or charge such Scheduled Investments
  - (iii) its Scheduled Investments and, where applicable, its other Investments are fully paid or credited as fully paid; and
  - (iv) such Investments are free from all Security, options or rights of pre-emption and other third party rights (except as created by this Deed and the Original Debenture)

### **5.3 Monetary Claims:**

(a) **Dealing with Monetary Claims:**

- (i) Save as permitted by the Secured Documents (which, for the avoidance of doubt, shall include the Original Debenture), each Chargor shall not release, sell, transfer, assign, factor, discount or otherwise dispose of in any way with any of the Monetary Claims except as required by Clause 5.3(b)(ii) below
- (ii) Each Chargor shall get in and realise in a prudent manner on behalf of the Security Trustee all its Monetary Claims and pay such moneys into the Bank Accounts, such Chargor shall hold such moneys on trust for the Security Trustee prior to such payment

**(b) Release of Monetary Claims:**

- (i) Prior to the Charges becoming enforceable in accordance with Clause 6.2 (*Enforceability of Security*), the proceeds of the realisation of the Monetary Claims received by any Chargor shall, upon such proceeds being credited to a Bank Account, be released from the fixed charge created by Clause 3.2(c) (*Monetary Claims and Related Rights*) and only be subject to the floating charge created by Clause 3.4 (*Floating Charge*) and the relevant Chargor may withdraw such proceeds from such Bank Accounts subject to any applicable restrictions set out in the Secured Documents and this Deed
- (ii) After the Charges have become enforceable in accordance with Clause 6.2 (*Enforceability of Security*), each Chargor shall not, except with the consent of the Security Trustee, withdraw or otherwise transfer the proceeds of realisation of any Monetary Claims standing to the credit of any Bank Account and shall pay all moneys received by any Chargor from any source into such Collection Accounts as are specified by the Security Trustee and give notice to the debtors of any of its Monetary Claims of the Security created by this Deed in such form as the Security Trustee may require

**5.4 Bank Account(s):**

**(a) Bank Accounts: notification, maintenance and variation:**

Each Chargor shall

- (i) deliver to the Security Trustee on the date of this Deed a duly completed notice and acknowledgement in respect of each Bank Account in the relevant form set out in SCHEDULE 6 (*Notices for Bank Accounts*) (as applicable) or in such other form as the Security Trustee may approve;
- (ii) use all reasonable endeavours to procure the prompt delivery to the Security Trustee of a duly completed acknowledgement in respect of any notice delivered pursuant to paragraph (i) in the relevant form set out in SCHEDULE 6 (*Notices for Bank Accounts*) (as applicable) or in such other form as the Security Trustee may approve,
- (iii) deliver to the Security Trustee on the date of this Deed (and, if any charge account thereafter, on the date falling five Business Days after such charge), details of each Bank Account maintained by such Chargor (other than with the Security Trustee); and
- (iv) not without the Security Trustee's prior written consent, permit or agree to any variation of the rights attached to any Bank Account (including closing or consolidating any Bank Account) the result of which is materially prejudicial to the Secured Parties

Any person which becomes an Account Bank after the date of this Deed will not, unless the Security Trustee agrees otherwise, be an approved Account Bank for the purposes of paragraph (a) above until a notice has been sent by the relevant Chargor to the relevant person requesting that an acknowledgement be returned, such an acknowledgement to be in a manner satisfactory to the Security Trustee. The execution of this Deed by the relevant Chargor and the Security Trustee shall constitute notice to the Security Trustee (and any of its affiliates) of the Security created over any Bank Account opened or maintained with the Security Trustee (and any of its affiliates)

**(b) Operation of Bank Accounts:**

- (i) Notwithstanding Clause 3.2(e), until the occurrence of a Declared Default, the Chargors shall be entitled to receive, withdraw or otherwise transfer any credit balance from time to time on any Bank Account subject to the terms of the Secured Documents,
- (ii) After the Charges have become enforceable in accordance with Clause 6.2 (*Enforceability of Security*), the Chargors shall not be entitled to receive, withdraw or otherwise transfer any credit balance from time to time on any Bank Account except with the prior written consent of the Security Trustee

**(c) Bank Accounts: Application of Moneys:**

- (i) The Security Trustee (or its Receiver) may (subject to the Intercreditor Deed) apply, transfer or set-off any credit balances from time to time on any Bank Accounts in or towards payment or satisfaction of all or part of the Secured Liabilities in accordance with Clause 8.1 (*Application*) after the Charges have become enforceable or at any time when the Secured Parties are entitled to exercise the relevant set-off rights under the terms of the Secured Documents
- (ii) Save as provided in this Clause 5.4 (*Bank Accounts*), each Chargor shall not release, sell, transfer, assign, factor, discount or otherwise deal in any way with any of the Bank Accounts other than in a manner which is not prohibited by the Secured Documents (which, for the avoidance of doubt, shall include the Original Debenture)

**(d) Relevant Accounts:**

Following a Declared Default, the Chargor may not withdraw or otherwise transfer any credit balance from time to time on any other Relevant Account, unless expressly permitted to do so by the Secured Documents or with the consent of the Security Trustee

**(e) Exercise of rights following enforcement by Security Trustee:**

After the occurrence of a Declared Default, the Security Trustee shall be entitled without notice to exercise all rights and powers held by it in relation to the Relevant Accounts and to

- (i) demand and receive any moneys due under or arising out of each Relevant Account, and
- (ii) exercise all rights the relevant Chargor was then entitled to exercise in relation to the Relevant Accounts or would, but for this Deed, be entitled to exercise

## **5.5 Intellectual Property:**

- (a) Each Chargor undertakes that it shall, in respect of its Intellectual Property which is necessary for the business of the Chargor
  - (i) make registrations and pay all registration fees and taxes necessary to record the interest of the Security Trustee in any registers relating to any such Intellectual Property which is registrable;
  - (ii) take all such steps and do all such acts as may be necessary to preserve and maintain the subsistence and the validity of any such Intellectual Property,
  - (iii) notify the Security Trustee of the details of all patents, registered trade marks and registered designs, including applications for any of the same in any part of the world but only prior to the extent that these are necessary for such Chargor's business prior to a Declared Default,
  - (iv) use all its reasonable endeavours to prevent any infringement of any such Intellectual Property in any material respect including permitting the Security Trustee in the name of, but at the cost of, such Chargor to bring such legal proceedings, and
  - (v) not use or permit any such Intellectual Property to be used in any way which may materially and adversely affect its existence or value,

in each case where failure to do so would have a materially adverse effect on the existence or value of the Intellectual Property

- (b) **Representations regarding Intellectual Property:** Each Chargor represents and warrants to the Security Trustee at the date hereof that
  - (i) it is the sole legal and beneficial owner of the Scheduled Intellectual Property listed against its name in SCHEDULE 3 (*Details of the Scheduled Intellectual Property*) and any other Intellectual Property which is material in the context of its business and which is required by it to carry on its business as it is being conducted as it is presently carried on

free from all Security, options and other rights in favour of third parties (except as created by this Deed),

- (ii) it has taken all formal or procedural actions (including payment of fees) required to maintain all Intellectual Property to the extent that failure to maintain such Intellectual Property would have a materially adverse effect on the existence or value of the Intellectual Property, and
- (iii) it does not (nor does any Subsidiary of it that is also a member of the Group), in carrying on its business, infringe any Intellectual Property of any third party in any respect the result of which would have a materially adverse effect on its business

#### **5.6 Insurance:**

- (a) Each Chargor shall promptly serve (with a copy to the Security Trustee) a Notice of Insurance Assignment to the brokers or underwriters of each Insurance Policy and each Chargor shall use all its reasonable endeavours to procure the prompt delivery to the Security Trustee of a duly completed acknowledgement in the form set out in Part 2 (*Form of Notice of Assignment to Insurers*) of SCHEDULE 8 (*Notices of Assignment*) or in such other form as the Security Trustee may approve
- (b)
  - (i) Each Chargor must keep its Charged Assets insured in accordance with the terms of the Secured Documents,
  - (ii) In addition each Chargor must maintain the insurance required under Clause 27 15 (*Insurance*) of the Senior Revolving Facility Agreement,
  - (iii) Promptly do all things necessary to keep the insurance required to be maintained by this Clause 5 6 in force and on demand of the Security Trustee produce to the Security Trustee the policy, certificates or cover note relating to such insurance and related premium receipts; and
  - (iv) Any such insurance must be in the joint names of the Security Trustee in accordance with the notice in the form set out in Part 2 (*Form of Notice of Assignment to Insurers*) of SCHEDULE 8 (*Notices of Assignment*)
- (c) Any moneys received under any Insurance Policies relating to Charged Assets shall be applied (subject to the terms of the Intercreditor Deed and any person having prior rights to such moneys)
  - (i) prior to the occurrence of a Declared Default in accordance with the Secured Documents, and
  - (ii) following a Declared Default, the Chargor shall hold such moneys upon trust for the Security Trustee pending payment to the Security Trustee for application in accordance with Clause 8 1 (*Application*)

- (d) Each Chargor must promptly pay all premiums and other moneys payable under its Insurance Policies required to be maintained under this Deed and promptly on request by the Security Trustee, produce to the Security Trustee a copy of each policy and evidence satisfactory to the Security Trustee (acting reasonably) of the payment of such sums. If required by the Security Trustee following a Declared Default (but subject to the provisions of any lease of Charged Assets), a Chargor shall deposit all its Insurance Policies with the Security Trustee.
- (e) If a Chargor fails to comply with its obligations under this Clause 5.6 (*Insurance*), the Security Trustee may, following written notice to such Chargor, effect such insurance as it thinks fit and the relevant Chargor shall reimburse the Security Trustee on demand for the cost of effecting such insurance with interest.

#### **5.7 Relevant Documents:**

- (a) Each Chargor
  - (i) unless permitted by the Secured Documents, shall not amend or vary or waive any provision of any Relevant Documents (with the exception of the Parent in respect of the Nestlé Licence where this sub-Clause is only relevant following the occurrence of a Declared Default) or agree to do so and shall not rescind or terminate any of the Relevant Documents,
  - (ii) shall perform all its obligations and diligently pursue its rights and remedies under the Relevant Documents,
  - (iii) shall give notice to the Security Trustee forthwith in writing of any breach by the other parties to the Relevant Documents of their obligations under the Relevant Documents or right of rescission or termination arising thereunder together with such Chargor's proposals for causing any breach to be remedied and, subject to the Security Trustee's approval of such proposals, forthwith implement them at such Chargor's expense to the satisfaction of the Security Trustee; and
  - (iv) shall promptly following execution of this Deed (with the exception of the Parent in respect of the Nestlé Licence where this sub-Clause is only relevant following the occurrence of a Declared Default) or if later the date the Relevant Document is executed serve (with a copy to the Security Trustee) a Notice of Document Assignment on each of the other parties to each Relevant Document and each Chargor shall use all its reasonable endeavours to procure the prompt delivery to the Security Trustee of a duly completed acknowledgement in substantially the form set out in Part I (*Form of Notice of Assignment of Relevant Document*) of SCHEDULE 8 or in such other form as the Security Trustee may approve, acting reasonably, from each party served with such Notice of Assignment.
- (b) This Deed constitutes notice in writing to each Chargor of any Security over any debt owed by that Chargor to any other Group Company or over any contract or



agreement between that Chargor and any other Group Company whether created under this Deed or any other Security Document

#### **5.8 Fixtures and Personal Chattels:**

- (a) Save as permitted under the Senior Revolving Facility Agreement or the Senior Secured Notes Indenture, each Chargor undertakes that it shall
  - (i) not dispose of any of its Personal Chattels without the Security Trustee's consent,
  - (ii) maintain in working order and condition (ordinary wear and tear excepted) all Personal Chattels necessary or desirable in the conduct of its business,
  - (iii) not do or omit to do anything which could reasonably be expected to result in any Fixture or Personal Chattel subject to a fixed charge hereunder or any part thereof being confiscated, seized, requisitioned, taken in execution, impounded or otherwise taken out of such Chargor's control,
  - (iv) if it has not already done so and if so requested by the Security Trustee following a Declared Default, in the case of any Fixture or Personal Chattel subject to a fixed charge hereunder located on leasehold premises, obtain evidence in writing from any lessor of any such premises that it waives absolutely all and any rights it may have now or at any time in the future over any such Fixture or Personal Chattel,
  - (v) if so requested by the Security Trustee following a Declared Default, place and maintain on each Scheduled Personal Chattel and each other Personal Chattel subject to a fixed charge hereunder, in a conspicuous place, an identification marking as appears below and not conceal, alter or remove such marking or permit it to be concealed, altered or removed

#### **"NOTICE OF CHARGE"**

This [*specify nature of Personal Chattel*] and additions and ancillary equipment are subject to a first fixed charge in favour of [*"name of the Security Trustee"*]

#### **5.9 General Undertakings:**

- (a) Each Chargor shall, on request from the Security Trustee, furnish the Security Trustee with such information as the Security Trustee may reasonably require about the Charged Assets and the compliance by the Chargors with this Deed.
- (b) Each shall use reasonable endeavours to keep or cause to be kept all the Charged Assets in good working order and condition, ordinary wear and tear excepted

(c) Save to the extent that the Chargor has already paid such amount under the Senior Revolving Facility Agreement or Senior Secured Notes Indenture, each Chargor shall promptly indemnify the Security Trustee and every Receiver and Delegate against any cost, loss or liability which is:

(i) in respect of costs, losses or liabilities incurred by a Receiver or in connection with any enforcement action, incurred, or

(ii) otherwise, reasonably incurred,

by any of them as a result of

(A) the taking, holding, protection or enforcement of the Security,

(B) the exercise of any of the rights, powers, discretion and remedies vested in the Security Trustee and each Receiver and Delegate by the Secured Documents or by law, and

(C) any default by any Chargor in the performance of any of the obligations expressed to be assumed by it in the Secured Documents,

save to the extent that such cost, loss or liability is caused by the gross negligence or wilful misconduct of that person

## **6. ENFORCEMENT**

**6.1 Power of Sale:** The power of sale or other disposal and other powers conferred on the Security Trustee and on any Receiver by this Deed shall operate as a variation and extension of the statutory power of sale and other powers conferred on mortgagees under section 101 of the LPA and such powers shall arise on the date of this Deed free from the restrictions imposed by section 103 of the LPA, which shall not apply to the Charges

### **6.2 Enforceability of Security:**

(a) For the purposes of all powers implied by the LPA or any other applicable statute, the Secured Liabilities shall be deemed to have become due and payable upon the date of this Deed

(b) Save as provided in Clause 6.3 (*Effect of Moratorium*) below, the Charges given by a Chargor shall become immediately enforceable, subject to the Intercreditor Deed, upon

(i) the occurrence of a Declared Default,

(ii) a petition being presented or application made for the appointment of an Administrator in respect of the relevant Chargor, or

- (iii) notice being given by a person entitled to do so of the intention to appoint an Administrator or such notice being filed with the court,

and the power of sale conferred by section 101 of the LPA and all other powers conferred on mortgagees and Receivers by law (as varied and extended by this Deed) shall be exercisable in relation to the Charges and the Security Trustee may take possession, hold or dispose of any Charged Asset at any time after the Charges have become enforceable

- (c) The statutory power of leasing conferred upon the Security Trustee shall be extended so as to authorise the Security Trustee to lease, make agreements for leases, accept surrenders of leases and grant options as the Security Trustee thinks fit and without the need to comply with any of the provisions of sections 99 and 100 of the LPA and any lease granted will bind any holder of a subsequent Security deriving title under the Security Trustee

**6.3 Effect of Moratorium:** The Charges will not become enforceable solely as a result of any person obtaining or taking steps to obtain a moratorium under Schedule A1 of the Insolvency Act 1986

**6.4 Contingencies:** If the Charges are enforced at a time when no amount is due under the Secured Documents but at a time when amounts may or will become due, the Security Trustee (or the Receiver) may pay the proceeds of any recoveries effected by it into a suspense account bearing interest at normal commercial rates.

**6.5 Renewal of Deposits:** Without prejudice to any right of set-off any Secured Party may have under any other Secured Document or otherwise, if any time deposit matures on any account the Chargor has with any Secured Party prior to the Release Date when

- (a) the Charges have become enforceable, and
- (b) no Secured Liability is at that time due and payable,

that time deposit will automatically be renewed for any further period which that Secured Party considers appropriate

**6.6 Right of Appropriation: Financial Collateral:** to the extent that any of the Charged Assets constitute "financial collateral" and this Deed and the obligations of any Chargor hereunder constitute a "security financial collateral arrangement" (in each case as defined in, and for the purposes of, the Financial Collateral Arrangements (No 2) Regulations 2003 (SI 2003 No 3226, the "**Regulations**")), the Security Trustee shall have the right following enforcement of this Deed to appropriate all or any part of such financial collateral in or towards discharge of the Secured Liabilities. For this purpose, the parties agree that the value of such financial collateral so appropriated shall be (i) in the case of cash, the amount standing to the credit of each of the Bank Accounts, together with any accrued but unposted interest, at the time the right of appropriation is exercised, and (ii) in the case of Investments, the market price of such Investments determined by the Security Trustee by reference to a public index or by such other process as the Security Trustee may select,

including independent valuation. In each case, the parties agree that the method of valuation provided for in the Deed shall constitute a commercially reasonable method of valuation for the purposes of the Regulations.

## **7. APPOINTMENT AND RIGHTS OF RECEIVERS AND ADMINISTRATORS**

### **7.1 Appointment of Receivers and Administrators:**

(a) If

- (i) a Declared Default occurs,
- (ii) so requested by the relevant Chargor, or
- (iii) subject to Clause 6.3 (*Effect of moratorium*), a petition is presented or application made for the appointment of an administrator, a liquidator or a provisional liquidator in respect of the relevant Chargor or notice is given by any person entitled to do so of the intention to appoint an Administrator or such notice is filed with the court or any analogous procedure or step is taken in any jurisdiction,

then, subject to the Intercreditor Deed, the Security Trustee may, by deed or otherwise in writing signed by any officer of the Security Trustee or any other person authorised by the Security Trustee for this purpose:

- (A) appoint one or more persons to be Receiver of any Charged Assets of the relevant Chargor and/or appoint two or more Receivers of separate parts of the Charged Assets, or
  - (B) when permitted by law, appoint an Administrator of the relevant Chargor pursuant to paragraph 14 of Schedule B1 of the Insolvency Act 1986, or
  - (C) (subject to any requirement for a court order under the Insolvency Act 1986 or any other applicable insolvency law) remove any Receiver so appointed and, at its option, appoint another person(s) to be an additional or replacement Receiver
- (b) If more than one person is appointed Receiver or Administrator of any assets, each Receiver or Administrator may act either jointly or severally unless the document appointing him states otherwise.
- (c) Section 109(1) of the LPA does not apply to this Deed.
- (d) The powers of appointment of a Receiver under this Deed shall be in addition to all other statutory and other powers of appointment of the Security Trustee under the LPA or otherwise.

**7.2 Rights of Receivers:** Any Receiver appointed pursuant to this Deed shall (subject to any restrictions in the instrument appointing him) have in relation to the Charged Assets (and any other assets which when got in, would be Charged Assets) in relation to which he is appointed

- (a) all the powers conferred on an administrative receiver or receivers under the Insolvency Act 1986,
- (b) all the powers conferred by the LPA or any other applicable law on mortgagees, mortgagees in possession and on receivers, and
- (c) all the powers and rights of an absolute owner and power to do or omit to do anything which the Chargor itself could do or omit to do

Subject to the terms of the Intercreditor Deed, in addition, a Receiver shall be entitled (either in his own name or in the name of the relevant Chargor or any trustee or nominee for the relevant Chargor) or otherwise and in such manner and upon such terms and conditions as the Receiver thinks fit and either alone or jointly with any other person

- (a) **Take possession:** to enter upon, take possession of, get in and collect the Charged Assets, to require directors of such Chargor to call up unpaid share capital and to take action to enforce payment of unpaid calls and to require payment to him or the Secured Parties of any Monetary Claims or credit balance on any Bank Account,
- (b) **Carry on business:** to manage or carry on any business of such Chargor,
- (c) **Contracts:** to enter into any contract or arrangement and to perform, repudiate, rescind or vary any contract or arrangement to which the Chargor is a party to the extent necessary to dispose of the Charged Assets and to perform its obligations,
- (d) **Deal with Charged Assets:** to sell, transfer, assign, exchange, hire out, lend or otherwise dispose of, convert into money or realise the Charged Assets (including any Fixtures, other than landlord's fixtures, which may be severed and sold separately from the Real Property containing them) either by public offer or auction, tender or private contract to any person on any terms and for a consideration of any nature he thinks fit,
- (e) **New Subsidiary:**
  - (i) to form or procure the formation of any new corporation, trust or partnership (a "**new vehicle**"),
  - (ii) to subscribe for or acquire any Investment in such new vehicle,
  - (iii) to transfer or transfer any right in or grant any lease or licence in any Charged Assets to such *new vehicle*; and

- (iv) to sell, transfer, assign, exchange or otherwise dispose of any such investments or any rights attaching thereto,
- (f) **Borrowings:** to borrow or raise money either unsecured or on the Security of the Charged Assets either in priority to the Charges or otherwise and on such terms as he thinks fit,
- (g) **Covenants and guarantees:** to lend money or advance credit to any customer of a Chargor, enter into bonds, covenants, commitments, guarantees, indemnities or like matters and to make all requisite payments to effect, maintain or satisfy the same,
- (h) **Leases and tenancies:** to lease or licence any Charged Assets to any person on any terms and for any rent or fee, to agree to any change to such terms or rent and to accept any surrender of such lease or licence on any terms (including the payment of any surrender premium) and to make agreements and arrangements with and make allowances to any lessees, tenants or other persons from whom any rents and profits may be payable, in each case it shall think fit,
- (i) **Repairs:** to effect any repairs or improvements to or insurance on, or do any act which he may think desirable to protect or improve, any Charged Asset or any business of any Chargor or make it more productive, to carry out and/or complete any building operations and to apply for and maintain any planning permissions, building regulation approvals and other consents, in each case as he thinks fit,
- (j) **Proceedings and Claims:** to bring, prosecute, enforce, defend and abandon actions, suits and proceedings in relation to the Charged Assets or the business of such Chargor,
- (k) **Compromise of Claims:** to settle, adjust, refer to arbitration, compromise and arrange any claims, accounts, disputes, questions and demands with or by any person who is or claims to be a creditor of such Chargor or relating in any way to the Charged Assets,
- (l) **Redemption of Security:** to redeem any Security (whether or not having priority to the Charges) over the Charged Assets and to settle the accounts of encumbrancers;
- (m) **Employment:** to appoint and discharge officers, employees, agents and advisors and others for the purposes of this Deed and to discharge any person appointed by such Chargor,
- (n) **Receipts:** to give a valid receipt for any moneys and execute any document which is necessary or desirable for realising any Charged Assets,
- (o) **Insolvency Act 1986:** to exercise all powers set out in Schedule I or Schedule BI or (in the case of a Scottish Receiver) Schedule 2 to the Insolvency Act 1986 (whether or not the Receiver is an administrative receiver) and any powers added

to Schedule 1, Schedule B1 or Schedule 2, as the case may be, after the date of this Deed; and

- (p) **Calls:** to make or require the directors of any Debtor to make calls upon the holders of share capital of such Debtor and to enforce payment of any unpaid calls as it sees fit
- (q) **Other Powers:** to do all such other acts and things the Receiver may consider necessary or expedient for preserving, improving or realising the Charged Assets or the getting in and collection of the Charged Assets (or any assets which when got in would constitute Charged Assets) or which are incidental to the exercise of any of the rights, powers and discretions conferred on the Receiver under or by virtue of this Deed or by law

Each of the powers specified in each of the above paragraphs shall (except as otherwise provided) be distinct and shall not be in any way limited by reference to any other paragraph or the order in which they appear

**7.3 Agent of Chargor:** Any Receiver shall be the agent of the relevant Chargor for all purposes unless and until the relevant Chargor goes into liquidation after which time the Receiver shall act as principal and shall not become agent of the Secured Parties. Subject to any applicable law, the relevant Chargor alone shall be responsible for his contracts, engagements, acts, omissions, defaults and liabilities and for any payment of his remuneration. No Secured Party shall incur any liability by reason of the appointment of a Receiver under this Deed.

**7.4 Remuneration:** The Security Trustee may from time to time determine the remuneration of any Receiver and the maximum rate specified in section 109(6) of the LPA will not apply. The Security Trustee may direct payment of such remuneration out of moneys accruing to the Receiver but the relevant Chargor alone shall be liable for the payment of such remuneration and for all other costs, charges and expenses of the Receiver.

## **8. DISTRIBUTION**

**8.1 Application:** All moneys from time to time received by the Security Trustee or a Receiver or Delegate pursuant to this Deed or pursuant to the powers conferred by it shall (subject to the terms of the Intercreditor Deed and the payment of any liabilities having priority to the Secured Liabilities by law and by way of variation of the provisions of the LPA), be applied in the following order:

- (a) in or toward the payment of or provision for all costs, losses, liabilities and expenses incurred by the Security Trustee or any Receiver or Delegate under or in connection with this Deed or their appointment and the Receiver's remuneration due in connection with this Deed,
- (b) in or toward discharge of the Secured Liabilities in accordance with the Intercreditor Deed; and

- (c) in payment of any surplus to the relevant Chargor or other person entitled thereto

## **9. SECURITY TRUSTEE'S RIGHTS**

**9.1 General Rights:** All or any of the rights which are conferred by this Deed (either expressly or impliedly) or by law upon a Receiver may be exercised after the Charges become enforceable in accordance with Clause 6.2 (*Enforceability of Security*), by the Security Trustee or, to the extent permitted by law, an Administrator, irrespective of whether the Security Trustee shall have taken possession or appointed a Receiver of the Charged Assets

### **9.2 Redemption of Prior Security:**

- (a) Subject to the Intercreditor Deed, and Clause 6.3 (*Effect of moratorium*), in the event of any action, proceeding or step being taken to exercise any powers or remedies conferred by any prior ranking Security or upon the exercise of any power of sale under this Deed by the Security Trustee or any Receiver, the Security Trustee may at any time redeem any Security having priority to any Charges or procure the transfer of that Security to itself and may settle the accounts of the prior encumbrancer and any accounts so settled shall, in the absence of manifest error, be conclusive and binding on each Chargor
- (b) Each Chargor shall, on demand of the Security Trustee, pay to the Security Trustee all the costs and expenses incurred by it in connection with any such redemption or transfer.
- (c) All the rights conferred by a prior charge upon the chargee or any receiver thereunder shall be exercisable by the Security Trustee or a Receiver in like manner as if the same were expressly included herein and the Security Trustee shall be entitled to exercise all the rights of a receiver appointed thereunder

### **9.3 Delegation:**

- (a) The Security Trustee or any Receiver may delegate in any manner to any person it may think fit any right, power or discretion exercisable by it under this Deed
- (b) Any such delegation may be made upon such terms, consistent with the terms of the Secured Documents (including power to sub-delegate), as the Security Trustee or any Receiver may think fit
- (c) The Security Trustee shall not be in any way liable to any Chargor or any other person for any losses, liabilities or expenses arising from any act, default, omission or misconduct on the part of any Delegate save in the case of gross negligence or wilful misconduct

**9.4 Continuation of Accounts:** At any time following the commencement of the winding-up of any Chargor or if any Secured Party receives notice or is deemed to have received notice of any subsequent Security affecting the Charged Assets or of any assignment or



transfer (other than pursuant to the Transaction Security), the Secured Party may open a new account with it in the name of such Chargor. If the Secured Party does not open a new account, it shall nevertheless be treated as if it had done so at the time when the winding-up commenced or the Secured Party received, or was deemed to have received, notice of such subsequent Security. All payments made thereafter by a Chargor to that Secured Party shall be treated as having been credited to a new account of such Chargor and not as having been applied in reduction of the Secured Liabilities as at the time when the winding-up commenced or the Security Trustee received such notice.

**9.5 Retention of Documents:** The Security Trustee shall be entitled to continue to retain any document delivered to it under this Deed or the Original Debenture (as the case may be) relating to a Charged Asset until the Charges over such Charged Asset are released in accordance with this Deed. If, for any reason, it ceases to hold any such document before such time, it may by notice to the relevant Chargor require that the relevant document be redelivered to it and the relevant Chargor shall promptly comply with that requirement or procure that it is complied with.

**9.6 Custody:** The Security Trustee shall be entitled to keep all certificates and documents of title relating to the Charged Assets in safe custody at any of its branches or otherwise provide for their safe custody by third parties and shall not be responsible for any loss or damage occurring to or in respect thereof unless such loss or damage shall be caused by its own gross negligence or wilful misconduct.

**9.7 Recovery of Debts:** The Security Trustee and any manager or officer of the Security Trustee or of any branch is hereby irrevocably empowered on or after the date the Charges are first enforced, in accordance with Clause 6.2 (*Enforceability of Security*), to receive all Monetary Claims and on payment to give an effectual discharge therefor and on non-payment to take (if the Security Trustee in its sole discretion so decides) all steps and proceedings either in the name of each Chargor or in the name of the Security Trustee for the recovery thereof and also to agree accounts and to make allowances and to give time to any surety. Neither the Security Trustee nor any Receiver shall be obliged to make any enquiry as to the sufficiency of any sums received in respect of any Monetary Claims or to make any claims or take any other action to collect or enforce the same.

## **10. RESPONSIBILITIES OF SECURITY TRUSTEE, RECEIVERS AND DELEGATES**

**10.1 No Obligation to Remain in Possession:** If the Security Trustee, any Receiver or any Delegate shall take possession of the Charged Assets, it may from time to time in its absolute discretion relinquish such possession.

**10.2 No Liability as Mortgagee in Possession:** Neither the Security Trustee nor any Receiver or Delegate will be liable, by reason of entering upon or into possession of a Charged Asset (or viewing or repairing any Charged Assets or otherwise), to account as mortgagee in possession in respect of any Charged Assets or for any loss on realisation or for any

default or omission in respect of any Charged Assets for which a mortgagee in possession might otherwise be liable

**10.3 Security Trustee's Obligation to Account:** Neither the Security Trustee nor any Receiver or Delegate shall (either by reason of taking possession of the Charged Assets or for any other reason)

- (a) be liable to account to any Chargor or any other person for anything except the Security Trustee's own actual receipts which have not been distributed or paid to such Chargor or the persons entitled (or at the time of payment believed by the Security Trustee to be entitled) thereto, or
- (b) be liable to such Chargor or any other person for any costs, losses, liabilities or expenses related to any realisation of any Charged Assets or from any act, default, omission or misconduct of the Security Trustee, any Receiver, any Delegate or their respective officers, employees or agents in relation to the Charged Assets or in connection with any Secured Document unless caused by its own gross negligence or wilful misconduct

**11. FURTHER ASSURANCE**

Each Chargor shall, at its own expense, promptly do all such acts and things as the Security Trustee may reasonably require (subject to the Agreed Security Principles) for

- (a) creating, registering at any time after the occurrence of a Declared Default, perfecting, maintaining or protecting the Charges or any Security intended to be created by or pursuant to this Deed or any of the Charged Assets,
- (b) creating a fixed charge over Monetary Claims or, at any time after the occurrence of a Declared Default or the Charges shall have otherwise become enforceable, a legal assignment of Monetary Claims,
- (c) creating a mortgage over Real Property owned by it, or
- (d) facilitating the realisation of any Charge after the Charge has become enforceable or the exercise of any right, power or discretion in relation to any Charged Asset or Charge vested in the Security Trustee, any Receiver or any Delegate,

including, without limitation, the execution (including by sealing) of any transfer, assignment, mortgage, charge or Security or any other document or any notice or instruction which the Security Trustee may reasonably require, including any such document, notice or instruction required to enable the Security Trustee or its nominee to obtain legal title to any Charged Assets in circumstances in which it is entitled to obtain such legal title under this Deed

## **12. POWER OF ATTORNEY**

**12.1 Appointment:** Each Chargor by way of Security irrevocably appoints the Security Trustee, every Receiver and every Delegate severally to be its attorney

- (a) to do all acts and things which such Chargor is obliged to do under this Deed but has failed to do, including, without limitation, to fill in the name of the transferee and to date and complete any instrument of transfer in respect of any Charged Investments which has been executed in blank by such Chargor and, in the case of registered Charged Investments, to procure the registration of the transferee as the holder of the relevant Charged Investments in circumstances in which the Charged Investments are to be transferred under the terms of this Deed subject to Clause 5 2(b)(ii),
- (b) to transfer any interest in any Charged Assets in the circumstances in which such transfer may be required under this Deed on an enforcement of the Charges over such Charged Assets,
- (c) in its name and on its behalf to exercise any right conferred on the Security Trustee, any Receiver or any Delegate in relation to the Charged Assets under this Deed or any other Secured Document or by law after such right has become exercisable under the terms of this Deed, and
- (d) to register or renew registration of the existence of the Charges or the restrictions on dealing with the Charged Assets in any register in which a Chargor is obliged (but has failed) to effect or maintain registration under the terms of this Deed and, in the case of the transfer of Investments to the name of the Security Trustee or its nominees, subject to Clause 5 2(b)(ii)

**12.2 Ratification:** Each Chargor agrees to ratify and confirm whatever any such attorney shall do or purport to do in the exercise or purported exercise of the power of attorney granted by Clause 12.1 (*Appointment*)

**12.3 Sums Recoverable:** All moneys expended by the Security Trustee, any Receiver, any Delegate or any attorneys shall be recoverable from the Chargor under Clause 14 (*Expenses, Stamp Duty and Indemnities*) and the Secured Documents.

## **13. PROTECTION OF THIRD PARTIES**

**13.1 No Duty to Enquire:** No person dealing with the Security Trustee, any Receiver or any Delegate shall be concerned to enquire

- (a) whether any right which the Security Trustee or any Receiver or Delegate is purporting to exercise or any of its powers has arisen or become exercisable,
- (b) whether the Secured Liabilities have become payable or any amount remains outstanding under the Secured Documents,

- (c) as to the application of any money borrowed or raised or paid to the Security Trustee or any Receiver, Administrator or Delegate, or
  - (d) as to the propriety or regularity of such dealings
- 13.2 Receipt:** The receipt of the Security Trustee or any Receiver shall be conclusive discharge to a purchaser and, in making any sale or disposal of any of the Charged Assets or in making any acquisition, the Security Trustee or any Receiver may do so for any such consideration, in such manner and on such terms as it thinks fit.
- 13.3 Statutory Protection:** All the protection to purchasers contained in sections 104 and 107 of the LPA, section 42(3) of the Insolvency Act 1986 or in any other applicable legislation shall apply to any person purchasing from or dealing with the Security Trustee, any Secured Party, any Receiver or any Delegate
- 13.4 Tacking:**
- (a) subject to the terms of the Senior Revolving Facility Agreement, each Lender is under an obligation to make further advances and any such obligation will be deemed to be incorporated in this Deed as if set out in this Deed, and
  - (b) subject to the terms of the Senior Secured Notes Indenture, each Senior Secured Noteholder who may be under an obligation to purchase further Senior Secured Notes and any such obligation will be deemed to be incorporated in this Deed as if set out in this Deed

#### **14. EXPENSES, STAMP DUTY AND INDEMNITIES**

- 14.1 Expenses:** Save to the extent that the Chargor has already paid such amount under the Senior Revolving Facility Agreement or Senior Secured Notes Indenture, each Chargor will on demand pay to and reimburse the Security Trustee or any other Secured Party, Receiver, Delegate, agent or attorney, on the basis of a full indemnity, all costs and expenses (including legal fees and other out of pocket expenses) and any VAT incurred by the Security Trustee or any other Secured Party, Receiver, Delegate, agent or attorney in connection with this Deed and will indemnify them against any failure to pay such amounts including any amounts arising from any actual or alleged breach of any Environmental Law or other law
- 14.2 Stamp Duties:** Save to the extent that the Chargor has already paid such amount under the Senior Revolving Facility Agreement or Senior Secured Notes Indenture, each Chargor will on demand pay to and indemnify the Security Trustee, each other Secured Party and any Receiver, Delegate, agent or attorney from and against any liability for any stamp duty, stamp duty reserve, stamp duty land tax, documentary or registration or similar Taxes or notarial fees which are or may subsequently become payable in connection with the entry into, performance, execution or enforcement of this Deed or to which this Deed may otherwise be or become subject or give rise. Each Chargor will in addition on demand indemnify the Security Trustee, each other Secured Party, any Receiver,

Delegate, agent or attorney from and against any losses or liabilities which they incur as a result of any delay or omission by such Chargor to so pay any such amounts.

#### **14.3 Currency Indemnity:**

- (a) Save to the extent that the Chargor has already paid such amount under the Senior Revolving Facility Agreement or Senior Secured Notes Indenture, if any sum (a “**Sum**”) owing by a Chargor under this Deed, or any judgment, award or order given in relation to this Deed, has to be converted from the currency in which that Sum is payable into another currency for the purpose of
  - (i) making or filing a claim or proof against that Chargor,
  - (ii) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings, or
  - (iii) applying the Sum in satisfaction of any Secured Liabilities,that Chargor shall, as an independent obligation, within three Business Days of demand, indemnify the Security Trustee, each other Secured Party or any Receiver or Delegate from any cost, loss or liability incurred as a result of the conversion including any discrepancy between (A) the rate of exchange used to make the conversion and (B) the rate or rates of exchange available to that person at the time of its receipt of that Sum
- (b) Each Chargor waives any right it may have in any jurisdiction to pay any amount under this Deed in a currency or currency unit other than that in which it is expressed to be payable unless required to do so by any applicable law

#### **14.4 Taxes**

- (a) All sums payable by each Chargor under this Deed shall be paid.
  - (i) free of any restriction or condition,
  - (ii) free and clear of and (except to the extent required by law) without any deduction or withholding for or on account of any Tax, and
  - (iii) without deduction or withholding (except to the extent required by law) on account of any other amount whether by way of set-off, counter-claim or otherwise,

as provided for and subject to the qualifications and exceptions in Clause 18 (*Tax Gross-Up and Indemnities*) of the Senior Revolving Facility Agreement and, after the Super Senior Discharge Date, any applicable qualifications and exceptions under the Secured Notes Indenture

If any Chargor or any other person is required by law to make any deduction or withholding on account of any such Tax from any sum paid or payable by any Chargor to any Secured Party under this Deed, the sum payable by such Chargor in respect of which the relevant deduction or withholding is required shall be increased to the extent necessary to ensure that, after the making of that deduction or withholding, the receiving party receives on the due date and retains (free from any liability in respect of any such deduction or withholding) a net sum equal to the sum which it would have received and so retained had no such deduction or withholding been required or made as provided for and subject to the qualifications and exceptions in Clause 18 (*Tax Gross-Up and Indemnities*) of the Senior Revolving Facility Agreement and, after the Super Senior Discharge Date, any applicable qualifications and exceptions under the Senior Secured Notes Indenture

## **15. PAYMENTS**

- 15.1 Certificates:** A certificate, determination, notification or opinion of the Security Trustee or any other Secured Party as to the amount of the Secured Liabilities or any other matter connected with this Deed or the Charges shall, in the absence of manifest error, be conclusive evidence of the matters to which it relates
- 15.2 Payments:** All payments under or pursuant to this Deed (including damages in respect of breaches hereof) shall be made in accordance with the Secured Documents or in such other manner as the Security Trustee may agree and direct.

## **16. EFFECTIVENESS OF SECURITY**

- 16.1 Chargor's Obligations Continuing:** Each Chargor's obligations under Clause 2 (*Covenant to Pay*) and the Charges are continuing obligations and will extend to the ultimate balance of the Secured Liabilities regardless of any intermediate payment or discharge in whole or in part
- 16.2 Cumulative Rights:** The rights and remedies provided in this Deed are cumulative and in addition to and independent of and not in any way prejudiced by any rights or remedies provided by law or any other Security, guarantees or rights of set-off or combination thereof held by any Secured Party.
- 16.3 Failure to Exercise Rights:** No failure by the Security Trustee to exercise or delay in the exercise of any right or remedy under this Deed will operate as a waiver thereof nor will any single or partial exercise of any right or remedy preclude any other or further exercise thereof or the exercise of any other right or remedy
- 16.4 Immediate Recourse:** This Deed and the Chargers' obligations under this Deed are in addition to, and not to be prejudiced by or to be merged with, any other guarantee, indemnity or Security at any time existing in favour of any person. Each Chargor waives any right it may have to require any Secured Party (or any trustee or agent on its behalf) to make demand of, proceed against or enforce any other rights or Security or claim payment from any person before claiming against such Chargor. This waiver applies

irrespective of any law or any provision of any Secured Document (other than the Intercreditor *Deed*) to the contrary

**16.5 Grant of Waivers:** A waiver given or consent granted by the Security Trustee under this Deed will be effective only if given in writing and then only in the instance and for the purpose for which it is given

**16.6 Waiver of Defences:** As between each Chargor and the Secured Parties but without affecting the obligations of any Borrower (as defined in the Senior Revolving Facility Agreement), the Parent or any Guarantor (as defined in the Senior Secured Notes Indenture), each Chargor shall be liable under Clause 2 (*Covenant to Pay*) as if it were the principal debtor and not merely a surety. Neither the Charges nor the obligations of each Chargor under this Deed shall be discharged or affected by (and each Chargor hereby irrevocably waives any defences it may now or hereafter acquire in any way relating to) any act, omission, matter or thing which, but for this Clause 16, would reduce, release or prejudice any of its obligations under this Deed (without limitation and whether or not known to such Chargor or any Secured Party) including

- (a) any time, waiver or consent given to, or any composition with, any Debtor or any other person,
- (b) the release of the Chargor or any other person under the terms of any composition or arrangement with any creditor of the Chargor or any other person (other than any express release of the Charges given in accordance with this Deed),
- (c) any amendment, novation, supplement, extension (whether of maturity or otherwise) or restatement (in each case however fundamental and of whatever nature) or replacement of any Secured Document or any other Security or document,
- (d) the taking, perfection, enforcement, variation, compromise, exchange, renewal, release of, or the refusal or neglect to take, perfect or enforce, any rights against, or Security over, assets of, or any guarantee or undertaking given by, any Debtor or other person or 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 constitution or status of a Debtor, Secured Party or any other person,
- (f) the illegality, invalidity or unenforceability of any obligation of any person under, or expressed to arise under, any Secured Document or other document,
- (g) any insolvency or similar proceedings under the laws of any jurisdiction or the making of any arrangement or composition with or for the benefit of creditors by any other Debtor, any Secured Party or any other person,

- (h) any Secured Party ceasing or refraining from giving credit or making loans or advances to or otherwise dealing with any Debtor or any other person (but without prejudice to any rights which any Chargor may have against a Secured Party by reason of default by that Secured Party under the Secured Documents); or
- (i) the failure of any Secured Party to disclose to any Chargor any information relating to the business, assets, financial condition or prospects of any other Debtor now or hereafter known to such Secured Party (each Chargor waiving any duty on the part of the Secured Parties to disclose such information)

**16.7 Deferral of Chargor's Rights:** Until all Secured Liabilities have been irrevocably and unconditionally paid and discharged in full or the Security Trustee otherwise directs, no Chargor will exercise any rights which it may have (by reason of performance by it of its obligations under the Secured Documents) or by reason of any amount being payable, or liability arising, under this Deed

- (a) to be indemnified by any other Debtor,
- (b) to claim any contribution or payment from any other provider of Security or surety of any Debtor's obligations under the Secured Documents,
- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of any Secured Parties under the Secured Documents or of any other Security or guarantee taken pursuant to, or in connection with, the Secured Documents by any Secured Party,
- (d) to bring legal or other proceedings for an order requiring any Debtor to make any payment, or perform any obligation, in respect of which any Debtor has given a guarantee, undertaking or indemnity under this Deed,
- (e) to exercise any right of set-off against any Debtor, and/or
- (f) to claim or prove as a creditor of any Debtor in competition with any Secured Party

Such Chargor shall hold any benefit, payment or distribution received or recovered by it as a result of any exercise of any such right on trust for the Secured Parties and shall pay an amount equal to the amount received or recovered forthwith to the Security Trustee

**16.8 Partial Invalidity:** If at any time any provision of this Deed is or becomes invalid, illegal or unenforceable in any respect (or any of the Charges intended to be created by or pursuant to this Deed is ineffective) in any jurisdiction, that shall not affect the legality, validity or enforceability of

- (a) the remaining provisions or the effectiveness of any of the remaining Charges in that jurisdiction; or



- (b) that or any other provision or the effectiveness of such Charges in any other jurisdiction

**16.9 Reinstatement:** If any discharge, release or arrangement (whether in respect of the obligations of any Debtor or any Security for those obligations or otherwise) is made by a Secured Party in whole or in part on the faith of any payment, Security or other disposition which is avoided or must be restored in insolvency, liquidation, administration or otherwise, without limitation

- (a) the liability of each Debtor will continue or be reinstated as if the release, arrangement, discharge, settlement, avoidance or reduction had not occurred,
- (b) each Secured Party shall be entitled to recover the value or amount of that payment, release, arrangement, discharge, Security or settlement from each Chargor, as if the payment, discharge, settlement, avoidance or reduction had not occurred together with any other cost, loss, expense or liability incurred by such Secured Party as a result of such avoidance or discharge, and
- (c) each Chargor shall on demand indemnify the Security Trustee against any funding or other cost, loss, liability or expense incurred by the Security Trustee as a result of the Security Trustee being required for any reason to refund all or part of any amount received by it in respect of any of the Secured Liabilities

**16.10 Security Retention:** If the Security Trustee, acting reasonably, considers that any amount paid or credited under any Secured Documents is capable of being avoided or otherwise set aside under any laws relating to insolvency or otherwise that amount shall not be treated as paid for the purposes of determining whether the Secured Liabilities have been paid

**16.11 Final Redemption:**

- (a) The Security Trustee shall at the cost of the Chargor's concerned:
  - (i) on the date on which it is satisfied (acting reasonably) that all the Secured Liabilities have been irrevocably and unconditionally paid and discharged in full and no further Secured Liabilities are capable of becoming outstanding (the "**Release Date**"); or
  - (ii) following receipt of a notice under paragraph (b) below, take all reasonable steps to release and/or re-assign the Charged Assets from the Charges but without recourse to or any representation or warranty by the Security Trustee or any of its nominees
- (b) If the Chargors are entitled to, under the terms of the Secured Documents, and wish to require the release of the Charges, they shall give the Security Trustee not less than seven Business Days' prior notice in writing requesting release of the Charges and following such prior written notice the Security Trustee will release and/or re-assign the Charged Assets in accordance with Clause 16.11(a)(ii) above.

- (c) All documents which are necessary in connection with the redemption of the Charges or the transfer of the Charged Assets back to the relevant Chargor shall be in such form as the Security Trustee shall reasonably require

**16.12 Consolidation:** Section 93 of the LPA (restricting the right of consolidation of the Charges with any other Security) shall not apply to the Charges and the Security Trustee may consolidate all or any of the Charges with any other Security to the extent lawful.

**16.13 Appropriations:**

Until all Secured Liabilities have been irrevocably and unconditionally paid and discharged in full and all facilities which might give rise to Secured Liabilities have been terminated, each Secured Party (or any trustee or agent on its behalf) may, subject to the terms of the Intercreditor Deed and without affecting the liability of any Chargor under this Deed

- (a) refrain from applying or enforcing any other moneys, Security or rights held or received by that Secured Party (or any trustee or agent on its behalf) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and no Chargor shall not be entitled to the benefit of the same, and
- (b) hold in an interest-bearing suspense account any moneys received from any Chargor or on account of any Chargor's liability under this Deed

**16.14 References:** References in the Debt Documents to the Original Debenture shall be references to the Original Debenture as supplemented by this Deed

**17. SET-OFF**

**17.1 Set-Off:** After a Declared Default has occurred the Security Trustee and each other Secured Party may (without notice to the relevant Chargor) set off or otherwise apply against the Secured Liabilities any credit balance to which any Chargor is entitled on any account with the Security Trustee or such Secured Party and any other obligation (contingent or otherwise) owing by the Security Trustee or such Secured Party regardless of the place of payment, booking branch or currency of either obligation or the terms of any deposit standing to the credit of such account

**17.2 Currency Conversion:** A Secured Party may exercise such rights notwithstanding that the obligations concerned may be expressed in different currencies and each Secured Party is authorised to convert either obligation at a market rate of exchange in its usual course of business for the purpose of the setoff.

**17.3 Set-Off Rights Cumulative:** This Clause 17 (*Set-Off*) shall be in addition to and without prejudice to any rights of set-off or any other rights or remedies which a Secured Party may have

## **18. COMMUNICATIONS**

**18.1 Mode of Service:** Any communication to be made under or in connection with this Deed.

- (a) may, unless otherwise stated, be made in person or by letter or facsimile,
- (b) shall be made in writing, and
- (c) shall be made in the English language.

**18.2 Addresses:** The address and facsimile number and the person or department (if any) for whose attention the communication is to be made of each party for any communication or document to be made or delivered under or in connection with this Deed is:

- (a) in the case of the Security Trustee and each Chargor listed in Schedule 1 (*The Chargors*), that shown immediately after its name on the signature page of this Deed or set out under its name in Schedule 1 (*The Chargors*), or
- (b) in the case of each Chargor which accedes to this Deed in accordance with Clause 21 (*Assignment and Transfer and New Chargors*), that set out in the Accession Document by which it became a party hereto,

or any substitute address, facsimile number, person or department as the relevant Chargor may notify the Security Trustee (or, in the case of a change made by the Security Trustee, the Security Trustee to the other parties) by not less than five Business Days' notice

**18.3 Delivery:**

- (a) Subject to Clause 18 3(c), any communication or document made or delivered by one person to another under or in connection with this Deed will only be effectively made or delivered
  - (i) if sent by fax, when first received in legible form, or
  - (ii) if sent by post, three Business Days (or 10 Business Days in the case of airmail) after being deposited in the post, postage prepaid, in a correctly addressed envelope, or
  - (iii) if delivered in person, at the time of delivery,

and, if a particular department or officer is specified as part of its address details provided under Clause 18 2(6) (*Addresses*), if addressed to that department or officer

- (b) Any communication or document given under paragraph (a) which is received after 5 p.m. in the place of receipt or on a day which is not a Business Day shall be deemed to have been received at 9 a.m. on the following Business Day.

- (c) Any communication or document to be made or delivered to the Security Trustee under or in connection with this Deed will only be effectively made or delivered when actually received by the Security Trustee and then only if it is expressly marked for the attention of the department or officer identified with the Security Trustee's signature below (or any substitute department or officer as the Security Trustee shall specify for this purpose)
- (d) Any communication or document made or delivered to the Debtors' Agent in accordance with this Clause will be deemed to have been made or delivered to each of the Debtors
- (e) The Security Trustee may assume that any communication made or document delivered by the Debtors' Agent is made or delivered with the consent of each Debtor

## **19. THIRD PARTIES**

Save as expressly stated in this Deed, a person who is not a party to this Deed has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Deed

## **20. COUNTERPARTS**

**20.1 Counterparts:** This Deed may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of the Deed

**20.2 Non-signatories:** Failure by one or more parties ("Non-Signatories") to execute this Deed on the date hereof will not invalidate the provisions of this Deed as between the other parties who do execute this Deed. Such Non-Signatories may execute this Deed (or a counterpart thereof) on a subsequent date and will thereupon become bound by its provisions

## **21. ASSIGNMENT AND TRANSFER AND NEW CHARGORS**

**21.1 Assignment:** The Security Trustee and any Secured Party may at any time assign or otherwise transfer all or any part of its rights under this Deed in accordance with and subject to the Secured Documents

**21.2 Accession:**

- (a) Each Chargor will procure that any new Subsidiary of it which is required to do so by the terms of the Secured Documents executes an accession deed in a form approved by the Security Trustee and thereby charges its assets and undertaking contemplated by this Deed to the Security Trustee (it being acknowledged that such accession deed may relate to both the Original Debenture and this Deed)

- (b) Each Chargor consents to new Subsidiaries becoming Chargors as contemplated by Clause 21.1 (*Assignment*) and irrevocably appoints the Parent as its agent for the purpose of executing accession deeds on its behalf

## **22. GOVERNING LAW AND SUBMISSION TO JURISDICTION**

**22.1 Governing Law:** This Deed is governed by and shall be construed in accordance with English law. Any non-contractual obligations arising out of or in connection with this Deed are governed by English law.

### **22.2 Jurisdiction:**

- (a) Subject to paragraph (c) below, the courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute regarding the existence, validity or termination of this Deed or any non-contractual obligation arising out of or in connection with this Deed) or the consequences of its nullity (a “Dispute”).
- (b) The parties agree that the courts of England are the most appropriate and convenient courts to settle any Disputes and accordingly no party will argue to the contrary.
- (c) This Clause is for the benefit of the Secured Parties only. As a result, no Secured Party shall be prevented from taking
  - (i) proceedings relating to a Dispute in any other courts with jurisdiction, and
  - (ii) to the extent allowed by law, concurrent proceedings in any number of jurisdictions

**IN WITNESS WHEREOF** the parties hereto have caused this Deed to be duly executed as a deed but it shall not be treated as being delivered until the date first written above.

**SCHEDULE 1**  
**The Chargors**

| <b><u>Chargor</u></b>       | <b><u>Registered Number</u></b> |
|-----------------------------|---------------------------------|
| R&R Ice Cream plc           | 05777981                        |
| R&R Ice Cream UK Limited    | 00901522                        |
| Richmond Foods Limited      | 02573163                        |
| Ruby Acquisitions Limited   | 05776157                        |
| Kelly's Of Cornwall Limited | 01511207                        |
| Fredericks Holdings Limited | 06317111                        |

**SCHEDULE 2**  
**Details of the Scheduled Real Property**

**Registered Land**

| <b>Chargor</b>                | <b>Freehold/leasehold</b> | <b>Description</b>  | <b>Title number</b>    |
|-------------------------------|---------------------------|---|------------------------|
| R & R Ice Cream<br>UK Limited | Freehold                  | Land at Leeming Bar<br>Industrial Estate,<br>Leeming Bar,<br>Northallerton                                  | NYK88738               |
|                               |                           |   | NYK105255              |
|                               |                           |   | NYK391195              |
|                               |                           |   | NYK184627              |
|                               |                           |   | NYK132411              |
|                               |                           |   | NYK77641               |
|                               |                           |   | NYK189367              |
| R & R Ice Cream<br>UK Limited | Leasehold                 | Units 1-20, Progress<br>Row, Portland Way,<br>Leeming Bar<br>Industrial Estate,<br>Northallerton DL7<br>9UH | NYK308402              |
| R & R Ice Cream<br>UK Limited | Freehold                  | Land on the west side<br>of Plews Way,<br>Leeming Bar<br>Industrial Estate,<br>Northallerton                | NYK308458              |
| R & R Ice Cream<br>UK Limited | Freehold                  | Land and buildings<br>on the North side of<br>Manston Lane,<br>Crossgates                                   | WYK527465<br>WYK252014 |

**SCHEDULE 3**  
**Details of the Scheduled Intellectual Property**

| PROPRIETOR               | MARK               | COUNTRY        | CLASSES | APPLICATION NUMBER | APPLICATION DATE | REGISTRATION NUMBER | RENEWAL DATE |
|--------------------------|--------------------|----------------|---------|--------------------|------------------|---------------------|--------------|
| R&R Ice Cream plc        | R & R UK ICE CREAM | United Kingdom | 30      | 2431436            | 01-09-2006       | 2431436             | 01-09-2016   |
| R&R Ice Cream plc        | R&R ICE CREAM      | United Kingdom | 30      | 2431437            | 01-09-2006       | 2431437             | 01-09-2016   |
| R&R Ice Cream UK Limited | Kelly's & Device   | Europe         | 30      | 7536915            | 20-01-2009       | 7536915             | 20-01-2019   |
| R&R Ice Cream UK Limited | Spoony's Device    | Europe         | 30      | 9080847            | 05-05-2010       |                     | 05-05-2020   |
| R&R Ice Cream UK Limited | ZZAPP              | United Kingdom | 30      | 1486268            | 19-12-1991       | 1486268             | 19-12-2018   |
| R&R Ice Cream UK Limited | Treats             | United Kingdom | 30      | 1489705            | 01-02-1992       | B1489705            | 01-02-2019   |
| R&R Ice Cream UK Limited | Sorrento           | United Kingdom | 30      | 2111411            | 27-09-1996       | 2111411             | 27-09-2016   |
| R&R Ice Cream UK Limited | Treats 5-ice       | United Kingdom | 30      | 2127303            | 20-03-1997       | 2127303             | 20-03-2017   |
| R&R Ice Cream UK Limited | Whizzer            | United Kingdom | 30      | 2177709            | 19-09-1998       | 2177709             | 19-09-2018   |
| R&R Ice Cream UK Limited | Treats Device      | United Kingdom | 30      | 2195253            | 22-04-1999       | 2195253             | 22-04-2019   |
| R&R Ice Cream UK Limited | Treats & Device    | United Kingdom | 30      | 2243699            | 26-08-2000       | 2243699             | 26-08-2020   |
| R&R Ice Cream UK Limited | Jellicious         | United Kingdom | 30      | 2308932            | 23-08-2002       | 2308932             | 23-08-2022   |
| R&R Ice Cream UK Limited | Completely Mintal  | United Kingdom | 30      | 2371415            | 24-08-2004       | 2371415             | 24-08-2014   |
| R&R Ice Cream UK Limited | Madly Deeply       | United Kingdom | 30      | 2371418            | 24-08-2004       | 2371418             | 24-08-2014   |
| R&R Ice Cream UK Limited | 2 to Tango         | United Kingdom | 30      | 2371422            | 24-08-2004       | 2371422             | 24-08-2014   |
| R&R Ice Cream UK Limited | Funilia            | United Kingdom | 30      | 2372437            | 08-09-2004       | 2372437             | 08-09-2014   |
| R&R Ice Cream UK Limited | Sweet Freedom      | United Kingdom | 30      | 2372664            | 11-09-2004       | 2372664             | 11-09-2014   |
| R&R Ice Cream UK Limited | Truffleberryfling  | United Kingdom | 30      | 2379042            | 29-11-2004       | 2379042             | 26-11-2014   |



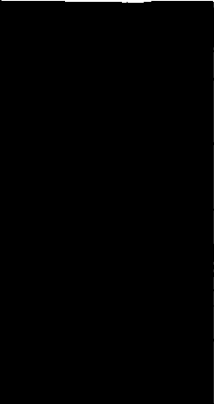
| PROPRIETOR               | MARK                       | COUNTRY        | CLASSES | APPLICATION NUMBER | APPLICATION DATE | REGISTRATION NUMBER | RENEWAL DATE |
|--------------------------|----------------------------|----------------|---------|--------------------|------------------|---------------------|--------------|
| R&R Ice Cream UK Limited | Shoot                      | United Kingdom | 30      | 2406004            | 09-11-2005       | 2406004             | 09-11-2015   |
| R&R Ice Cream UK Limited | Score                      | United Kingdom | 30      | 2406005            | 09-11-2005       | 2406005             | 09-11-2015   |
| R&R Ice Cream UK Limited | 'Truly Lovin' Toffee       | United Kingdom | 30      | 2425833            | 29-06-2006       | 2425833             | 29-06-2016   |
| R&R Ice Cream UK Limited | Sweet Balance              | United Kingdom | 30      | 2439361            | 23-11-2006       | 2439361             | 23-11-2016   |
| R&R Ice Cream UK Limited | Juicy Lucy                 | United Kingdom | 30      | 1054496            | 07-11-2006       | 1054496             | 07-11-2016   |
| R&R Ice Cream UK Limited | Treat (Stylised)           | United Kingdom | 30      | 991639             | 05-05-2007       | 991639              | 05-05-2017   |
| R&R Ice Cream UK Limited | Treat Crackerjack          | United Kingdom | 30      | 1058924            | 17-02-2007       | 1058924             | 17-02-2017   |
| R&R Ice Cream UK Limited | Richmond                   | United Kingdom | 30      | 2031427            | 24-08-1995       | 2031427             | 24-08-2015   |
| R&R Ice Cream UK Limited | Freats                     | United Kingdom | 30      | 1370595            | 20-01-1989       | 1370595             | 20-01-2016   |
| R&R Ice Cream UK Limited | Treat                      | United Kingdom | 30      | 1381927            | 28-04-1989       | 1381927             | 28-04-2016   |
| R&R Ice Cream UK Limited | Grandioso                  | United Kingdom | 30      | 1415319            | 23-02-1990       | 1415319             | 23-02-2017   |
| R&R Ice Cream UK Limited | Zzapp                      | Benelux        | 30      | 854041             | 17-08-1995       | 577881              | 17-08-2015   |
| R&R Ice Cream UK Limited | Zzapp                      | Germany        | 30      | 395352878          | 29-08-1995       | 39535287            | 31-08-2015   |
| R&R Ice Cream UK Limited | Lemon Bang Bang            | United Kingdom | 30      | 2398655            | 05-08-2005       | 2398655             | 05-08-2015   |
| R&R Ice Cream UK Limited | Tennessee Secret Logo      | United Kingdom | 29,30   | 2015919            | 29-03-1995       | 2015919             | 29-03-2015   |
| R&R Ice Cream UK Limited | Maxi Cone                  | United Kingdom | 30      | 2561196            | 12-10-10         | 2561196             | 12-10-2020   |
| R&R Ice Cream UK Limited | Kelly's Of Cornwall device | Europe         | 30      | 016622875          | 04-03-13         | 01622875            | 04-03-23     |
| R&R Ice Cream UK Limited | KELLY'S                    | Europe         | 30      | 011622909          | 04-03-13         | 01622875            | 04-03-23     |

**SCHEDULE 4**  
**Details of the Scheduled Investments**

| <u>Chargor</u>            | <u>Issuer</u>                       | <u>Number and description of shares</u>   |
|---------------------------|-------------------------------------|---|
| R&R Ice Cream plc         | Ruby Acquisitions Limited           | 7,532,982 Ordinary Shares of EUR1 per share<br>2 Ordinary Shares of £1 each                                       |
| Ruby Acquisitions Limited | Richmond Foods Limited              | 24,258,912 Ordinary Shares of £0.05 per share   |
| Richmond Foods Limited    | R&R Ice Cream UK Limited            | 35,929 Ordinary Shares of £0.10 per share<br>35,000 Deferred Shares of £1 per share                               |
|                           | Richmond Foods (EBT 1) Limited      | 100 Ordinary Shares of £1 per share   |
|                           | Richmond Shelf Company Limited      | 5,960 Ordinary A Shares of £0.05 per share<br>310 Ordinary B Shares of £0.05 per share                            |
| R&R Ice Cream UK Limited  | Kelly's Of Cornwall Limited         | 70,000 Ordinary Shares of £1 per share  |
|                           | Creamice Limited                    | 70,000 Ordinary Shares £1 per share   |
|                           | Oldfield's Ice Cream Limited        | 6,825 Ordinary Shares £1 per share  |
|                           | Treats Frozen Confectionary Limited | 210 Ordinary Shares £1 per share  |
|                           | Richmond Ice Cream Limited          | 20,000 Ordinary Shares £1 per share   |
|                           | Fredericks Holdings Limited         | 1000 Ordinary A Shares of £0.10 per share<br>150 Ordinary B Shares of £1 per share<br>69,900 Preference Shares of |

|                             |                                    |   |
|-----------------------------|------------------------------------|---|
|                             |                                    | £1 per share                                |
|                             | Yoomoo International Limited       | 67,797 A Ordinary Shares of £0.01 per share |
|                             |                                    | 25,000 B Ordinary Shares of £0.01 per share |
| Kelly's of Cornwall Limited | Kelly's Cornish Dairy Ices Limited | 2 Ordinary Shares of £1 per share           |
| Fredericks Holdings Limited | Fredericks Dairies Limited         | 70,000 Ordinary Shares of £1 per share      |

**SCHEDULE 5**  
**Details of the Scheduled Bank Accounts**

| Account Holder           | Bank         | Bank Account Number   |
|--------------------------|--------------|---|
| R&R Ice Cream UK Limited | Barclays     |  |
| R&R Ice Cream UK Limited | Barclays     |   |
| R&R Ice Cream UK Limited | Barclays     |   |
| R&R Ice Cream plc        | Barclays     |   |
| R&R Ice Cream plc        | Barclays     |   |
| R&R Ice Cream UK Limited | Barclays     |   |
| R&R Ice Cream UK Limited | Allied Irish |   |

**SCHEDULE 6**  
**Notices for Bank Accounts**

**Part I**  
**Form of Notice to Account Bank for a Bank Account**

To [name of Account Bank]

[address]

Dated [•]

Dear Sirs

[•] (the “**Chargor**”)

[number and description of the relevant account] (the “**Specified Accounts**”) debenture dated [•] 2014 made between, amongst others, the Chargor and Barclays Bank PLC as Security Trustee (the “**Deed**”)

1. In this notice

“**Original Debenture**” means a debenture dated 5 November 2010 between R&R Ice Cream plc, R&R Ice Cream UK Limited, Richmond Foods Limited, Ruby Acquisitions Limited and Kelly’s of Cornwall Limited, each as a Chargor, and Barclays Bank PLC as Security Trustee (each as defined therein) and to which Fredericks Holdings Limited acceded to as a New Chargor (as defined therein) pursuant to a security accession deed dated 22 August 2013 between Fredericks Holdings Limited as New Chargor and Barclays Bank PLC as Security Trustee (as defined therein).

2. We acknowledge that you may have received a notice from the Security Trustee pursuant to the Original Debenture. The Deed is subject to the Original Debenture.

3. Pursuant to the Deed, the Chargor has charged by way of first fixed charge in favour of the Security Trustee all its rights to, and interest in, the balance standing from time to time to the credit of the Specified Accounts and any other bank account maintained with you and the debts represented by them (the “**Accounts**”).

4. The Chargor hereby irrevocably and unconditionally instructs and authorises you.

(a) following notice from the Security Trustee that the Security created under the Deed has become enforceable, any existing payment instructions affecting the Accounts are to be terminated and all payments and communications in respect of the Accounts should be made only to the Security Trustee or to its order (with a copy to ourselves),

(b) following notice from the Security Trustee that the Security created under the Deed has become enforceable, to comply with the terms of any written notices or

instructions relating to the Deed and/or the Accounts and the debts represented by them which you receive from the Security Trustee, and

- (c) following notice from the Security Trustee that the Security created under the Deed has become enforceable, all rights, interests and benefits whatsoever accruing to or arising from the Accounts shall be exercisable by and shall belong to the Security Trustee

5 The Security Trustee hereby confirms that it consents to the following transactions in relation to the Accounts subject to paragraph 4 below

- (a) you may collect and pay to the credit of any Account the proceeds of credits for the account of the Chargor and the Chargor may operate the account freely until the security under the Deed has become enforceable,
- (b) you may make payments to third parties or to other Accounts in the name of the Chargor on the instructions of the Chargor and debit the amounts involved to any Accounts;
- (c) you may debit to any Account amounts due to you from the Chargor for operating such account, and
- (d) in order to enable you to make available net overdraft facilities on the Specified Accounts, you may set-off debit balances against credit balances on any of the Specified Accounts or other accounts held with you

6 The Security Trustee may, by notice to you, amend or withdraw the consents given in paragraph 3 above following enforcement

7. The instructions and authorisations which are contained in this letter shall remain in full force and effect until the Chargor and the Security Trustee together give you notice in writing revoking or amending them. You may comply with the instructions contained in this letter without further authority from the Chargor

8. The instructions and authorisations in this letter supersede any instructions and authorisations to the contrary given to you by or on behalf of any Chargor, except those contained in the notice pursuant to the Original Debenture

9 This letter is governed by English law.

10. Please acknowledge your acceptance of the instructions and authorisations contained in this notice by signing the attached Form of Acknowledgement and returning it to the Security Trustee at [•] copied to us

Yours faithfully

[*name of Chargor*]

**Form of Acknowledgement of Notice to Account Bank for a Bank Account**

To [•]

Copy [*Chargor*]

Dear Sirs

**Debenture dated [•] 2014 between [•] and Barclays Bank PLC (the “Deed”)**

We hereby acknowledge receipt of the notice (the “Notice”) (a copy of which is attached hereto) dated [•] 2014 and addressed to us by you regarding the Accounts and confirm that we

- (a) accept the instructions and authorisations contained in the notice and agree to comply with the terms thereof, and
- (b) have not received notice of any interest of any third party in any Account and/or the debts represented by them and to our knowledge there are no restrictions on the creation of Security over the Accounts pursuant to the Deed other than in relation to the Original Debenture (as defined in the Notice), and

We agree that, in the event that we become aware at any time that any person other than yourselves (or pursuant to the terms of the Original Debenture) has or will have any right or interest in the Accounts and/or the debts represented by them, we will promptly notify you

The only Account[s] maintained with us [*is*] [*are*] the Specified Account[s] referred to in the notice

Yours faithfully

---

[*name of bank*]

**SCHEDULE 7**  
**Real Property Undertakings**

- 1     **Adverse Rights** Each Chargor, save with the prior written consent of the Security Trustee, shall not create any overriding interest or any easement or right which might be reasonably likely to materially adversely affect, the value of the Charged Real Property (other than pursuant to the Original Debenture)
- 2     **Registration** Each Chargor must promptly provide, if so requested by the Security Trustee
  - (a)     a clear Land Charges Registry search against each Chargor or clear Land Registry priority search results in favour of the Security Trustee on the appropriate Land Registry forms against all of the registered titles comprising each Chargor's interests comprised within the Charged Real Property and giving not less than 28 days priority,
  - (b)     appropriate Land Registry application forms duly completed accompanied by all necessary Land Registry fees, and
  - (c)     notice to the reversioner of the assignment/transfer of any headlease to the relevant Chargor and the charging of that headlease to the Security Trustee, together with the appropriate registration fees, where such notification is required under those headleases
- 3     **Enforcement of Lessee's Covenants** Each Chargor shall
  - (a)     not without the prior written consent of the Security Trustee defer payment of any moneys due or agree to any reduction in rent or waive or vary any obligation under the terms of any lease, save where to do so would not have a material adverse effect on the value of the Charged Property, and
  - (b)     give prompt notice in writing to the Security Trustee if any tenant, lessee or licensee shall withhold rent or exercise any right of set-off against sums payable under any property agreement or purports, attempts or threatens to do so where this might have a material adverse effect on the value of the Charged Real Property
4.     **Compulsory Acquisition** Each Chargor shall notify the Security Trustee promptly upon receipt of any notices or correspondence concerning a proposed compulsory acquisition of any Charged Real Property (other than pursuant to the Original Debenture)
5.     **Affixing of Charged Assets** Each Chargor shall not fix or permit the affixing of the Charged Assets to any Real Property other than Charged Real Property save for the tenant's fixtures and fittings
- 6     **Planning** No Chargor shall, without the prior written consent of the Security Trustee, carry out or permit to be carried out on any part of its Charged Real Property any



development (within the meaning of that expression in the Planning Acts) nor to make any application for planning permission for the development or change of use or its Charged Real Property or enter into any agreement under section 106 of the Town and Country Planning Act 1990, section 33 of the Local Government (Miscellaneous Provisions) Act 1982 or any other agreement with any local government, planning or other regulatory authority to build roads, amenities or carry out other works where to do so would have a material adverse effect on the value of the Charged Real Property

7. **Repair** Each Chargor shall keep all buildings on its Charged Real Property in good and substantial repair and shall keep all Fixtures and other Personal Chattels from time to time on or in any Charged Real Property belonging to it or its Subsidiaries in good and substantial repair and in good working order and will where necessary replace the same with items of similar quality and value where failure to so comply would have a material adverse effect on the value of the Charged Real Property.
8. **User** Each Chargor shall use its Charged Real Property only for such purpose or purposes as may from time to time be authorised as the permitted use or user thereof under or by virtue of the Planning Acts
9. **Investigation of Title** Following the occurrence of a Declared Default, each Chargor shall grant the Security Trustee or its lawyers on request all facilities within the power of the Chargor to enable such lawyers to carry out investigations of title of all or any part of the Chargor's Real Property which is or may become charged by it under this Deed and enquiries into such matters in connection therewith at the expense of the Chargor provided that such costs are commercially reasonable
10. **Report on Title.** Following the occurrence of a Declared Default, each Chargor shall promptly on demand by the Security Trustee provide to the Security Trustee at the expense of the Chargor a report on title in such form as the Security Trustee may require addressed to the Secured Parties or any of them or the Security Trustee for and on behalf of the Secured Parties in relation to any of its Real Property which is or may become charged by it under this Deed. Provided that no such report on title will be required if provided pursuant to the terms of the Original Debenture
11. **Notices** Each Chargor shall promptly deliver a copy of any material communication received by it which has been given with respect to any Charged Real Property and which would have a material adverse effect on the value of the Charged Real Property and take such steps as the Security Trustee shall reasonably require in relation thereto. Delivery of a copy of such material communication pursuant to the terms of the Original Debenture shall satisfy this provision
12. **Entry** Each Chargor shall permit the Security Trustee and any person nominated by it at all reasonable times and with reasonable prior notice to enter any of its Charged Real Property to inspect its condition where the Security Trustee has reasonable suspicion that there has been a Declared Default

**SCHEDULE 8  
NOTICES OF ASSIGNMENT**

**Part 1  
Form of Notice of Assignment of Relevant Document**

To [insert name and address of counterparty]

[•]

Dear Sirs

Re: [identify the Relevant Document] (the “**Document**”)

We give notice to you that [insert name of relevant Chargor] (the “**Company**”) has [assigned (subject to a proviso for re-assignment on redemption) to/charged] in favour of Barclays Bank PLC (the “**Security Trustee**”) for the benefit of itself and certain other banks and financial institutions (the “**Secured Parties**”) all its right, title and interest in the Document as Security for certain obligations owed by the Company to the Secured Parties pursuant to a debenture dated [•] 2014 made between, amongst others, the Company and Barclays Bank PLC (the “**Deed**”)

1 In this notice

“**Original Debenture**” means a debenture dated 5 November 2010 between R&R Ice Cream plc, R&R Ice Cream UK Limited, Richmond Foods Limited, Ruby Acquisitions Limited and Kelly’s of Cornwall Limited, each as a Chargor, and Barclays Bank PLC as Security Trustee (each as defined therein) and to which Fredericks Holdings Limited acceded to as a New Chargor (as defined therein) pursuant to a security accession deed dated 22 August 2013 between Fredericks Holdings Limited as New Chargor and Barclays Bank PLC as Security Trustee (as defined therein)

2 We acknowledge that you may have received a notice from the Security Trustee pursuant to the Original Debenture The Deed is subject to the Original Debenture

3 We further notify you that

- (a) save as permitted by the Secured Documents (which, for the avoidance of doubt, includes the Original Debenture) the Company may not agree to amend, modify or terminate the Document without the prior written consent of the Security Trustee,
- (b) subject to paragraph (a) above, you may continue to deal with the Company in relation to the Document until you receive written notice to the contrary from the Security Trustee Thereafter the Company will cease to have any right to deal with you in relation to the Document and therefore from that time you should deal only with the Security Trustee;

- (c) you are authorised to disclose information in relation to the Document to the Security Trustee on request,
  - (d) following notice from the Security Trustee that the Security created under the Deed has become enforceable you must hold all sums from time to time due and payable by you to the Company under the Document to the order of the Security Trustee,
  - (e) you will pay or release all moneys to which the Company is entitled under the Document to the Company until the Security Trustee notifies you that the Security has become enforceable and directs otherwise,
  - (f) the provisions of this notice may only be revoked with the written consent of the Security Trustee,
  - (g) the Company will remain liable to perform all its obligations under the Document and neither the Security Trustee nor any receiver, delegate or sub-delegate appointed by it shall have any liability under the Document.
- 4 Please sign and return the enclosed copy of this notice to the Security Trustee (with a copy to the Company) by way of confirmation that
- (a) you agree to the terms set out in this notice and to act in accordance with its provisions,
  - (b) you have not received notice that the Company has assigned its rights under the Document to a third party or created any other interest (whether by way of Security or otherwise) in the Document in favour of a third party other than pursuant to the terms of the Original Debenture,
  - (c) upon notification of a Declared Default, you will pay any sums payable to the Company or any other person under or pursuant to the Document as directed by or pursuant to this notice or by the Security Trustee; and
  - (d) upon notification of a Declared Default, you do not have and will not exercise any rights of counterclaim or set-off in respect of any Document

The provisions of this notice are governed by English law

Yours faithfully

---

for and on behalf of

*[insert name of Company]*

**Form of Acknowledgement of Notice of Assignment of Relevant Document**

To *[insert name and address of Security Trustee]*

Copy to *[insert name and address of Chargor]*

We hereby acknowledge receipt of the above notice and confirm the matters set out in paragraphs 4(a) to 4(d) above

\_\_\_\_\_  
for and on behalf of

*[insert name of Counterparty]*

Dated

**Part 2**  
**Form of Notice of Assignment to Insurers**

To [insert name and address of insurance company]

[•]

Dear Sirs,

Re [identify the relevant Insurance Policy(ies)] (the “Policies”)

1. We hereby notify you that [insert name of relevant Chargor] (the “Company”) has assigned (subject to a proviso for re-assignment on redemption) to/charged in favour of Barclays Bank PLC (the “Security Trustee”) for the benefit of itself and certain other banks and financial institutions (the “Secured Parties”) all its right, title and interest in the Policies as Security for certain obligations owed by the Company to the Secured Parties pursuant to a debenture dated [•] 2014 made between, amongst others, the Company and Barclays Bank PLC (the “Deed”)
2. In this notice  
  
“Original Debenture” means a debenture dated 5 November 2010 between R&R Ice Cream plc, R&R Ice Cream UK Limited, Richmond Foods Limited, Ruby Acquisitions Limited and Kelly’s of Cornwall Limited, each as a Chargor, and Barclays Bank PLC as Security Trustee (each as defined therein) and to which Fredericks Holdings Limited acceded to as a New Chargor (as defined therein) pursuant to a security accession deed dated 22 August 2013 between Fredericks Holdings Limited as New Chargor and Barclays Bank PLC as Security Trustee (as defined therein)
3. We acknowledge that you may have received a notice from the Security Trustee pursuant to the Original Debenture. The Deed is subject to the Original Debenture.
4. We further notify you that
  - (a) subject to paragraph (a) above you may continue to deal with the Company in relation to the Policies until you receive written notice to the contrary from the Security Trustee. Thereafter the Company will cease to have any right to deal with you in relation to the Policies and therefore from that time you should deal only with the Security Trustee;
  - (b) you are authorised to disclose information in relation to the Policies to the Security Trustee on request,
  - (c) following notice from the Security Trustee that the Security has become enforceable, you must hold all sums from time to time due and payable by you to us under the Policies to the order of the Security Trustee, and

(d) the provisions of this notice may only be revoked with the written consent of the Security Trustee

5. Please sign and return the enclosed copy of this notice to the Security Trustee (with a copy to the Company) by way of confirmation that

- (i) you agree to the terms set out in this notice and to act in accordance with its provisions,
- (ii) you will note the Security Trustee's interest as joint insured on the Policies,
- (iii) you will not cancel, avoid, release or otherwise allow the Policies to lapse or remove the Security Trustee's interest as joint insured on the Policies,
- (iv) without giving the Security Trustee at least 30 days' written notice;
- (v) you have not received notice that the Company has assigned its rights under the Policies to a third party or created any other interest (whether by way of Security or otherwise) in the Policies in favour of a third party,
- (vi) the Security Trustee shall not in any circumstances be liable for the premiums in relation to the Policies, and
- (vii) the Policies shall not be rendered void, voidable or unenforceable by reason of any non-disclosure by the Security Trustee

6 The provisions of this notice are governed by English law

Yours faithfully

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for and on behalf of  
[insert name of Company]

**Form of Acknowledgement of Notice of Assignment to Insurers**

To *[insert name and address of Security Trustee]*

Copy to *[insert name and address of Chargor]*

We hereby acknowledge receipt of the above notice and confirm the matters set out in paragraph 3 above

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for and on behalf of  
*[insert name of insurance company]*

Dated

**SCHEDULE 9**  
**Relevant Documents**

**1     Structural Intra-Group Loan Agreements**

Structural Intra-Group Loan Agreement dated 5 November 2010 between R&R Ice Cream plc and R&R Ice Cream UK Limited

Structural Intra-Group Loan Agreement dated 5 November 2010 between R&R Ice Cream plc and Richmond Foods Limited

Structural Intra-Group Loan Agreement dated 5 November 2010 between R&R Ice Cream plc and Ruby Acquisitions Limited

Structural Intra-Group Loan Agreement dated 5 November 2010 between R&R Ice Cream plc and R&R Ice Cream France SAS

Structural Intra-Group Loan Agreement dated 5 November 2010 between R&R Ice Cream plc and R&R Rolland France SAS

Structural Intra-Group Loan Agreement dated 5 November 2010 between R&R Ice Cream plc and R&R Ice Cream Deutschland GmbH

Structural Intra-Group Loan Agreement dated 5 November 2010 between R&R Ice Cream plc and Zielona Budka (Mielec) Sp z o o

**2     Insurance Policies**

| <b>Name of Policy</b>                              | <b>Policy Number</b> | <b>Name of Insurer</b>                                   | <b>Insurers contact details</b>   |
|--|----------------------|--|---|
| Material Damage and Business Interruption (Global) | GBP00039813B         | Alliance Global and Corporate Speciality                 | Placed In Germany<br><br>UK contact is Keith Morrow<br><a href="mailto:keith.morrow@allianz.com">keith.morrow@allianz.com</a><br>+44 (0) 203 451 3651 |
| Combined Liability (Global)                        | UKCAN33103           | ACE European Group Limited                               | Nicki Smith<br><a href="mailto:nicki.smith@acegroup.com">nicki.smith@acegroup.com</a><br>+44 20 7173 7696   |
| Excess Public and Products Liability (Global)      | B0716RK1321078011    | QBE Insurance (Europe) Limited<br><br>QBE Syndicated 386 | Andrew Brand<br><a href="mailto:Andrew.Brand@uk.qbe.com">Andrew.Brand@uk.qbe.com</a>  |
| Products Recall (Global)                           | B080412179F13        | XL Insurance   | Mark Hutton<br><a href="mailto:mark.hutton@xlgroup.co">mark.hutton@xlgroup.co</a>   |



|  |               |                                      |  |
|--|---------------|--------------------------------------|--|
|  |               | Company Limited                      | <u>m</u><br>+44 (0) 20 7621 4321<br><br>(through the Willis specialist facility <b>Faber</b><br>contact Charlie Jarman<br><u>Charlie.Jarman@faberglobal.com</u><br>+44 20 7558 9340)   |
| Products Recall Excess (Global)                      | B080412180F13 | Ark 4020                             | Natasha Catchpole<br><u>natasha.catchpole@arkunderwriting.com</u><br>+44 (0)203 023 4110<br><br>(through the Willis specialist facility <b>Faber</b><br>contact: Charlie Jarman<br><u>Charlie Jarman@faberglobal.com</u><br>+44 20 7558 9340 ) |
| Employment Practices Liability (UK Only)             | 82312204B     | Chubb Insurance Company of Europe SE | Peter McMahon<br><u>pmcmahon@chubb.com</u><br><br>(through the Willis specialist facility <b>Finnex</b><br>contact.<br>Andrew Minns<br><u>minnsa@willis.com</u><br>+44 1473 223770)  |
| Crime (Global)                                       | 82312205B     | Chubb Insurance Company of Europe SE | Peter McMahon<br><u>pmcmahon@chubb.com</u><br><br>(through the Willis specialist facility <b>Finnex</b><br>contact: Andrew Minns<br><u>minnsa@willis.com</u><br>+44 1473 223770)   |
| Personal Accident (UK and Italy) and Business Travel | 64812151      | Chubb Insurance Company of Europe SE | Carrie Shaw<br><u>cshaw@chubb.com</u><br>+44 20 7956 5601  |

**SIGNATORIES**

**THE CHARGORS**

**EXECUTED as a DEED by  
R&R ICE CREAM PLC acting by**

FRANCESCA YAROLLY as authorised signatory

Witness

Name:

VICTORIA E. HANLEY

Address

**EXECUTED as a DEED by  
RUBY ACQUISITIONS LIMITED acting by**

FRANCESCA YAROLLY as authorised signatory

Witness

Name

VICTORIA E. HANLEY

Address

**EXECUTED as a DEED by  
RICHMOND FOODS LIMITED acting by**

FRANCESCA YAROLLY as authorised signatory

Witness

Name

VICTORIA E. HANLEY

Address

**EXECUTED as a DEED by  
R&R ICE CREAM UK LIMITED acting by**

FRANCESCA VARDOLY as authorised signatory

Witness

Name:

Address:

**EXECUTED as a DEED by  
KELLY'S OF CORNWALL LIMITED acting by.**

FRANCESCA VARDOLY as authorised signatory:

Witness:

Name:

Address:

**EXECUTED as a DEED by  
FREDERICKS HOLDINGS LIMITED acting by:**

FRANCESCA VARDOLY as authorised signatory:

Witness:

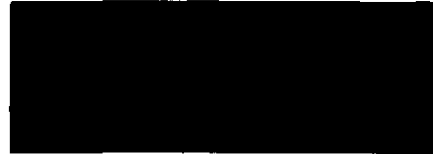
Name

Address:

**THE SECURITY TRUSTEE**

**EXECUTED by**  
**BARCLAYS BANK PLC**  
the Security Trustee  
acting by

)  
)  
)  
)



**Notice Details**

*ES*  
*Bank PLC*

Address Barclays ~~Capital~~, 5 The North Colonnade, Canary Wharf,  
London E14 4BB

Facsimile +44 (0)20 7773 4893

Attention: Emma Sharma