



**Registration of a Charge**

Company Name: **RM PLC**  
Company Number: **01749877**



Received for filing in Electronic Format on the: **11/05/2023**

XC3B2VYB

**Details of Charge**

Date of creation: **05/05/2023**

Charge code: **0174 9877 0007**

Persons entitled: **HSBC CORPORATE TRUSTEE COMPANY (UK) LIMITED (ACTING AS SECURITY AGENT AND TRUSTEE FOR THE BENEFICIARIES INCLUDING ANY SUCCESSOR APPOINTED BY THE BENEFICIARIES PURSUANT TO THE FINANCE DOCUMENTS)**

Brief description: **N/A**

**Contains fixed charge(s).**

**Contains negative pledge.**

**Authentication of Form**

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

**Authentication of Instrument**

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

Certified by: **MARY-BETH FRATER**



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

Company number: 1749877

Charge code: 0174 9877 0007

The Registrar of Companies for England and Wales hereby certifies that a charge dated 5th May 2023 and created by RM PLC was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 11th May 2023 .

Given at Companies House, Cardiff on 12th May 2023

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



**Companies House**



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

DATED

5 May

2023

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**RM PLC**  
(as Grantor)

- and -

**HSBC CORPORATE TRUSTEE COMPANY (UK) LIMITED**  
(as Security Agent)

- and -

**RM PLC AUSTRALIA PTY LTD**  
(as Agent for Service of Process)

**SECOND RANKING SPECIFIC SECURITY DEED**

This Deed is entered into with the benefit of (and subject to the terms of) the  
Intercreditor Agreement (as defined herein)



Matter Ref: 1R4537.001668

Hogan Lovells  
Level 17, 20 Martin Place, Sydney NSW 2000

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This Deed is made on

5 May

2023

**BETWEEN:**

- (1) **RM plc**, a company incorporated in England and Wales with company number 01749877 (the "**Grantor**");
- (2) **HSBC Corporate Trustee Company (UK) Limited**, Company number 06447555 of Level 14, 8 Canada Square London E14 5HQ, acting as security agent and trustee for the Beneficiaries including any successor appointed by the Senior Creditors pursuant to the Finance Documents (the "**Security Agent**"); and
- (3) **RM plc Australia Pty Ltd** ACN 633 988 002 of Suite 2, Level 2, 179 Queen Street, Melbourne VIC 3000, Australia (the "**Agent for Service of Process**").

**RECITALS**

- (A) From time to time, the Grantor may wish one or more Lenders to provide financial accommodation to or for the account of the Grantor or another person.
- (B) The Grantor has agreed to grant security over its Collateral in favour of the Security Agent to secure payment of the Secured Sums on the terms set out in this Deed.

It is **AGREED** as follows.

**1. DEFINITIONS AND INTERPRETATION**

**1.1 Definitions**

The following definitions apply unless the context requires otherwise:

"**1988 Scheme**" means the Research Machines plc 1988 Pension Scheme.

"**Additional Rights**" means all dividends, distributions and other income paid or payable on a Marketable Security, together with all shares or other property derived from any Marketable Security and all other allotments, accretions, rights, benefits and advantages of all kinds accruing, offered or otherwise derived from or incidental to that Marketable Security (whether by way of conversion, redemption, bonus, preference, option or otherwise).

"**Attorney**" means any attorney appointed under this Deed.

"**Authorised Officer**" means, in respect of a Beneficiary, any person whose title or acting title includes the word Chief, Counsel, Executive, Head, Manager, Director or President or cognate expressions, or any secretary, director, associate or authorised signatory, or any lawyer acting for the Security Agent or a Beneficiary.

"**Beneficiary**" means each Finance Party, the Pension Trustee and any Receiver or Delegate.

"**CARE Scheme**" means the Consortium CARE Scheme.

"**Collateral**" means:

- (a) all the present and after-acquired Marketable Securities (including the Initial Marketable Securities) and Additional Rights held or owned by the Grantor in the Company, including any Proceeds of that Collateral; and

(b) each Trade Mark.

**"Company"** means RM plc Australia Pty Ltd ACN 633 988 002.

**"Controller"** means a controller as defined in section 9 of the Corporations Act appointed under or in respect of any Security Interest created under this Deed and includes any Receiver.

**"Corporations Act"** means the Corporations Act 2001 (Cth).

**"Default"** has the meaning given to that term in the Facility Agreement.

**"Delegate"** means any delegate, agent, attorney or co-trustee appointed by the Security Agent.

**"Declared Default"** means that an Event of Default has occurred and as a result the Agent has taken steps to exercise any of its rights under Clause 27.19 (*Acceleration*) of the Facility Agreement.

**"Distributions"** means any money owing now or in the future in respect of any Marketable Securities or Additional Rights and includes a cash dividend or other monetary distribution whether of an income or capital nature.

**"Enforcement Party"** means the Security Agent, each Delegate of the Security Agent, and each Controller, Receiver or Attorney.

**"Event of Default"** means an Event of Default under and as defined in the Facility Agreement.

**"Facility Agreement"** means the facility agreement originally dated 7 February 2017 between RM plc (as the company), the companies listed therein as Original Borrowers, the companies listed therein as Original Guarantors, Barclays Bank plc and HSBC UK Bank plc (as Arranger), the financial institutions listed therein as Original Lenders, HSBC Bank plc as Agent and HSBC Corporate Trustee Company (UK) Limited as Security Agent, as amended and/or restated on 5 July 2019, 11 June 2020, 22 September 2021, 19 August 2022, 30 November 2022, 20 January 2023, 10 February 2023, 14 March 2023 and 29 March 2023 and pursuant to an amendment and restatement agreement dated on or around the date of this Deed, and as further amended from time to time.

**"Finance Document"** means the Facility Agreement, any Accession Deed, any Ancillary Document, the 2019 Amendment and Restatement Agreement, the 2021 Amendment and Restatement Agreement, the 2023 Amendment and Restatement Agreement, any Compliance Certificate, any Fee Letter, the Intercreditor Agreement, any Resignation Letter, any Reference Rate Supplement, any Compounding Methodology Supplement, any Transaction Security Document, any Transfer Certificate or undertaking delivered pursuant to Clause 28 (*Changes to the Lenders*) of the Facility Agreement, any Utilisation Request and any other document designated as a "Finance Document" by the Agent and RM plc.

**"Finance Party"** means the Agent, the Security Agent, the Arranger, a Lender or any Ancillary Lender.

**"First Ranking SSD"** means the specific security deed dated 29 March 2023 between the Grantor and the Security Agent.

**"Initial Marketable Securities"** means the Marketable Securities identified as Initial Marketable Securities in Part A of Schedule 2 (*Initial Marketable Securities*).



**"Intercreditor Agreement"** means the intercreditor agreement dated 29 March 2023 between, amongst others, RM plc, the Debtors and HSBC Corporate Trustee Company (UK) Limited as Security Agent (each term as defined therein), as amended or amended and restated from time to time, including pursuant to an amendment and restatement deed dated on or about the date of this Deed.

**"Marketable Security"** means any marketable securities as defined in the Corporations Act, but also includes:

- (c) an undertaking referred to in the exceptions in paragraph (a) and (b) of the definition of debenture in the Corporations Act;
- (d) a unit or other interest in a trust or partnership;
- (e) a negotiable instrument;
- (f) an investment instrument;
- (g) an intermediated security;
- (h) an interest in a partnership; and
- (i) a right or an option in respect of a Marketable Security, whether issued or unissued including any of the above.

**"Pension Documents"** has the meaning given to that term in the Intercreditor Agreement.

**"Pension Liabilities"** has the meaning given to that term in the Intercreditor Agreement.

**"Pension Trustee"** means RM Pension Scheme Trustee Limited as trustee of the 1988 Scheme and the CARE Scheme.

**"Power"** means a power, right, authority, discretion or remedy which is conferred on an Enforcement Party or any Beneficiary:

- (a) by this Deed; or
- (b) by law in relation to this Deed.

**"PPSA"** means the Personal Property Securities Act 2009 (Cth).

**"PPS Regulations"** means regulations made at any time under the PPSA.

**"PPSR"** means the Personal Property Securities Register.

**"Proceeds"** includes proceeds as defined in section 31 of the PPSA. It includes proceeds of proceeds.

**"Receiver"** means a receiver or receiver and manager appointed under this Deed.

**"Secured Sums"** means all present and future obligations and liabilities (whether actual or contingent and whether incurred jointly or severally and whether as principal or surety or in any other capacity whatsoever and whether incurred originally by any Obligor or by some other person) of each Obligor to all or any of the Beneficiaries under each or any of the Finance Documents, and to the Pension Trustee in respect of the Pension Liabilities, in each case together with:

- (c) all costs, charges and expenses incurred by any Beneficiary in accordance with the terms of any Finance Document in connection with the protection, preservation or enforcement of its rights under any Finance Document; and
- (d) all moneys, obligations and liabilities due, owing or incurred in respect of any variations or increases in the amount or composition of the facilities provided under any Finance Document or the obligations and liabilities imposed under such documents.

**"Security Interest"** means a mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement, notice or arrangement having a similar effect, including any "security interest" under sections 12(1) or (2) of the PPSA but excluding anything which is a security interest by operation of section 12(3) of the PPSA that does not, in substance, secure the performance or payment of an obligation.

**"Senior Creditors"** has the meaning given to that term in the Intercreditor Agreement.

**"Title Document"** means any original, duplicate or counterpart certificate or document of title including any share certificate.

**"Trade Mark"** means each trade mark set out in Part B of Schedule 2 (*Trade Marks*).

**"Transfers"** means transfers in a registrable form in respect of any Marketable Securities forming part of its Collateral, executed by the Grantor as transferor, but otherwise with the name of the transferee, the consideration and the date left blank.

## 1.2 Facility Agreement definitions

Definitions in the Facility Agreement apply in this Deed unless the context requires otherwise or the relevant term is defined in this Deed.

## 1.3 Interpretation

Unless the context otherwise requires, the interpretative provisions set out in the paragraphs below shall apply in this Deed:

- (a) References to any party shall be construed so as to include that Party's respective successors in title, permitted assigns and permitted transferees.
- (b) The **"Pension Trustee"** shall be construed so as to include any person for the time being appointed as pension trustee of the 1988 Scheme or the CARE Scheme provided such person has acceded to the Intercreditor Agreement pursuant to clause 17.7 (*Creditor Accession Undertaking*) thereof.
- (c) **"Including"** and **"in particular"** shall not be construed restrictively but shall mean respectively "including, without prejudice to the generality of the foregoing" and "in particular, but without prejudice to the generality of the foregoing".
- (d) A **"person"** includes any person, firm, company, corporation, government, state or agency of a state or any association, joint venture, trust or partnership (whether or not having separate legal personality) of two or more of the foregoing.
- (e) **"Property"** includes any interest (legal or equitable) in real or personal property and any thing in action.

- (f) **"Variation"** includes any variation, amendment, accession, novation, restatement, modification, assignment, transfer, supplement, extension, deletion or replacement however effected and **"vary"** and **"varied"** shall be construed accordingly.
- (g) **"Writing"** includes facsimile transmission legibly received except in relation to any certificate, notice or other document which is expressly required by this Deed to be signed and **"written"** has a corresponding meaning.
- (h) Subject to clause 17.4 (*Variation*), references to this Deed or to any other document (including any Finance Document) include references to this Deed or such other document as varied in any manner from time to time, even if changes are made to the composition of the parties to this Deed or such other document or to the nature or amount of any facilities made available under such other document.
- (i) The singular shall include the plural and vice versa and any gender shall include the other genders.
- (j) Clauses, paragraphs and Schedules shall be construed as references to clauses and paragraphs of, and Schedules to, this Deed.
- (k) Any reference to any statute or statutory instrument or any section of it shall be deemed to include a reference to any statutory modification or re-enactment of it for the time being in force in relation to the particular circumstances.
- (l) Headings in this Deed are inserted for convenience and shall not affect its interpretation.
- (m) A Default (other than an Event of Default under clause 27.1 (*Non-payment*), paragraph (a) of clause 27.2 (*Financial covenants and other obligations*) or clause 27.6 (*Insolvency*) of the Facility Agreement) is **"continuing"** if it has not been remedied or waived. An Event of Default under clause 27.1 (*Non-payment*), paragraph (a) of clause 27.2 (*Financial covenants and other obligations*) or clause 27.6 (*Insolvency*) of the Facility Agreement is **"continuing"** if it has not been waived.

#### 1.4 Document or agreement

A reference to:

- (a) an **"agreement"** includes a Transaction Security, guarantee, undertaking, deed, agreement or legally enforceable arrangement whether or not in writing; and
- (b) a **"document"** includes an agreement (as so defined) in writing or a certificate, notice, instrument or document.

A reference to a specific agreement or document includes it as amended, novated, supplemented or replaced from time to time, except to the extent prohibited by this Deed.

#### 1.5 Benefit of Security Interest

- (a) The Security Interest under this Deed is held by the Security Agent as trustee for itself and each other Beneficiary. The Security Agent is party to this Deed solely as instructed and directed to do so by the Instructing Group pursuant to the terms of the Intercreditor Agreement.
- (b) The Security Agent is not obliged to do any of the following in respect of any Collateral:

- (i) perform any obligation of the Grantor;
- (ii) make any payment;
- (iii) make any enquiry as to the nature or sufficiency of any payment received by it or the Grantor;
- (iv) present or file any claim or take any other action to collect or enforce the payment of any amount to which it or the Grantor may be entitled; or
- (v) exercise any rights to which it or the Grantor may be entitled.

#### **1.6 Consents and opinion**

Except where expressly stated any Beneficiary may give or withhold, or give conditionally, approvals and consents, may be satisfied or unsatisfied, may form opinions, and may exercise its Powers, at its absolute discretion.

#### **1.7 Conflicts of terms**

To the extent that there is any conflict, contradiction and/or inconsistency between the terms of this Deed and the terms of the Facility Agreement and/or the Intercreditor Agreement, the terms of the Facility Agreement and/or the Intercreditor Agreement (as relevant) shall prevail and in such circumstances compliance with the terms of the Facility Agreement and/or the Intercreditor Agreement (as appropriate) shall be deemed to be compliance in full with the conflicting, contradictory and/or inconsistent terms of this Deed.

#### **1.8 PPSA terms incorporated**

Unless the context requires otherwise, the following words have the same meanings given to the PPSA or the PPS Regulations:

- (a) advance;
- (b) after-acquired property;
- (c) amendment demand;
- (d) attach;
- (e) investment instrument;
- (f) negotiable instrument; and
- (g) Registrar.

### **2. GRANT OF SECURITY INTEREST**

#### **2.1 Second Ranking Security**

- (a) All security created under this Deed is created in addition to and does not affect the security created by the First Ranking SSD.
- (b) Where this Deed purports to create a first fixed security interest over an asset secured by the First Ranking SSD, that security interest will be a second ranking security interest ranking subject to the equivalent security interest created by the First Ranking SSD until such time as the security interest created by the First Ranking SSD ceases to have effect.

- (c) Where a Title Document has already been provided to the Security Agent under the First Ranking SSD or an action has been taken under the First Ranking SSD by a Grantor, it shall be treated as having also been delivered or completed under this Deed on the date of this Deed or on the date of which such document is provided to the Security Agent (as defined in the First Ranking SSD) or such action is taken under the First Ranking SSD (if such document is provided or action is taken after the date of this Deed) and, save where a contrary indication appears, shall not be required to be provided or done again under this Deed.

## **2.2 Security Interest**

- (a) The Grantor grants a Security Interest in the Collateral to the Security Agent (for itself and as trustee for the Beneficiaries) to secure payment or discharge of the Secured Sums.
- (b) The Security Interest granted by the Grantor under this Deed is a charge and operates as an equitable mortgage over the Collateral. If for any reason it is necessary to determine the nature of this charge, it is a fixed charge.
- (c) For the purposes of section 20(2)(b) of the PPSA (but without limiting the meaning of 'Collateral' in this Deed), the security interest granted under this Deed is taken over all of the Grantor's present and after-acquired property, except any such property which is not Collateral.

## **2.3 Attachment**

Each Security Interest granted under this Deed attaches to the Collateral in accordance with the PPSA and the parties to this Deed confirm that they have not agreed that the Security Interest granted under this Deed attaches at any later time.

## **2.4 Consideration**

The Grantor enters into this Deed in consideration of the Beneficiaries entering into the Finance Documents, providing or continuing financial accommodation from time to time, or agreeing to do so (whether or not subject to conditions), or for other valuable consideration received.

## **2.5 Priority**

- (a) The parties to this Deed intend that each Security Interest granted by the Grantor under this Deed takes priority over all other Security Interests granted by the Grantor other than any Security Interests mandatorily preferred by law or any Security Interest expressly permitted by the Finance Documents or otherwise agreed in writing by the Security Agent to have priority over the Security Interest granted by the Grantor under this Deed.
- (b) Each Security Interest granted by the Grantor under this Deed has the same priority in respect of all Secured Sums, including future advances.
- (c) Nothing in this Deed shall be construed as an agreement or consent by the Security Agent to subordinate the Security Interests granted by the Grantor under this Deed in favour of any person.

## **2.6 Proceeds and continuation of security**

Each Security Interest granted by the Grantor under this Deed will continue in the proceeds of any dealing with the Collateral (whether or not that dealing was authorised by the Security Agent) and the Grantor must do all things which the Security Agent requests to ensure that the Security Agent has a perfected Security Interest in any proceeds (for the purposes of the PPSA).

## **3. DISCHARGE OF SECURITY INTERESTS**

### **3.1 Discharge**

Subject to clause 3.2 (*Final discharge*), at the cost and written request of the Grantor, the Security Agent must promptly discharge and release the Security Interests of the Grantor granted under this Deed if:

- (a) the Secured Sums have been paid in full; and
- (b) the Grantor is not in default of any of its obligations under this Deed and each other Finance Document.

### **3.2 Final discharge**

- (a) The Security Agent is not obliged to discharge or release a Security Interest of the Grantor under clause 3.1 (*Discharge*) other than in accordance with the Intercreditor Agreement.
- (b) Paragraph (a) overrides any other provision to the contrary in this Deed.

## **4. DEALING WITH COLLATERAL**

### **4.1 Dealing with Collateral**

The Grantor must not do, or agree to do, any of the following unless it is expressly permitted under a Finance Document or with the prior written consent of the Security Agent:

- (a) create or allow another interest in any of its Collateral;
- (b) dispose, or part with possession, of any of its Collateral; or
- (c) give control of any of its Collateral (that falls within the description in section 21(2)(c) of the PPSA) to any person other than to the Security Agent.

The Grantor agrees to take such action as is necessary to ensure that a third person cannot acquire an interest in any Collateral free of, or having priority over, the Security Interests granted under this Deed, except as expressly permitted under the Finance Documents.

## **5. UNDERTAKINGS**

### **5.1 Covenant to pay and perform**

- (a) The Grantor must duly and punctually pay the Secured Sums at the times and in the manner provided in the relevant Finance Documents or Pension Documents. After a Declared Default occurs, the Grantor must pay all Secured Sums to the Security Agent on demand.
- (b) The Grantor must take all reasonable steps to ensure that no Event of Default occurs.

## 5.2 Deposit of documents

To the extent not previously provided to the Security Agent under the First Ranking SSD:

- (a) The Grantor must deposit with the Security Agent, or as the Security Agent directs:
- (i) any document evidencing title to any of its Collateral including all Title Documents; and
  - (ii) Transfers (in form and number satisfactory to the Security Agent) in respect of any Marketable Securities which form part of its Collateral,

in each case:

- (iii) within one Business Day from the execution of this Deed and from the creation of any such evidence of title;
- (iv) as soon as reasonably practicable on the acquisition of any property or asset which forms part of its Collateral;
- (v) as soon as reasonably practicable from any uncertificated Marketable Security having a Title Document issued in respect of it; and
- (vi) within 5 Business Days of the written request of the Security Agent,

provided that, the Grantor need not deposit any Title Document with the Security Agent if another person is holding them under a Security Interest to which the Security Agent has consented in writing or which is expressly permitted by the Facility Agreement and which has priority over the Security Interests granted under this Deed, provided that if that Security Interest is released the Grantor must promptly provide the documents specified above to the Security Agent.

- (b) Within 5 Business Days of receiving a written request from the Security Agent, the Grantor agrees to deposit with the Security Agent, or as the Security Agent directs, any other document which evidences its Collateral.
- (c) The Security Agent may retain the Title Documents, Transfers and any other documentation delivered under this clause 5.2 until the Security Interests granted under this Deed are discharged and released.
- (d) If a Security Interest granted under this Deed is enforced by the Security Agent in accordance with this the Terms of this Deed, an Enforcement Party:
- (i) is entitled to deal with the relevant Title Documents as if it were the absolute and unencumbered owner of the Collateral to which those Title Documents relate;
  - (ii) in exercising a power of sale, may deliver any Title Document to a purchaser of the Collateral to which those Title Documents relate; and
  - (iii) may complete, in favour of the Security Agent, any appointee of the Security Agent or any purchaser, any transfer or other instrument executed in blank by or on behalf of the Grantor and deposited with the Security Agent under this Deed.

### 5.3 Undertakings in respect of the Collateral

The Grantor agrees:

- (a) to, as soon as reasonably practicable, notify the Security Agent if it acquires any Marketable Securities in relation to the Company;
- (b) to, as soon as reasonably practicable, notify the Security Agent of becoming aware of any Additional Rights (other than Distributions) and to provide to the Security Agent the details of those Additional Rights and all documents or other evidence relating to those Additional Rights;
- (c) to acquire, at its own cost, any Additional Rights it is entitled to acquire, if the Security Agent directs in writing, provided that the Security Agent may only provide a direction if in the Security Agent's opinion (as directed and instructed by the Instructing Group (acting reasonably) in accordance with the terms of the Intercreditor Agreement) the failure to acquire the Additional Rights could mean that the value of the Collateral is or is likely to be materially lessened in value or otherwise prejudiced;
- (d) not do or omit to do anything which might render the Collateral or any Title Document liable to forfeiture, cancellation, avoidance or loss or might otherwise materially affect the value of the Collateral or the interests of the Security Agent;
- (e) within 5 Business Days of the written request of the Security Agent, to give to the Security Agent copies of all reports and other documents received by it in its capacity as a holder of the Collateral;
- (f) that it will ensure that the terms of the constituent documents of the Company do not restrict the transfer of any Collateral on enforcement of the Security Interests granted under this Deed or give the directors of the Company any discretion in relation to the registration of any such transfer in the share register of the Company; and
- (g) that it will ensure that none of the Marketable Securities forming part of the Collateral shall constitute an intermediated security.

### 5.4 Voting

- (a) Subject to paragraph (c) below, the Grantor is entitled to receive all Distributions and exercise all voting powers in respect of a Marketable Security forming part of the Collateral without the need for any consent or direction from the Security Agent, and the Security Agent must not exercise any voting power in respect of that Marketable Security without the Grantor's consent.
- (b) The Grantor must not exercise any voting powers under paragraph (a) in respect of any Marketable Security forming part of the Collateral in a way which would be reasonably likely to prejudice the value of the Collateral or otherwise jeopardise the Security Interest constituted by this Deed.
- (c) If a Declared Default occurs, the rights of the Grantor under paragraph (a) cease and the Security Agent is entitled to receive all Distributions and exercise all voting powers in respect of any Marketable Security forming part of the Collateral to the exclusion of the Grantor. For the avoidance of doubt, unless and until the Security Agent takes any steps to exercise any voting powers or rights attaching to a Marketable Security (in accordance with the terms of the Intercreditor Agreement)



after becoming entitled (but not obliged) to do so under this clause, all such powers and rights remain with the Grantor.

**5.5 Notification of certain dealings**

The Grantor shall promptly notify the Security Agent after delivery or receipt, of any notices or correspondence of any kind in relation to the Security Interest granted under this Deed or the Collateral to and from the Registrar or from another secured party in respect of the Collateral and promptly provide to the Security Agent copies of the same.

**5.6 Notification of change in details**

The Grantor must notify the Security Agent in writing:

- (a) at least 14 days before it changes any of its details set out in Part A of Schedule 1 (*Notice Details*), including its name or if it becomes a trustee of a trust, or a partner in a partnership which is not stated in Part A of Schedule 1 (*Notice Details*); and
- (b) immediately, if any ABN, ARBN or ARSN (each as defined in the Corporations Act) is allocated, or otherwise starts to apply, to it.

**5.7 Priority agreement**

Where, by law, the Grantor may create another Security Interest over the Collateral without the consent of the Security Agent, the Grantor agrees that in relation to any Security Interest other than those expressly permitted under any other Finance Document:

- (a) if it intends to create another Security Interest, to notify the Security Agent at least 5 Business Days before it proposes to do so; and
- (b) at the written request of the Security Agent, to obtain an agreement acceptable to the Security Agent (acting on the instructions of the Instructing Group (acting reasonably)) regulating priority between the Security Interest granted under this Deed and any other Security Interest in connection with that Collateral.

**6. REPRESENTATIONS AND WARRANTIES**

**6.1 Representations and warranties**

The Grantor represents and warrants on the date of this Deed to and for the benefit of the Security Agent that:

- (a) all its representations and warranties in each Finance Document are, or will be, true and correct in all respects when made or regarded as having been made;
- (b) no person other than the Security Agent has a Security Interest over the Collateral which is perfected by possession or control (other than a Security Interest expressly permitted under the Finance Documents);
- (c) no Marketable Security forming part of the Collateral is an intermediated security;
- (d) Part A of Schedule 2 (*Initial Marketable Securities*) sets out accurate details of all of the Marketable Securities which it owns in the Company on the date of this Deed;
- (e) Part B of Schedule 2 (*Trade Marks*) sets out accurate details of all of the Australian registered trade marks which it owns on the date of this Deed;

- (f) except as disclosed in writing by it, or on its behalf, to the Security Agent, its details set out in Part A of Schedule 1 (*Notice Details*) are true and correct in all respects and reflect the information contained in the source from which information in relation to it must be taken for the purposes of the PPS Regulations in order to register a financing statement in respect of the Security Interest granted by the Grantor under this Deed; and
- (g) none of the Collateral is consumer property.

## 6.2 Survival of representations and warranties

The representations and warranties in clause 6.1 (*Representations and warranties*) (other than the representation and warranty in clause 6.1(d)) are taken to be made by the Grantor (by reference to the facts and circumstances existing):

- (a) on the date of this Deed; and
- (b) at the same time as the Repeating Representations (as defined in the Facility Agreement) are made in accordance with clause 23.30 (*Times when representations are made*) of the Facility Agreement.

## 6.3 Reliance

- (a) The Grantor acknowledges that each of the Security Agent and the Pension Trustee has entered into the Finance Documents to which it is a party in reliance on the representations and warranties in this Deed.
- (b) The Grantor acknowledges that the representations and warranties in this Deed survive execution and delivery of the Finance Documents and the provision of financial accommodation under them.

## 7. ENFORCEMENT

### 7.1 Powers on enforcement

- (a) To the extent permitted by law, at any time after a Declared Default has occurred, the Security Agent, any Delegate of the Security Agent or (except to the extent specifically excluded by the terms of its appointment) a Controller may, without the need for any demand or notice to be given to the Grantor or any other person other than a demand or notice required by the terms of a Finance Document, do one or more of the following in addition to anything else the law allows:
  - (i) enforce the Security Interests of the Grantor granted under this Deed;
  - (ii) exercise any Power or any right or power of the Grantor in relation to its Collateral; and/or
  - (iii) do anything that a Controller could do under clause 8.3 (*Powers of Controller*).
- (b) The Security Agent or any Delegate of the Security Agent or may exercise any of the rights set out in paragraph (a) above and those Powers set out in clause 8.3 (*Powers of Controller*) without any need to take possession and without being liable as mortgagee in possession.

- (c) The Security Agent may also exercise those Powers set out in clause 8.3 (*Powers of Controller*) through one or more agents, in which case anything done or incurred by an agent will be taken to be done or incurred by the Security Agent.

## **7.2 Assistance in realisation**

After any Security Interest granted under this Deed has become enforceable, the Grantor must take all action required by an Enforcement Party to assist it to realise the Collateral and exercise any Power including:

- (a) executing all transfers, assignments and assurances of any of the Collateral;
- (b) doing anything necessary or desirable under the law in force in any place where any of the Collateral is situated; and
- (c) giving all notices, orders, directions and consents which the Enforcement Party thinks expedient.

## **7.3 Postponing or delaying realisation or enforcement**

- (a) An Enforcement Party may postpone or delay the exercise of any Power for such period as the Enforcement Party may in its absolute discretion decide.
- (b) For the avoidance of doubt, any decision of an Enforcement Party to postpone or delay the exercise of any Power under paragraph (a) does not constitute a waiver of the Event of Default that gave rise to the ability to exercise such Power.

# **8. CONTROLLER**

## **8.1 Appointment of Controller**

To the extent permitted by law, at any time after a Declared Default has occurred, the Security Agent may:

- (a) appoint any person or any two or more persons jointly or severally or both to be a Controller of all or any of the Collateral or to act as agent of the Security Agent to exercise any of the Powers in clause 8.3 (*Powers of Controller*) with respect to all or any of the Collateral;
- (b) remove any Controller;
- (c) appoint another Controller in addition to or in place of any Controller; and
- (d) fix or vary the remuneration of any Controller.

An appointment may be made on any terms the Security Agent thinks fit. Without limiting any other method of appointment permitted by law, an appointment may be made by an instrument signed by a Delegate of the Security Agent or by, or on behalf of, the Security Agent.

The Power to appoint a Controller may be exercised even if an Insolvency Event of the Grantor has occurred or will occur.

## **8.2 Agency of Controller**

- (a) Except to the extent otherwise provided by any law relating to an Insolvency Event, every Controller appointed under this Deed is the agent of the Grantor. The Grantor

alone is responsible for a Controller's acts and defaults and for the Controller's remuneration and expenses.

- (b) If, for any reason, including operation of law, a Controller:
  - (i) appointed in the circumstances described in paragraph (a); or
  - (ii) appointed at any other time,

ceases to be the agent of the Grantor as a result of an order being made or a resolution being passed for the winding up of the Grantor, then the Controller immediately becomes the agent of the Security Agent.

### 8.3 Powers of Controller

Subject to any express exclusion by the terms of the Controller's appointment, a Controller appointed in respect of any Collateral has Power to do anything in respect of the Collateral that an absolute beneficial legal owner of the property could do. That includes Power to do any of the following, in each case on any terms the Security Agent or Controller thinks fit:

- (a) seize, take and retain possession of, get in and manage the Collateral;
- (b) sell any of the Collateral to any person:
  - (i) by auction, private treaty or tender;
  - (ii) on such terms and special conditions as the Security Agent or the Controller thinks fit;
  - (iii) for cash or for a deferred payment of the purchase price, in whole or in part, with or without interest or security; or
  - (iv) in one lot or in separate parcels;
- (c) grant to any person an option to purchase any of the Collateral;
- (d) carry on or concur in carrying on any business of the Grantor in respect of that Collateral;
- (e) do anything to maintain, protect or improve any of the Collateral or to obtain income or returns from any of the Collateral;
- (f) to:
  - (i) borrow or raise any money, in its name or the name of the Grantor, from the Security Agent or any other person approved by the Security Agent in writing;
  - (ii) give guarantees; and
  - (iii) grant any Security Interest over any of the Collateral to secure that money or guarantee. That Security Interest may rank in priority to or equally with or after, the security interest granted under this Deed. It may be given in the name of the Grantor or otherwise;
- (g) lend money or provide financial accommodation;

- (h) employ or discharge any person as employee, contractor, agent, professional adviser, consultant or auctioneer for any purpose and at any remuneration and on any other terms as the Security Agent or Controller thinks fit;
- (i) make or accept any arrangement or compromise;
- (j) give receipts for money and other assets which may come into the hands of the Controller;
- (k) apply for, take up, transfer or surrender any Authorisation or any variation of any Authorisation;
- (l) to:
  - (i) perform or enforce;
  - (ii) exercise or refrain from exercising the Grantor's rights and powers under; or
  - (iii) obtain the benefit in other ways of,  
any documents or agreements or rights which form part of the Collateral and any documents or agreements entered into in exercise of any Power;
- (m) make debtors bankrupt, wind up corporations and do any thing in relation to any actual or contemplated Insolvency Event (including attend and vote at meetings of creditors and appointing proxies for meetings);
- (n) commence, defend, conduct, settle, discontinue or compromise proceedings in the name of the Grantor or on behalf of the Grantor, any proceedings including proceedings in relation to any insurance in respect of any of the Collateral;
- (o) enter into and execute documents or agreements on behalf of the Grantor or the Security Agent or Controller. This includes using the Grantor's seal and signing, accepting and endorsing cheques, promissory notes and bills of exchange;
- (p) surrender, release or transfer any of the Collateral or exchange it with any person for other property;
- (q) promote the formation of any corporation with a view to purchasing any of the Collateral or assuming the obligations of the Grantor or otherwise;
- (r) delegate to any person acceptable to the Security Agent any Power conferred on the Security Agent or Controller (including delegation);
- (s) exercise any voting or other rights or powers in respect of any part of the Collateral;
- (t) pay any outgoing or indebtedness of the Grantor or any other person;
- (u) redeem any Security Interest or acquire it and any debt secured by it;
- (v) make calls on the members of the Grantor in respect of any unpaid capital;
- (w) take out insurance and make, enforce, compromise and settle all claims in respect of insurance; and
- (x) do anything incidental to the exercise of any other Power.

#### 8.4 Termination

The Security Agent may give up possession of any Collateral and terminate any receivership or agency at any time.

#### 8.5 Powers in augmentation

The powers conferred on the Security Agent or a Controller by law:

- (a) except as specified in clause 11.1 (*Exclusion of PPSA provisions*) are in addition to the Powers conferred by this Deed;
- (b) to the extent permitted by law, may be exercised immediately after a Declared Default occurs and at any time subsequently; and
- (c) are excluded or varied only so far as they are inconsistent with the express terms of this Deed.

#### 9. POWER OF ATTORNEY

- (a) For valuable consideration and by way of security, the Grantor irrevocably appoints the Security Agent, each Delegate of the Security Agent and each Controller severally as its attorney to do anything which:
  - (i) the Grantor is obliged, but has failed, to do under or in relation to any Finance Document within 5 Business Days of being notified by the Security Agent of such failure and being requested to comply; or
  - (ii) any Beneficiary or Enforcement Party is authorised or empowered to do under any Finance Document or any law.
- (b) An Attorney may, in its name or in the name of the Grantor or the Security Agent, do any of the following, without limitation:
  - (i) delegate the Attorney's powers (including delegation); and
  - (ii) do anything which in the opinion of the Security Agent or the Attorney is necessary or expedient to secure, preserve, perfect or give effect to the Security Interest granted by the Grantor under this Deed (including anything under clause 10.1 (*Completion of Documents*)). For example, it may execute a legal mortgage, transfer or other assurance in favour of the Security Agent of any of the Collateral or give control (as defined in section 25 or 341A of the PPSA).
- (c) No Attorney may act, nor has power to act, inconsistently with this Deed or any other Finance Document.

#### 10. OTHER RIGHTS AN ENFORCEMENT PARTY MAY EXERCISE

##### 10.1 Completion of documents

At any time after a Declared Default has occurred, any Enforcement Party may complete any document executed by or on behalf of the Grantor and deposited with any Beneficiary. It may complete it in favour of any Beneficiary, any appointee of any Beneficiary or any purchaser.

## **11. PPSA PROVISIONS**

### **11.1 Exclusion of PPSA provisions**

To the extent the law permits:

- (a) for the purposes of sections 115(1) and 115(7) of the PPSA:
  - (i) an Enforcement Party need not comply with sections 95, 118, 121(4), 125, 130, 132(3)(d) or 132(4); and
  - (ii) sections 142 and 143 are excluded;
- (b) for the purposes of section 115(7) of the PPSA, an Enforcement Party need not comply with sections 132 and 137(3); and
- (c) if the PPSA is amended after the date of this Deed to permit the Grantor and an Enforcement Party to agree to not comply with or to exclude other provisions of the PPSA, an Enforcement Party may notify the Grantor that any of these provisions is excluded, or that an Enforcement Party need not comply with any of these provisions, as notified to the Grantor by the Enforcement Party.

### **11.2 Exercise of Powers by Security Agent**

If an Enforcement Party exercises a Power in connection with this Deed, that exercise is taken not to be an exercise of a Power under the PPSA unless the Enforcement Party states otherwise at the time of exercise. However, this clause does not apply to a Power which can only be exercised under the PPSA.

### **11.3 Confidentiality**

To the extent permitted by section 275 of the PPSA, the parties to this Deed agree to keep all information of the kind mentioned in section 275(1) of the PPSA confidential and not to disclose that information to any other person, except where disclosure is otherwise permitted or authorised under the Finance Documents.

### **11.4 Registration**

- (a) An Enforcement Party may, at the Grantor's expense, effect any registration (including under the PPSA in any manner the Enforcement Party considers appropriate) or give any notification, in connection with the Security Interest granted by the Grantor under this Deed. The Grantor consents to any such registration or notification and, prior to the Senior Discharge Date (as defined in the Intercreditor Agreement) agrees not to make an amendment demand.
- (b) Without limiting paragraph (a), the Grantor consents to an Enforcement Party effecting any other registration or making any other filing in any relevant jurisdiction as the Enforcement Party considers necessary or appropriate in connection with this Deed and the Security Interest granted by the Grantor under this Deed.

## **12. APPLICATION OF MONEY RECEIVED**

### **12.1 Order**

At any time after any Security Interest granted under this Deed is enforceable, all moneys received by an Enforcement Party or any other person acting on their behalf under this Deed or any Collateral must be applied in accordance with the Intercreditor Agreement.

For the purposes of section 14(6)(a) of the PPSA, this clause constitutes the method of payment application agreed by the parties to this Deed.

#### **12.2 Money actually received**

- (a) In applying any money towards satisfaction of the Secured Sums, the Grantor will be credited only with money available for that purpose which is actually received by the relevant Beneficiary and which is not later repaid by that Beneficiary on the basis that payment to the Beneficiary is or is alleged to be a preference payment or void, voidable, liable to be set aside or otherwise not properly payable to the Beneficiary. The credit will date from the time of receipt.
- (b) That money will be appropriated as between principal, interest and other amounts as the relevant Beneficiary determines. Any such appropriation by the relevant Beneficiary will override any appropriation made by the Grantor.

#### **12.3 Amounts contingently due**

If any of the Secured Sums are contingently owing to any Beneficiary at the time of a distribution of an amount under clause 12.1 (*Order*), the Security Agent may retain any of that amount. If it does, it shall place the amount retained on short term interest bearing deposit until the relevant Secured Sum becomes actually due or ceases to be contingently owing, and the Security Agent must then:

- (a) apply the amount retained to the amount of Secured Sums which has become actually due to it; and
- (b) apply the balance of the amount retained (together with interest earned on the deposit) in accordance with clause 12.1 (*Order*).

#### **12.4 Suspense of amounts received**

Until the Secured Sums have been paid in full or the Security Agent has received or recovered money that (after any applicable expenses and exchanges) is sufficient to pay the Secured Sums in full, the Security Agent may:

- (a) appropriate at its discretion any money received or recovered in respect of the Secured Sums under this Deed or otherwise, including money received or recovered by way of set-off or as a dividend in an Insolvency Event; and
- (b) refrain from applying the money in reduction of the Secured Sums, and claim against any person (including by proving in any Insolvency Event) in respect of the full amount of the Secured Sums disregarding the money received or recovered.

#### **12.5 Notice of subsequent Security Interests**

- (a) If any Beneficiary receives actual or constructive notice of a subsequent Security Interest affecting any Collateral of the Grantor, it may open a separate account in the name of that Grantor in the books of that Beneficiary.
- (b) If that Beneficiary does not open a new account it will be treated as if it had done so at the time it received actual or constructive notice of the Security Interest.
- (c) From the time the new account is opened or is taken to be opened:
  - (i) all advances and accommodation made available by that Beneficiary to the Grantor;



- (ii) all payments and repayments made by the Grantor to that Beneficiary; and
- (iii) money to be applied towards the Secured Sums under clause 12.1 (*Order*),

will be or will be taken to be debited or credited, as appropriate, to the new account. Payments, repayments and other money will only be applied in reduction of other Secured Sums to the extent that there is no debit balance in that account.

### 13. OTHER SECURITY INTERESTS OVER COLLATERAL

Any Enforcement Party may rely on the certificate of a holder of another Security Interest affecting or purporting to affect the Collateral as to the amount and property secured by that Security Interest.

### 14. PROTECTION

#### 14.1 Protection of Enforcement Parties

To the extent permitted by law, no Enforcement Party will be liable:

- (a) in respect of any conduct, delay, negligence or breach of duty in the exercise or non-exercise of a Power; nor
- (b) for any loss (including indirect loss) which results,

except where it arises directly from the gross negligence or wilful misconduct of any Enforcement Party.

#### 14.2 Entry Into Possession

Without prejudice to the generality of Clause 14.1 (*Protection of Enforcement Parties*), neither the Security Agent, any nominee nor any Receiver shall be liable to account as mortgagee in possession or otherwise for any sum not actually received by it or respectively, for any loss on realisation or enforcement of rights or for any default or omission for which a mortgagee in possession might be liable. If and whenever the Security Agent, or any nominee enters into possession of any assets, it shall be entitled at any time at its discretion to go out of possession.

#### 14.3 Protection of third parties

- (a) No person dealing with any Enforcement Party (or its agent) is bound to enquire whether:
  - (i) an Event of Default has occurred or is continuing or whether a Security Interest granted under this Deed has become enforceable;
  - (ii) any Secured Sum is due and payable or as to the amount of the Secured Sums;
  - (iii) a person who is, or, purports or is purported to be, a Controller or Attorney is duly appointed; or
  - (iv) the right of the Enforcement Party (or its agent) to exercise any Power has arisen or become exercisable or as to the proprietary or validity of the exercise purported exercise of any such Power.

- (b) The receipt of any Delegate of the Security Agent or any Enforcement Party for any money or assets payable to or receivable or received by it exonerates the person paying that money or handing over that asset from being concerned as to their application, or from being liable or accountable for their loss or misapplication.

**15. CERTIFICATE AS TO AMOUNT OF SECURED SUMS**

A certificate signed by an Authorised Officer or Delegate of a Beneficiary will be conclusive evidence against the Grantor, in the absence of manifest error:

- (a) that the relevant Beneficiary is of the opinion stated in the certificate; or
- (b) if the Beneficiary is the Security Agent:
  - (i) as to the amount of Secured Sums stated in that certificate;
  - (ii) that a document specified in that certificate is a Finance Document.

**16. ASSIGNMENT**

- (a) Any Beneficiary may at any time assign and transfer all or any of its rights in relation to this Deed to any person or otherwise grant an interest in them to any person to the extent that it is permitted to transfer its rights under the terms of the Finance Documents.
- (b) The Security Agent may assign and transfer all of its rights and obligations under this Deed to any replacement Security Agent appointed in accordance with the Intercreditor Agreement. Upon such assignment and transfer becoming effective, the replacement Security Agent shall be, and be deemed to be, acting as agent and trustee for each of the Beneficiaries (including itself) for the purposes of this Deed in replacement of the previous Security Agent.
- (c) If the Security Agent's rights under this Deed are assigned or novated, the Secured Sums will include all actual and contingent liability of the Grantor to the assignee, whether or not it was incurred before the assignment or novation or in contemplation of it.

**17. SAVING PROVISIONS**

**17.1 Waiver of notices**

- (a) To the extent the law permits, the Grantor waives:
  - (i) its right to receive any notice that is required by:
    - (1) any provision of the PPSA (including notice of a verification statement); or
    - (2) any other law before an Enforcement Party exercises a right, power or remedy; and
  - (ii) any time period that must otherwise lapse under any law before an Enforcement Party exercises a right, power or remedy.
- (b) If the law which requires a period of notice or a lapse of time cannot be excluded, but the law provides that the period of notice or lapse of time may be agreed, that

period or lapse is one day or the minimum period the law allows to be agreed (whichever is the longer).

#### **17.2 Security not to be affected**

A Beneficiary's or a Controller's Powers and the Grantor's obligations in connection with this Deed are not affected by anything which might otherwise affect them at law.

#### **17.3 Reinstatement of rights**

- (a) Whenever for any reason (including under any law relating to any Insolvency Event, fiduciary obligations or the protection of creditors):
  - (i) all or part of any transaction of any nature (including any payment or transfer) made during the term of this Deed which affects or relates in any way to the Secured Sums is void, set aside or voidable;
  - (ii) any claim that anything contemplated by paragraph (a)(i) is upheld, conceded or compromised; or
  - (iii) the Security Agent is required to return or repay any money or asset received by it under any such transaction or the equivalent in value of that money or asset,

the Security Agent will immediately become entitled against the Grantor to all rights in respect of the Secured Sums and the Collateral which it would have had if all or the relevant part of the transaction or receipt had not taken place. The Grantor shall indemnify the Security Agent against any resulting loss, cost or expense. This clause continues to apply after this Deed is discharged.

- (b) The obligations under this clause 17.3 are continuing obligations, independent of the Grantor's other obligations under this Deed, and survive the discharge of the Security Interests granted under this Deed or the termination of this Deed.

#### **17.4 Variation**

This Deed covers the Secured Sums as varied from time to time including as a result of:

- (a) any new Finance Document or any amendment to any Finance Document; or
- (b) the provision of further accommodation to any person,

and whether or not with the consent of or notice to the Grantor. This does not limit any other provision.

#### **17.5 Continuing security**

The Security Interest of the Grantor is a continuing security despite any settlement of account, intervening payment or anything else until a final discharge of this Deed has been given to the Grantor.

#### **17.6 No merger of security**

No Power and nothing in this Deed merges in, or in any other way prejudicially affects or is prejudicially affected by:

- (a) any other guarantee or Security Interest; or

(b) any judgment, right or remedy against any person,

which any Beneficiary or any person claiming through any Beneficiary may have at any time.

#### **17.7 Exclusion of moratorium**

To the full extent permitted by law, a provision of any legislation which at any time directly or indirectly:

(a) lessens, varies or affects in favour of the Grantor any obligation under this Deed or any Finance Document; or

(b) delays, prevents or prejudicially affects the exercise by any Enforcement Party of any Power,

is excluded from this Deed and any Finance Document and all relief and protection conferred on the Grantor by or under that legislation is also excluded.

### **18. GENERAL**

#### **18.1 Prompt performance**

If this Deed specifies when a party agrees to perform an obligation, the party agrees to perform it by the time specified. Each party agrees to perform all of its other obligations promptly. Time is of the essence in this Deed in respect of an obligation of the Grantor to pay money.

#### **18.2 Certificates**

An Enforcement Party may give the Grantor a certificate about an amount payable or other matter in connection with this Deed. The certificate is sufficient evidence of the amount or matter, unless it is proved to be incorrect.

#### **18.3 Grantor to bear costs**

Any thing which must be done by the Grantor under this Deed, whether or not at the request of the Security Agent, is to be done at the cost of the Grantor unless otherwise provided in the Facility Agreement and/or Intercreditor Agreement.

#### **18.4 Set-Off**

After the occurrence of an Event of Default which is continuing, the Security Agent may (but is not obliged to) retain any money it is holding (in any capacity) standing to the credit of the Grantor in any currency upon any account or otherwise (whether or not in the Grantor's name) as cover for any Secured Sums and/or at any time or times without notice to the Grantor set off all or any of such money against all or such part of the Secured Sums due, owing or incurred by the Grantor as the Security Agent may select. If the obligations are in different currencies, the Security Agent may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

#### **18.5 Variation and waiver**

A provision of this Deed, or right created under it, may not be varied or waived except in writing signed by the party or parties to be bound.

**18.6 Remedies and waivers cumulative**

- (a) No failure to exercise and no delay in exercising a Power on the part of the Security Agent or any Beneficiary operates as a waiver, nor does any single or partial exercise of a Power preclude any other or further exercise of that or any other Power.
- (b) Powers in the Finance Documents are in addition to, and do not exclude or limit, any right, power or remedy provided to the Security Agent or any Beneficiary by law.

**18.7 Conditions of consents, approvals or waivers**

The Grantor agrees to comply with all conditions in any consent, approval or waiver given in connection with this Deed.

**18.8 No liability for loss**

No Enforcement Party nor any Delegate is liable for any loss, liability or costs caused by the exercise or attempted exercise of, failure to exercise, or delay in exercising, a right, power or remedy in connection with this Deed except if and in so far as such liability results directly from its own gross negligence or wilful misconduct.

**18.9 Severability**

Any provision of this Deed which is prohibited or unenforceable in any jurisdiction is ineffective as to that jurisdiction to the extent of the prohibition or unenforceability. That does not invalidate the remaining provisions of this Deed nor affect the validity or enforceability of that provision in any other jurisdiction.

**18.10 Each signatory bound**

Failure by one or more parties to execute this Deed will not invalidate the provisions of this Deed as between the other parties who do execute this Deed. Such parties failing to sign at that time may execute this Deed on a subsequent date and will then become bound by its provisions.

**18.11 Counterparts**

- (a) This Deed may be executed in any number of counterparts, each executed by one or more parties, and this has the same effect as if the signatures on the counterparts were on a single copy of this Deed. A party may do this by executing and electronically transmitting a copy to one or more others or their representative.
- (b) This Deed binds each person who signs it as the Grantor even if another signatory does not sign it or is otherwise not bound by this Deed.

**18.12 Governing law and jurisdiction**

This Deed is governed by the laws of New South Wales and of the Commonwealth of Australia applying there. To the extent permitted by law, so are all related matters, including any non-contractual matters, and any security interest (as defined by the PPSA) under it. The Grantor irrevocably accepts the non-exclusive jurisdiction of courts with jurisdiction there, and waives any right to object to the venue on any ground.

### 18.13 Service of process

Without prejudice to any other mode of service allowed under any relevant law, the Grantor:

- (a) irrevocably appoints the Company as its agent for service of process in relation to any proceedings in connection with this Deed (and the Company, by its execution of this Deed, accepts that appointment); and
- (b) agrees that failure by a process agent to notify the Grantor of the process will not invalidate the proceedings concerned.

Each party to this deed expressly agrees and consents to the provisions of this clause.

### 18.14 No competition

- (a) Until the Secured Sums have been irrevocably paid and discharged in full, except to the extent permitted under any other Finance Document, the Grantor is not entitled to and shall not:
  - (i) be subrogated to any Beneficiary or any person who has any rights against any Borrower or claim the benefit of any Security Interest or guarantee held by any Beneficiary or any such person at any time;
  - (ii) either directly or indirectly prove in, claim or receive the benefit of, any distribution, dividend or payment arising out of or relating to the Insolvency Event of any Borrower; or
  - (iii) have or claim any right of contribution or indemnity for any reason (whether or not relating to this Deed) from any Borrower,except as directed by the Security Agent.
- (b) The receipt of any distribution, dividend or other payment by any Beneficiary out of or relating to any Insolvency Event will not prejudice the right of any Beneficiary to recover the Secured Sums by enforcement of this Deed.
- (c) The Grantor shall comply with any direction under this clause.
- (d) If the Grantor receives any proceeds from the Insolvency Event of a Borrower or any other security provider (whether following a direction of the Security Agent or otherwise) the Grantor shall immediately pay those proceeds to the Security Agent in reduction of the Secured Sums.
- (e) Until it makes that payment, those proceeds will be held in trust for the Security Agent for the account of the Beneficiaries.

## 19. CONTRACTUAL RECOGNITION OF BAIL-IN

### 19.1 Definitions

In this clause 19:

**"Bail-In Action"** means the exercise of any Write-down and Conversion Powers.

**"Bail-In Legislation"** means:

- (a) in relation to an EEA Member Country which has implemented, or which at any time implements, Article 55 of Directive 2014/59/EU establishing a framework for the recovery and resolution of credit institutions and investment firms, the relevant implementing law or regulation as described in the EU Bail-In Legislation Schedule from time to time;
- (b) in relation to the United Kingdom, the UK Bail-In Legislation; and
- (c) in relation to any other state other than an EEA Member Country and the United Kingdom, any analogous law or regulation from time to time which requires contractual recognition of any Write-down and Conversion Powers contained in that law or regulation.

**"EEA Member Country"** means any member state of the European Union, Iceland, Liechtenstein and Norway.

**"EU Bail-In Legislation Schedule"** means the document described as such and published by the Loan Market Association (or any successor person) from time to time.

**"Resolution Authority"** means any body which has authority to exercise any Write-down and Conversion Powers.

**"UK Bail-In Legislation"** means Part I of the United Kingdom Banking Act 2009 and any other law or regulation applicable in the United Kingdom relating to the resolution of unsound or failing banks, investment firms or other financial institutions or their affiliates (otherwise than through liquidation, administration or other insolvency proceedings).

**"Write-down and Conversion Powers"** means:

- (a) in relation to any Bail-In Legislation described in the EU Bail-In Legislation Schedule from time to time, the powers described as such in relation to that Bail-In Legislation in the EU Bail-In Legislation Schedule;
- (b) in relation to the UK Bail-In Legislation, any powers under that UK Bail-In Legislation to cancel, transfer or dilute shares issued by a person that is a bank or investment firm or other financial institution or affiliate of a bank, investment firm or other financial institution, to cancel, reduce, modify or change the form of a liability of such a person or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that UK Bail-In Legislation that are related to or ancillary to any of those powers; and
- (c) in relation to any other applicable Bail-In Legislation:
  - (i) any powers under that Bail-In Legislation to cancel, transfer or dilute shares issued by a person that is a bank or investment firm or other financial institution or affiliate of a bank, investment firm or other financial institution, to cancel, reduce, modify or change the form of a liability of such a person or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation

in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers; and

- (ii) any similar or analogous powers under that Bail-In Legislation.

#### **19.2 Contractual recognition of bail-in**

Notwithstanding any other term of any Finance Document or any other agreement, arrangement or understanding between the parties, each party acknowledges and accepts that any liability of any party to any other party under or in connection with the Finance Documents may be subject to Bail-In Action by the relevant Resolution Authority and acknowledges and accepts to be bound by the effect of:

- (a) any Bail-In Action in relation to any such liability, including (without limitation)
  - (i) a reduction, in full or in part, in the principal amount, or outstanding amount due (including any accrued but unpaid interest) in respect of any such liability;
  - (ii) a conversion of all, or part of, any such liability into shares or other instruments of ownership that may be issued to, or conferred on, it; and
  - (iii) a cancellation of any such liability; and
- (b) a variation of any term of any Finance Document to the extent necessary to give effect to any Bail-In Action in relation to any such liability.



SCHEDULE 1

Notice Details

Part A, Grantor

Grantor	Notice Details
<b>RM plc</b> (company number 01749877)	<b>Address:</b> 142b Park Drive, Milton Park, Abingdon, Oxon, England, OX14 4SE <b>Attention:</b> Company Secretary, RM plc <b>Email:</b> <a href="mailto:Companysecretary@rm.com">Companysecretary@rm.com</a>

Part B, Security Agent

Security Agent	Notice Details
HSBC Corporate Trustee Company (UK) Limited, company number 00362578	<b>Address:</b> Level 14 8 Canada Square London E14 5HQ <b>Fax:</b> +44 20 7991 4350 <b>Attention:</b> Issuer Services Trustee Administration <b>Email:</b> <a href="mailto:Ctfa.trustee.admin@hsbc.com">Ctfa.trustee.admin@hsbc.com</a>

**Part C, Agent for Service of Process**

Agent for Service of Process	Notice Details
<b>RM Plc Australia Pty Ltd</b> <b>ACN 633 988 002</b>	<b>Address:</b> Suite 2, Level 2, 179 Queen Street Melbourne VIC 3000 Australia  <b>Attention:</b> Company Secretary  <b>Email:</b> <a href="mailto:Companysecretary@rm.com">Companysecretary@rm.com</a>

**SCHEDULE 2**

**Part A - Initial Marketable Securities**

Grantor	Name and ABN / ACN / ARBN of Issuer	Description of Certificated Marketable Securities	Number of Marketable Securities	Certificate Number
RM plc (company number 01749877)	RM plc Australia Pty Ltd ACN 633 988 002	Ordinary Shares	12	1

**Part B – Trade Marks**

Grantor	Mark	Registration No	Date of Registration	Class	Goods & Services
RM plc (company number 01749877)	RM	2137379	19 November 2020	41	Class 41: Education services; Provision of training
	RM	2267337	19 November 2020	9, 42, 45	Class 9: Electrical components; Electronic components; Computer software; Computer firmware; Computers; Computer systems; Education software; Communication software; Computer software programs; Computer software packages; Data storage devices for recording data; Data recording apparatus; Data recording materials; Digital data transmission apparatus  Class 42: Development of computer software; Design of computer software; Design of computer programs; Installation and maintenance of computer software; Development of computer systems; Computer research services; Maintenance of computer programs; Design of computer hardware; Design and development of computer hardware for others; Development of computer platforms; Computer programming; Rental of computer software; Computer software advisory services; Rental of computer programs; Provision of information relating to computer programs; Advisory services relating to computer software; Advisory services relating to computer hardware; Advisory services relating to computer programming; Advisory services relating to computer systems design

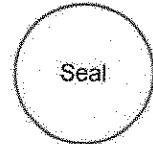
				Class 45: Licensing of software; Licensing of computer programs
<b>RM</b>	2137369	19 November 2020	41	Class 41: Education services; Provision of training
<b>RM</b>	2267340	19 November 2020	9, 42, 45	Class 9: Electrical components; Electronic components; Computer software; Computer firmware; Computers; Computer systems; Education software; Communication software; Computer software programs; Computer software packages; Data storage devices for recording data; Data recording apparatus; Data recording materials; Digital data transmission apparatus  Class 42: Development of computer software; Design of computer software; Design of computer programs; Installation and maintenance of computer software; Development of computer systems; Computer research services; Maintenance of computer programs; Design of computer hardware; Design and development of computer hardware for others; Development of computer platforms; Computer programming; Rental of computer software; Computer software advisory services; Rental of computer programs; Provision of information relating to computer programs; Advisory services relating to computer software; Advisory services relating to computer programming; Advisory services relating to computer systems design; Advisory services relating to computer hardware  Class 45: Licensing of software; Licensing of computer programs

EXECUTION PAGE

Executed and delivered as a Deed

Security Agent

SIGNED SEALED AND DELIVERED AS A DEED by  
HSBC Corporate Trustee Company (UK)  
Limited acting by its acting by  
its attorney/director  
in the presence of:



  
Signature of authorised signatory

James McComb  
Name of authorised signatory (print)

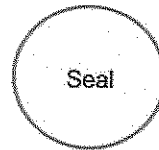
  
Signature


Leslie McComb  
Name of witness (print)

  
Address of witness (print)


**Grantor**

**SIGNED SEALED AND DELIVERED** by RM PLC  
acting by its authorised signatory in the  
presence of:



  
\_\_\_\_\_  
Signature of witness

Sid Jones  
\_\_\_\_\_  
Name of witness (print)

  
\_\_\_\_\_  
Address of witness (print)

  
\_\_\_\_\_  
Signature of authorised signatory

MARK COOK  
\_\_\_\_\_  
Name of authorised signatory (print)

**Agent for Service of Process**

**SIGNED SEALED AND DELIVERED** by RM Plc  
Australia Pty Ltd ACN 633 988 002 in  
accordance with s 127(1) of the  
Corporations Act 2001 (Cth) by authority  
of its directors:

\_\_\_\_\_  
Signature of director

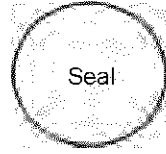
\_\_\_\_\_  
Name of director (print)

\_\_\_\_\_  
Signature of director/company secretary  
(delete whichever is not applicable)

\_\_\_\_\_  
Name of director/company secretary  
(delete whichever is not applicable)

## Grantor

**SIGNED SEALED AND DELIVERED** by **RM PLC**  
acting by its authorised signatory in the  
presence of:



\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised signatory

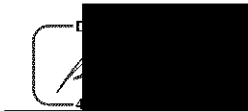
\_\_\_\_\_  
Name of witness (print)

\_\_\_\_\_  
Name of authorised signatory (print)

\_\_\_\_\_  
Address of witness (print)

## Agent for Service of Process

**SIGNED SEALED AND DELIVERED** by **RM Plc**  
**Australia Pty Ltd ACN 633 988 002** in  
accordance with s 127(1) of the  
Corporations Act 2001 (Cth) by authority  
of its directors:



\_\_\_\_\_  
Signature of director

Adam Legg

\_\_\_\_\_  
Name of director (print)



\_\_\_\_\_  
Signature of director/company secretary  
(delete whichever is not applicable)

John Baskerville

\_\_\_\_\_  
Name of director/company secretary  
(delete whichever is not applicable)