

MR07

Particulars of alteration of a charge (particulars of a negative pledge)

Oyez



S4DMZZFM

SCT 12/08/2015 #325

COMPANIES HOUSE

S4DMZZXS

SCT 12/08/2015 #407

COMPANIES HOUSE

☒ **What this form is for**
You may use this form to notify
that a charge has been altered

☒ **What this form is NOT for**
You may not use this form to notify
that a charge has been altered for
an LLP. Please use form LL MR07

☐ Please include a certified copy of the instrument of alteration with this form.
This will be placed on the public record

Company details

Company number 04427113

Company name in full Ace Signs Group Limited

Filing in this form

Please complete in typescript or in
bold black capitals

All fields are mandatory unless
specified or indicated by *

Charge creation

When was the charge created?

► Before 06/04/2013 Complete Part A and Part C

► On or after 06/04/2013 Complete Part B and Part C

Part A Charges created before 06/04/2013

1 Charge creation date

Please give the date of creation of the charge

Charge creation date 27/07/2015

2 Description of instrument (if any)

Please give a description of the instrument (if any) by which the charge is
created or evidenced

Instrument description

Continuation page

Please use a continuation page if
you need to enter more details

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Particulars of alteration of a charge (particulars of a negative pledge)

Short particulars of the property or undertaking charged

Please give the short particulars of the property or undertaking charged as set out when the charge was registered

Short particulars

Continuation page

Please use a continuation page if you need to enter more details

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Particulars of alteration of a charge (particulars of a negative pledge)

Part B Charges created on or after 06/04/2013

Charge code

Please give the charge code This can be found on the certificate

Charge code ①

0442 - 7113 - 0010

① Charge code

This is the unique reference code allocated by the registrar

Part C To be completed for all charges

3

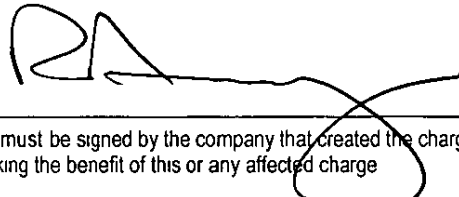
Signature

Please sign the form here

Signature

Signature

X



X

This form must be signed by the company that created the charge or by the person taking the benefit of this or any affected charge

MR07

Particulars of alteration of a charge (particulars of a negative pledge)



Presenter information

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

Contact name
AS/BW/MAV 3 9

Company name
Morisons LLP

Address
53 Bothwell Street

Post town
Glasgow

County/Region

Postcode

G

2

6

T

S

Country
Scotland

DX
GW 95

Telephone
0141 332 566



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 of alteration

Part A Charges created before 06/04/2013

- ☐ You have given the charge date
- ☐ You have completed the Description of instrument and Short particulars in Sections A2 and A3

Part B Charges created on or after 06/04/2013

- ☐ You have given the charge code

Part C To be completed for all charges

- ☐ You have signed the form

Important information

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

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 or email 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



GLASGOW

29/7/2015

CERTIFIED A TRUE COPY

[Redacted signature area]

Intercreditor Agreement

HSBC Bank plc

HSBC Invoice Finance (UK) Limited

Maven Capital Partners UK LLP

The Scottish Loan Fund L.P.

Merson Signs Limited

DIO Limited

ASGH Limited

ACE Signs Group Limited

and

ASG (Essex) Limited

Ref

FAS 3889

Harper Macleod LLP The Ca'd'oro 45 Gordon Street Glasgow G1 3PE
Tel +44 (0)141 221 8888 Fax +44(0)141 226 4198 e-mail info@harpermacleod.co.uk
www.harpermacleod.co.uk DX GW86 LP 5, Glasgow 6

Glasgow Edinburgh Inverness

Intercreditor Agreement

between

HSBC BANK PLC, incorporated under the Companies Acts (Company Number 14259) having its registered office at 8 Canada Square, London E14 5HQ and its successors, assignees and transferees from time to time (the "**Bank**"),

and

HSBC INVOICE FINANCE (UK) LIMITED, incorporated under the Companies Acts (Company Number 00759657) having its registered office at 21 Farncombe Road, Worthing, Sussex, BN11 2BW and its successors, assignees and transferees from time to time ("**Invoice Finance**"),

and

MAVEN CAPITAL PARTNERS UK LLP, incorporated under the Limited Liability Partnerships Act 2000 (Registered Number 0C339387) having its registered office at Queens Chambers, 5 John Dalton Street, Manchester M2 6ET as agent and security trustee for the Scottish Loan Fund LP and its successors, assignees and transferees from time to time ("**Maven**"),

and

SCOTTISH LOAN FUND L.P., a Scottish limited partnership with registered number SL8545 whose principal place of business is at Sutherland House, 149 St Vincent Street, Glasgow, G2 5NW acting by its general partner, **SLF GP LIMITED** (registered number SC391744) whose registered office is at Sutherland House, 149 St Vincent Street, Glasgow G2 5NW (the "**Scottish Loan Fund**"),

and

THE COMPANIES named in the Schedule (collectively the "**Companies**" and each a "**Company**")

1 Ranking

1.1 The Bank, Invoice Finance, the Postponed Creditors and the Companies each agree that the Bank Liabilities, the Invoice Finance Liabilities and the Postponed Creditor Liabilities shall rank in right and priority of payment in the following order and are postponed and subordinated to any prior ranking Liabilities as follows

1.1.1 first, the Bank Liabilities and the Invoice Finance Liabilities, *pari passu* among themselves, without limit; and

1.1.2 second, the Postponed Creditor Liabilities without limit

1.2 The Bank, Invoice Finance, the Postponed Creditors and the Companies each agree that, notwithstanding the respective dates of creation or registration or any provisions as to ranking contained therein, the Bank Securities, the Invoice Finance Securities and the Postponed Creditor Security Documents shall rank in the following order of priority

1.2.1 in respect of the East Kilbride Property

(a) first, the Bank Standard Security in respect of all sums secured thereby, without limit,

(b) second, the Bank Merson Floating Charge in respect of all sums secured thereby, without limit,

(c) third, the Invoice Finance Floating Charge in respect of all sums secured thereby,

without limit, and

- (d) fourth, the Postponed Creditor Merson Floating Charges in respect of all sums secured thereby, without limit,

1 2 2 in respect of the Basildon Property

- (a) first, Bank Legal Charge in respect of all sums secured thereby, without limit,
- (b) second, Bank Merson Floating Charge in respect of all sums secured thereby, without limit,
- (c) third, the Invoice Finance Floating Charge in respect of all sums secured thereby, without limit, and
- (d) fourth, the Postponed Creditor Merson Floating Charges in respect of all sums secured thereby, without limit;

1.2.3 in respect of the Merson Debts (to the extent that the same remain Merson Assets)

- (a) first, the Invoice Finance Floating Charge in respect of all sums secured thereby, without limit,
- (b) second, the Bank Merson Floating Charge in respect of all sums secured thereby, without limit, and
- (c) third, the Postponed Creditor Merson Floating Charges in respect of all sums secured thereby, without limit,

and, for the avoidance of doubt, without prejudice to Clause 9, any claim by any preferential creditor shall be met firstly out of the Remaining Merson Assets and only if such Remaining Merson Assets are insufficient to cover such preferential claims shall the same be met out of the Merson Debts,

1.2.4 in respect of the Remaining Merson Assets

- (a) first, the Bank Merson Floating Charge in respect of all sums secured thereby, without limit,
- (b) second, the Invoice Finance Floating Charge in respect of all sums secured thereby, without limit, and
- (c) third, the Postponed Creditor Merson Floating Charges in respect of all sums secured thereby, without limit,

1 2 5 in respect of the DIO Assets

- (a) first, the Bank DIO Floating Charge in respect of all sums secured thereby, without limit; and
- (b) second, the Postponed Creditor DIO Floating Charges in respect of all sums secured thereby, without limit;

1 2 6 in respect of the ASGH Assets

- (a) first, the Bank ASGH Debenture in respect of all sums secured thereby, without limit; and

- (b) second, the Postponed Creditor ASGH Debenture in respect of all sums secured thereby, without limit.

1.2.7 in respect of the ACE Assets

- (a) first, the Bank ACE Debenture in respect of all sums secured thereby, without limit, and
- (b) second, the Postponed Creditor ACE Debenture in respect of all sums secured thereby, without limit.

1.2.8 in respect of the ASGE Debts (in so far as the same remain ASGE Assets)

- (a) first, the Invoice Finance ASGE Charge in respect of all sums secured thereby, without limit,
- (b) second, Bank ASGE Debenture in respect of all sums secured thereby, without limit; and
- (c) third, the Postponed Creditor ASGE Debenture in respect of all sums secured thereby, without limit,

and, for the avoidance of doubt, without prejudice to Clause 9, any claim by any preferential creditor shall be met firstly out of the Remaining ASGE Assets and only if such Remaining ASGE Assets are insufficient to cover such preferential claims shall the same be met out of the ASGE Debts

1.2.9 in respect of the Remaining ASGE Assets

- (a) first, Bank ASGE Debenture in respect of all sums secured thereby, without limit,
- (b) second, the Invoice Finance ASGE Charge in respect of all sums secured thereby, without limit, and
- (c) third, the Postponed Creditor ASGE Debenture in respect of all sums secured thereby, without limit

1.3 The ranking and priority set out in Clauses 1.1 and 1.2 and the subordination effected by this Agreement shall be a continuing subordination and benefit the ultimate balance of the HSBC Liabilities notwithstanding any intermediate payment or discharge of the HSBC Liabilities (in whole or in part). Further, neither the ranking and priority set out in Clauses 1.1 and 1.2, the subordination effected by this Agreement nor the obligations of any of the Postponed Creditors under this Agreement shall be affected in any way by any of the following

1.3.1 the nature of the Encumbrances created by the Bank Securities, the Invoice Finance Securities and the Postponed Creditor Security Documents and the dates of execution, perfection or registration of them,

1.3.2 any provision contained in any of the Securities,

1.3.3 the date or dates on which sums have been or may be advanced or become due, owing or payable under the Bank Securities, the Invoice Finance Securities and the Postponed Creditor Security Documents, respectively,

1.3.4 any fluctuation from time to time in the amounts secured by the Bank Securities, the Invoice Finance Securities or the Postponed Creditor Security Documents including any reduction of those amounts to nil,

- 1 3 5 the existence of any credit balance on any current or other account of any Company with the Bank or with Invoice Finance,
 - 1 3 6 the appointment of a liquidator, administrative receiver, receiver, administrator or other similar officer in respect of any Company or over all or any part of the Assets,
 - 1 3 7 the granting of time or any other indulgence to any Company or any other person or the release, compounding or otherwise dealing with a Company or any other person,
 - 1 3.8 the taking, variation, compromise, renewal or release of, or refusal or neglect to perfect or enforce any rights or remedies against any Company or any other person by the Bank, Invoice Finance or any of the Postponed Creditors,
 - 1.3.9 the provisions of Sections 464 and 466 of the Companies Act 1985 or any other rule of law which might operate to the contrary, or
 - 1 3 10 any other fact, matter or thing which would otherwise affect or impair the ranking, priority and subordination contemplated by this Agreement or the obligations of any Party hereunder
- 1 4 For the avoidance of doubt, this Agreement supersedes and replaces in all respects and for all purposes any previous agreement, whether written or oral, express or implied, between the parties to it (or any of them) in relation to the subject matter of this Agreement including (without limitation) (i) the intercreditor agreement between the Bank, Maven, Scottish Loan Fund, Merson and DIO entered into on 14, 17 and 18 December 2012, (ii) the intercreditor agreement between the Bank, Maven, Scottish Loan Fund, Maven and DIO entered into on 17 and 19 June 2015 and (iii) the intercreditor agreement between the Bank, Maven, Scottish Loan Fund, Merson and DIO entered into on 1 and 3 July 2015
- 1.5 The Postponed Creditors each waives any right it may have of requiring either the Bank or Invoice Finance to proceed against, or enforce, any right, Encumbrance or claim for payment the Bank or Invoice Finance may have before claiming the benefit of this Agreement
- 1.6 Each Company hereby irrevocably waives any right to appropriate any payments to, or other sum received, recovered or held by, the Bank in or towards discharge of a particular part of the Bank Liabilities and agrees that the Bank shall have the exclusive right to appropriate any such payment or other sum in accordance with the Bank Loan Documents
- 1 7 Each Company hereby irrevocably waives any right to appropriate any payments to, or other sum received, recovered or held by, Invoice Finance in or towards discharge of a particular part of the Invoice Finance Liabilities and agreed that Invoice Finance shall have the exclusive right to appropriate any such payment or other sum in accordance with the Invoice Finance Facility Documents
- 1 8 Any amount received or recovered by the Relevant HSBC Party, any receiver or any delegate in exercise of its rights under this Agreement may be credited to an interest bearing suspense account and that amount may be kept there (with any interest earned being credited to that account) until the Relevant HSBC Party is satisfied that all the HSBC Liabilities have been discharged in full in accordance with this Agreement.
- 1 9 The Parties hereby acknowledge and agree that notwithstanding any other provision of this Agreement, the terms of, and rights, obligations and benefits arising from, the Warrant Instrument are free to be applied and exercised in accordance with its terms without restriction whatsoever

2 Bank Liabilities and Invoice Finance Liabilities

- 2.1 Payments of the Bank Liabilities may be made at any time in accordance with the Bank Loan Documents
- 2.2 The Bank may amend or waive the terms of the Bank Loan Documents or the Bank Securities at any time
- 2.3 Payments of the Invoice Finance Liabilities may be made at any time in accordance with the Invoice Finance Facility Documents
- 2.4 Invoice Finance may amend or waive the terms of the Invoice Finance Facility Documents or the Invoice Finance Securities at any time

3 Postponed Creditors Liabilities

- 3.1 No Company shall make, and no Postponed Creditor shall demand or receive, any Payments of the Postponed Creditor Liabilities at any time unless
 - 3.1.1 the HSBC Discharge Date has occurred,
 - 3.1.2 that Payment is permitted under Clause 3.2 below; or
 - 3.1.3 the taking or receipt of that Payment is permitted under Clause 3.12 below
- 3.2 Each Company may, prior to the HSBC Discharge Date, make Payments to the Postponed Creditors in respect of the Postponed Creditor Liabilities then due in accordance with the Postponed Creditor Finance Documents if the Relevant HSBC Party consents to such payment or if the Payment is a scheduled payment of principal, a voluntary prepayment of principal, a mandatory prepayment of principal, a payment of scheduled fees or a payment of scheduled interest due on principal in accordance with the terms of the Mezzanine Facility Agreement in each case as at the date of this Agreement (or as amended in accordance with the terms of this Agreement) provided that, at that time
 - 3.2.1 each Company is in compliance with the terms of the Financial Covenants applicable to that Company,
 - 3.2.2 no Payment Default has occurred and is continuing, and
 - 3.2.3 no Stop Notice is outstanding
- 3.3 A Stop Notice is "outstanding" during the period from the date on which, following the occurrence of a Stop Event, the Relevant HSBC Party issues a notice (a "Stop Notice") to the Postponed Creditors (with a copy to any other HSBC Party and to the Companies) advising that a Stop Event has occurred and is continuing and confirming that all and any Payments of the Postponed Creditor Liabilities are suspended until the first to occur of
 - 3.3.1 the date which is 90 days after the date of issue of the Stop Notice,
 - 3.3.2 the date on which the Relevant HSBC Party has confirmed to the Postponed Creditors (which it shall do as soon as practicable following the occurrence thereof) that the Stop Event in respect of which that Stop Notice was issued is no longer continuing,
 - 3.3.3 the date on which the Relevant HSBC Party cancels that Stop Notice by notice to the Postponed Creditors (with a copy to the Companies), and

3.3.4 the HSBC Discharge Date

- 3.3A For the avoidance of doubt, no payment to a Postponed Creditor shall be permitted at any time under clause 3.2 above when (i) any Company is not in compliance with the terms of the Financial Covenants applicable to that Company and/or (ii) a Payment Default has occurred and is continuing, notwithstanding that at such time no Stop Notice is outstanding (including, without limitation, where a Stop Notice ceases to be outstanding in accordance with clause 3.3.1 above)
- 3.4 Invoice Finance hereby undertakes, at all times while the Bank is the Relevant HSBC Party, to notify the Bank as soon as practicable upon becoming aware of a Stop Event which relates to the Invoice Finance Facility Documents, the Invoice Finance Securities and/or the Invoice Finance Liabilities (an "IF Notice") and the Bank undertakes to Invoice Finance that it shall promptly following receipt by it of an IF Notice issue a Stop Notice to the Postponed Creditors (copied to Invoice Finance) in respect of that Stop Event
- 3.5 The Bank hereby undertakes, at all times prior to the Bank Discharge Date, to notify Invoice Finance as soon as practicable upon becoming aware of a Stop Event which relates to the Bank Loan Documents, the Bank Securities and/or the Bank Liabilities
- 3.6 No more than one Stop Notice may be served with respect to the same event or set of circumstances
- 3.7 Any failure to make a Payment due under the Postponed Creditor Finance Documents as a result of the issue of a Stop Notice, the failure by any Company to comply with the Financial Covenants or the occurrence of a Payment Default shall not prevent.
- 3.7.1 the occurrence of a Mezzanine Event of Default as a consequence of that failure to make a Payment in relation to the Mezzanine Facility Agreement, or
- 3.7.2 the issue of a Postponed Creditor Enforcement Notice on behalf of the Postponed Creditors in accordance with the terms of this Agreement.
- 3.8 No Company shall be released from the liability to make any Payment (including of default interest, which shall continue to accrue) under any Postponed Creditor Finance Document by the operation of this Clause 3 even if its obligation to make that Payment is restricted at any time by the terms of this Clause 3. The accrual and capitalisation (but not payment, until permitted in accordance with Clause 3.2) of interest in accordance with the Mezzanine Facility Agreement shall continue notwithstanding the issue of a Stop Notice
- 3.9 If
- 3.9.1 at any time following the issue of a Stop Notice, the failure by any Company to comply with the Financial Covenants, and/or the occurrence of a Payment Default, that Stop Notice ceases to be outstanding and/or (as the case may be) the Payment Default ceases to be continuing and/or (as the case may be) the Bank waives the failure by the Borrower to comply with the Bank Financial Covenants or Invoice Finance waives the failure by any Company to comply with the IF Financial Covenants (as the case may be), and
- 3.9.2 the relevant Company then promptly pays to the relevant Postponed Creditor an amount equal to any Payments which had accrued under the Mezzanine Finance Documents and which would have been Postponed Creditor Permitted Payments but for that Stop Notice, failure by any Company to comply with the Financial Covenants and/or Payment Default,

then any Mezzanine Event of Default which may have occurred as a result of that suspension of Payments shall be waived and any Postponed Creditor Enforcement Notice

which may have been issued as a result of that Mezzanine Event of Default shall be waived (but without prejudice to the terms of, and rights and obligation under, the Warrant Instrument in respect of the occurrence of a Mezzanine Event of Default, or any indemnity for costs and expenses by any Company under the Mezzanine Facility Agreement in respect of, or in connection with the occurrence of the relevant Mezzanine Event of Default or the issue of the relevant Postponed Creditor Enforcement Notice), in each case without any further action being required on the part of any of the Postponed Creditors

- 3.10 Prior to the HSBC Discharge Date, neither any of the Postponed Creditors nor any of the Companies may amend, supplement, vary, replace or waive the terms of the Postponed Creditor Finance Documents or enter into any further Postponed Creditor Finance Documents unless the prior written consent of the Relevant HSBC Party is obtained (such consent to be at the Relevant HSBC Party's discretion, but is not to be unreasonably delayed or withheld)
- 3.11 Each Postponed Creditor and each Company agree that they will not designate a document a "Finance Document" for the purposes of the Mezzanine Facility Agreement without the prior written consent of the Relevant HSBC Party but excluding from this obligation the Postponed Creditor Finance Documents entered into on or around the date of this Agreement
- 3.12 At any time prior to the HSBC Discharge Date, no Postponed Creditor may take, accept or receive from any Company the benefit of any Encumbrance, guarantee, indemnity or other assurance against loss in respect of the Postponed Creditor Liabilities other than (i) the Postponed Creditor Security Documents, (ii) the cross-guarantee granted on or around 18 December 2012 by Merson and DIO in respect of the Postponed Creditor Liabilities, (iii) the cross guarantee granted on or around the date of this Agreement by each Company in respect of the Postponed Creditor Liabilities, and (iv) the Keyman Assignments, in each case without the prior written consent of the Relevant HSBC Party
- 3.13 Other than as provided under Clause 3.14 and Clause 3.15, no Postponed Creditor shall be entitled to take any Enforcement Action in respect of any of the Postponed Creditor Liabilities prior to the HSBC Discharge Date
- 3.14 Subject to Clause 3.13, the Postponed Creditors may take Enforcement Action available to them in respect of any of the Postponed Creditor Liabilities if at the same time as, or prior to, that action
- 3.14.1 a Bank Acceleration Event and an Invoice Finance Acceleration Event has occurred in which case the Postponed Creditors may take the same Enforcement Action (but in respect of the Postponed Creditor Liabilities) as constitutes that Bank Acceleration Event and Invoice Finance Acceleration Event (provided that where the Enforcement Actions taken by the Bank and Invoice Finance respectively differ, the Postponed Creditors may take the same Enforcement Action as the Bank), or
- 3.14.2 where
- 3.14.2.1 the Postponed Creditors have given notice (a "**Postponed Creditor Enforcement Notice**") to the Relevant HSBC Party specifying that a Mezzanine Event of Default has occurred and is continuing, and
- 3.14.2.2 a period (a "**Standstill Period**") of not less than 9 calendar months has elapsed from the date on which that Postponed Creditor Enforcement Notice was delivered (or, if earlier, deemed to be delivered) in accordance with this Agreement, and
- 3.14.2.3 that Mezzanine Event of Default is continuing at the end of the Standstill Period, or

- 3.14 3 the Relevant HSBC Party has given its prior written consent
- 3 15 Subject to Clause 4A, after the occurrence of an Insolvency Event in relation to any Company, the Postponed Creditors may exercise any rights they may have against the Companies to
- 3.15.1 accelerate any of the Postponed Creditor Liabilities or declare them prematurely due and payable or payable on demand,
- 3 15.2 make a demand under any guarantee, indemnity or other assurance against loss given by any Company in respect of any Postponed Creditor Liabilities,
- 3.15.3 exercise any right of set-off or take or receive any Payment in respect of any Postponed Creditor Liabilities, or
- 3.15.4 claim and prove in the liquidation of any Company for the Postponed Creditor Liabilities owing to it
- 3 16 Neither any of the Postponed Creditors nor any of the Companies shall take, or omit to take, any action whereby the ranking, priority and/or subordination contemplated by this Agreement may be impaired
- 3.17 No Postponed Creditor shall have any remedy against the Bank or Invoice Finance by reason of any transaction entered into between the Bank and any Company or Invoice Finance and any Company or any requirement or condition imposed by or on behalf of the Bank or Invoice Finance on any Company which violates or is or causes a Postponed Creditor Event of Default (howsoever described) under the Postponed Creditor Finance Documents, but without prejudice to any remedies available to the Postponed Creditors for a breach by the Bank or Invoice Finance of the terms of this Agreement
- 3 18 For the avoidance of doubt, the Bank shall be entitled at any time to
- 3 18 1 take any Enforcement Action in respect of the Bank Liabilities,
- 3 18 2 take any action whatsoever in respect of the Bank Liabilities following the occurrence of an Insolvency Event, and/or
- 3 18 3 designate further documents as Bank Loan Documents,
- in each case without the consent of any of the Postponed Creditors or (subject to Clause 3 20) Invoice Finance
- 3.19 For the avoidance of doubt, the Invoice Finance shall be entitled at any time to
- 3 19 1 take any Enforcement Action in respect of the Invoice Finance Liabilities,
- 3 19 2 take any action whatsoever in respect of the Invoice Finance Liabilities following the occurrence of an Insolvency Event, and/or
- 3.19 3 designate further documents as Invoice Finance Facility Documents,
- in each case without the consent of any of the Postponed Creditors or (subject to Clause 3 20) the Bank
- 3.20 In the event of any HSBC Party wishing to take any action referred to in Clauses 3 18 or 3 19 respectively the HSBC Parties shall consult together (in the case of the action referred to in Clauses 3 18 2 and 3 19 2, with a view to agreeing a suitable person to be appointed

as administrator, receiver, liquidator or other similar officer and such consultation and agreement shall also precede the removal of any such person and the appointment of a successor in that office) provided always that this obligation to consult will not prejudice the right of any HSBC Party to act in an emergency without any such consultation or agreement

4 Turnover

4 1 If at any time prior to the HSBC Discharge Date, any Postponed Creditor receives or recovers

4 1.1 any Payment or distribution of, or on account of or in relation to, any of the Liabilities which is not a Postponed Creditor Permitted Payment, and/or

4 1.2 any amount by way of set off in respect of any of the Liabilities owed to it which does not give effect to a Postponed Creditor Permitted Payment,

that Postponed Creditor shall as soon as reasonably practicable notify the Relevant HSBC Party and shall

(a) in relation to receipts and recoveries not received or recovered by way of set-off

(i) hold an amount of that receipt or recovery equal to the HSBC Liabilities (or if less, the amount received or recovered) on trust for the Relevant HSBC Party and promptly pay that amount to the Relevant HSBC Party for application in accordance with Clause 18, and

(ii) promptly pay an amount equal to the amount (if any) by which the receipt or recovery exceeds the HSBC Liabilities to the Relevant HSBC Party for application in accordance with the terms of this Agreement, and

(b) in relation to receipts and recoveries received or recovered by way of set-off, promptly pay an amount equal to that recovery to the Relevant HSBC Party for application in accordance with the terms of this Agreement

4 2 If any Company receives or recovers any sum which, under the terms of any of the Loan Documents, should have been paid to the Bank or Invoice Finance, that Company shall

4 2.1 hold an amount of that receipt or recovery equal to the HSBC Liabilities (or if less, the amount received or recovered) on trust for the Relevant HSBC Party and promptly pay that amount to the Relevant HSBC Party for application in accordance with Clause 18, and

4 2.2 promptly pay an amount equal to the amount (if any) by which the receipt or recovery exceeds the HSBC Liabilities to the Relevant HSBC Party for application in accordance with the terms of this Agreement.

4 3 If, for any reason, any of the trusts expressed to be created in this Clause 4 should fail or be unenforceable, the affected Postponed Creditor or Company (as the case may be) will promptly pay an amount equal to that receipt or recovery to the Relevant HSBC Party to be held on trust by the Relevant HSBC Party for application in accordance with the terms of this Agreement.

4 4 If the Relevant HSBC Party receives any distribution otherwise than in cash in respect of the Postponed Creditor Liabilities from any Company or any other source, it may deal with

and/or apply the distribution in reduction of the HSBC Liabilities in accordance with the terms of Clause 18 provided that neither the HSBC Liabilities nor any part thereof shall be reduced by any such distribution until and except to the extent that any net realisation proceeds are applied towards the HSBC Liabilities

4A Subordination On Insolvency

4A 1 Until the HSBC Discharge Date, if an Insolvency Event occurs in relation to the Company the following provisions of this clause 4A 1 shall apply

4A 2 While an Insolvency Event is subsisting then, until the HSBC Discharge Date, the Postponed Creditor Liabilities will (without prejudice to any other provisions of this Agreement having the effect of subordinating the Postponed Creditor Liabilities) be subordinate in right of payment to the HSBC Liabilities

4A 3 While an Insolvency Event is subsisting

- (a) the Relevant HSBC Party may, and is irrevocably authorised on behalf of each of the Postponed Creditors to
 - (i) claim, enforce and prove for the Postponed Creditor Liabilities,
 - (ii) file claims and proofs, give receipts and take all such proceedings in respect of filing such claim or proof and do all such things as the Relevant HSBC Party reasonably considers necessary to recover the Postponed Creditor Liabilities, and
 - (iii) receive all distributions of the Postponed Creditor Liabilities for application in reduction of the HSBC Liabilities in accordance with Clause 18, and
- (b) if and to the extent that the Relevant HSBC Party is not entitled to claim, enforce, prove, file claims or proofs, or take proceedings in respect of filing such claim or proof, (or elects not to do so), in respect of the Postponed Creditor Liabilities, the relevant Postponed Creditor will do so in good time if so requested by the Relevant HSBC Party

Provided that, for the avoidance of doubt, nothing in this clause 4A 3 shall create or be deemed to create security

4A 4

4A 4 1 Until the HSBC Discharge Date, while an Insolvency Event is subsisting

- (a) each Postponed Creditor will
 - (i) pay and distribute on demand to the Relevant HSBC Party all distributions in cash or in kind received (and any rights to receive such distributions) by it during the subsistence of such circumstances in respect of the Postponed Creditor Liabilities (and any rights deriving from same), or, in the case of a set-off, pay the equivalent amount on demand, to the Relevant HSBC Party for application in reduction of the HSBC Liabilities in accordance with Clause 18, and
 - (ii) hold any amounts so received (up to the aggregate of the amount of the HSBC Liabilities) on trust for the Relevant HSBC Party,
- provided that nothing in this clause shall create or be deemed to create a registrable charge,

- (b) each Postponed Creditor will direct the receiver, administrator, trustee in bankruptcy, liquidator, assignee or other person distributing the assets of any Company or their proceeds to pay distributions in respect of the Postponed Creditor Liabilities directly to the Relevant HSBC Party up to the amount of the HSBC Liabilities from time to time, and
- (c) each Proposed Creditor will give all such notices and do all such things as the Relevant HSBC Party may reasonably request to give effect to this clause 4A.4

4A.4.2 Provided that, for the avoidance of doubt, nothing in this clause 4A.4 shall create or be deemed to create security

5 Security Continuing

The Securities shall rank as provided in this Agreement as continuing securities for repayment of the amounts owing to each of the Bank, Invoice Finance and the Postponed Creditors from time to time by any Company. Notwithstanding the provisions of sections 464 and 465 of the Companies Act 1985 or any other rule of law which might operate to the contrary effect, the foregoing provisions as to ranking shall be valid and effective irrespective of the date or dates on which sums are advanced or are to be advanced by the Bank, Invoice Finance, or any of the Postponed Creditors, to any Company have been or shall be drawn out by or debited to any Company, the Bank, Invoice Finance and the Postponed Creditors having no concern over the composition of or fluctuations in the sum or sums due by any Company to any of the other Parties hereto

6 Agreement

If a receiver or administrator or liquidator of any Company regards this Agreement as failing to bind him or her in the distribution of the proceeds of sale of the Assets (and in as far as the refusal of the receiver or administrator or liquidator to be bound by this Agreement causes prejudice to the Bank, Invoice Finance or the Postponed Creditors), the Bank, Invoice Finance and the Postponed Creditors will compensate each other to the extent to which it has benefited as a result of this refusal and to the extent necessary in order to give effect to the subordination contemplated by this Agreement.

7 Negative Pledge

No Company shall grant any fixed or floating charges other than the Bank Securities, the Invoice Finance Securities and the Postponed Creditor Security Documents over all or any of its Assets including (without limitation) its heritable, real or leasehold property without the prior written consent of the Bank, Invoice Finance and the Postponed Creditors

8 Enforcement

No Postponed Creditor shall appoint or take any steps to appoint a receiver, administrator, administrative receiver or liquidator of any Company or the Assets other than in accordance with the terms of Clauses 3.14 and 3.15 above

9 Preferential Payments

The ranking provisions in this Agreement shall not prejudice the right of the Bank or Invoice Finance to receive Preferential Payments provided that any Preferential Payments payable shall not be counted towards repayment of the Bank Liabilities or the Invoice Finance Liabilities for the purposes of calculating the extent of any priority to which the Bank or Invoice Finance is entitled under Clause 1 (Ranking)

10 Authority to Release Information

During the continuance of each of the Bank Securities, the Invoice Finance Securities and the Postponed Creditor Security Documents, the Bank, Invoice Finance and the Postponed Creditors may disclose to each other information concerning any Company and its affairs in such manner and to such extent as the Bank, Invoice Finance and the Postponed Creditors may wish and each Company consents to such disclosure

11 Consent

11.1 The Bank, Invoice Finance and the Postponed Creditors consent to the grant by each Company of the Securities

11.2 Without prejudice to the terms of Clause 11.1, the Postponed Creditors and the Bank irrevocably consent (and shall be deemed to have consented with effect from date hereof) to the selling, factoring and discounting of (and any other dealing by any Company with) the Merson Debts and the ASGE Debts in terms of the Invoice Finance Facility Documents, whether or not such selling, factoring, discounting or dealing is in the Company's ordinary course of business and notwithstanding the date or dates on which such selling, factoring, discounting or dealing is or was effected

11.3 Without prejudice to the terms of Clause 11.1, the Postponed Creditors and Invoice Finance irrevocably consent to the sale of the Basildon Property by ACE to Merson on or around the date of this Agreement

11.4 Subject to Clause 2.2, where the Bank's consent is required in terms of the Bank Loan Documents and/or the Bank Securities or any other documentation entered into in relation to the facilities advanced under the Bank Loan Documents, and the Bank is agreeable to providing consent, the Bank shall provide notice of its intention to grant consent to the Postponed Creditors in terms of Clause 19 and the Postponed Creditors shall have 5 Business Days in which to intimate to the Bank their objection to such consent being granted, otherwise the Postponed Creditors consent shall be deemed to have been granted. In the event that the Postponed Creditors intimate their objection to such consent being granted, the Bank will endeavour to consult and co-operate with the Postponed Creditors as to whether such consent should be granted and on what terms, provided that the Bank may grant such consent at any time on such terms as it sees fit where it considers (in its sole discretion) that it is necessary for it to do so

11.5 Subject to Clause 2.4, where the consent of Invoice Finance is required in terms of the Invoice Finance Facility Documents and/or the Invoice Finance Securities or any other documentation entered into in relation to the facilities advanced under the Invoice Finance Facility Documents, and Invoice Finance is agreeable to providing consent, Invoice Finance shall provide notice of its intention to grant consent to the Postponed Creditors in terms of Clause 19 and the Postponed Creditors shall have 5 Business Days in which to intimate to Invoice Finance their objection to such consent being granted, otherwise the Postponed Creditors consent shall be deemed to have been granted. In the event that the Postponed Creditors intimate their objection to such consent being granted, Invoice Finance will endeavour to consult and co-operate with the Postponed Creditors as to whether such consent should be granted and on what terms, provided that Invoice Finance may grant such consent at any time on such terms as it sees fit where it considers (in its sole discretion) that it is necessary for it to do so

12 Power of Attorney

Each Postponed Creditor and each Company, irrevocably severally appoints the Relevant HSBC Party as its mandatory and attorney to do anything which it (a) has authorised the Relevant HSBC Party to do under this Agreement and (b) is required to do by this Agreement but has failed to do for a period of 10 Business Days after receiving notice from the Relevant HSBC Party requiring it to do so. The Relevant HSBC Party may delegate this

power

13 Variations

13.1 The Bank Floating Charges, the Invoice Finance Floating Charge and the Postponed Creditor Floating Charges are varied to the extent specified in this Agreement and this Agreement shall be construed and receive effect as an instrument of alteration within the meaning of Section 466 of the Companies Act 1985

13.2 This Agreement so far as affecting the Bank Standard Security shall be construed and receive effect as a variation within the meaning of Section 16 of the Conveyancing and Feudal Reform (Scotland) Act 1970

14 Transfers

The Bank shall not assign or transfer the benefit of the Bank Securities, Invoice Finance shall not assign the benefit of the Invoice Finance Securities and no Postponed Creditor shall assign or transfer the benefit of the Postponed Creditor Security Documents unless the assignee or transferee first agrees in writing with the Bank, Invoice Finance and/or the Postponed Creditors, as the case may be, to be bound by the provisions of this Agreement

15 Partial Invalidity

If, at any time, any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of that provision under the law of any other jurisdiction will in any way be affected or impaired

16 Remedies and Waivers

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

17 Memorandum

The Postponed Creditors shall ensure that a memorandum of this Agreement shall be endorsed on each of the Mezzanine Facility Agreement and the Postponed Creditor Security Documents

18 Relevant HSBC Party

18.1 Notwithstanding any other provisions of this Agreement, the Relevant HSBC Party

18.1.1 shall at all times exercise any discretions and powers granted to it in terms of this Agreement as Relevant HSBC Party in such a way as is in the best interests of, and not prejudicial to, the HSBC Parties as a whole,

18.1.2 shall, when required to give any consent under this Agreement in its capacity as Relevant HSBC Party, obtain the prior written consent of any other HSBC Party to the giving of any such consent (provided that any such consent shall not be unreasonably withheld or delayed by any other HSBC Party if the Relevant HSBC Party is obliged not to unreasonably withhold or delay its consent hereunder),

18.1.3 upon receipt of any notice from any Company or any Postponed Creditor in terms of this Agreement, provide a copy thereof to any other HSBC Party as soon as

practicable thereafter;

- 18.1.4 shall at all times deal with, and apply, all monies from time to time received by it under this Agreement so as to achieve the ranking and priority among the HSBC Parties as is set out in Clauses 1.1 and 1.2,
 - 18.1.5 undertakes to the other HSBC Party to transfer all and any sums received by it in terms of this Agreement to the other HSBC Party as are necessary to achieve the ranking and priority set out in Clauses 1.1 and 1.2, and
 - 18.1.6 (pending any such transfer to the other HSBC Party referred to in Clause 18.1.5) shall hold the sums required to be transferred by it to the other HSBC Party in terms of Clause 18.1.5 in trust for such other HSBC Party
- 18.2 As soon as practicable following any Party ceasing to be the Relevant HSBC Party, such Relevant HSBC Party shall transfer to the successor Relevant HSBC Party all of the right, title and interest in and to any monies received in such capacity which are held by it on such date and, pending such transfer, shall hold all such monies in trust (save for any monies already held in trust in terms of Clause 18.1.6) for the successor Relevant HSBC Party

19 Notices

- 19.1 Any notice or other communication under this Agreement must be made in writing and must be
- 19.1.1 delivered in person or sent by first class recorded delivery post (or the equivalent in the jurisdiction from which the demand, notice or other communication is sent, if sent from outwith the United Kingdom) to the address set out in clause 19.1.4 for the relevant party or, in the case of the Companies, to its registered office, or
 - 19.1.2 sent by fax to the fax number (if any) set out in clause 19.1.4 for the relevant party, or
 - 19.1.3 delivered or sent to such other address or fax number, notice of which has been given to and received by the issuer of the demand, notice or other communication in accordance with the provisions of this Clause 19 (Notices)
 - 19.1.4 The addresses for notices or other communications for the Bank and the Postponed Creditors shall be -
 - 19.1.4.1 in the case of the Bank, 141 Bothwell Street, Glasgow G2 7E0, fax number 08455878548, marked for the attention of Gavin Forsyth,
 - 19.1.4.2 in the case of Invoice Finance, 141 Bothwell Street, Glasgow, G2 7EQ, marked for the attention of Allan Ramsay, and
 - 19.1.4.3 in the case of the Postponed Creditors, Kintyre House, 205 West George Street, Glasgow, G2 2LW, fax number 4-44 (0)141 248 8093, marked for the attention of David Milroy
- 19.2 Subject to Clause 19.3, a notice or other communication will be deemed to be received
- 19.2.1 upon delivery if delivered or at noon (Greenwich Mean Time) two Business Days (or seven Business Days if sent to or from a place outwith the United Kingdom) after posting if sent by post, and
 - 19.2.2 at the time shown in the relevant transmission report for the complete fax if sent by

fax

- 19.3 If a demand, notice or other communication is deemed received after 5pm in the place of receipt or on a non-Business Day it will be deemed to have been received at 9 am on the next Business Day for the purposes of this Agreement.

20 Definitions and Interpretation

In this Agreement:

- 20.1 **"2015 Mezzanine Facility Agreement"** means the mezzanine facility agreement dated 19 June 2015 between Merson, DIO and the Postponed Creditors,
- 20.2 **"Additional Bank Loan Arrangements"** means
- 20.2.1 the £500,000 BACS facility,
 - 20.2.2 the £400,000 purchasing cards facility,
 - 20.2.3 the £50,000 corporate cards facility,
 - 20.2.4 the \$50,000 FX settlement facility, and
 - 20.2.5 the £100,000 daylight overdraft facility,
- in each case made available by the Bank to Merson,
- 20.3 **"ACE"** means ACE Signs Group Limited incorporated under the Companies Acts (Company Number 04427113) having its registered office at 1 Bentalls, Basildon, Essex, SS14 3BS,
- 20.4 **"ACE Assets"** means the whole of the property, assets and undertaking (including uncalled capital) which is or may be from time to time comprised in the property and undertaking of ACE,
- 20.5 **"ASGE"** means ASG (Essex) Limited incorporated under the Companies Acts (Company Number 00663171) having its registered office at 1 Bentalls, Basildon, Essex, SS14 3BS,
- 20.6 **"ASGE Assets"** means the whole of the property, assets and undertaking (including uncalled capital) which is or may be from time to time comprised in the property and undertaking of ASGE,
- 20.7 **"ASGE Debts"** means all of the debts and other obligations present, future and contingent of any customer to ASGE under any contract of sale and includes the associated rights in relation to each debt, namely, ASGE's rights provided by or retained under the contract of sale, ASGE's title to goods which are the subject of a contract of sale where those goods remain in ASGE's possession or have been returned to or repossessed by it, insurances, all negotiable and non-negotiable instruments, all securities, bonds, guarantees and indemnities and all of ASGE's rights to any ledger, computer or electronic data or document recording or evidencing a debt, and the proceeds thereof in the event of sale of any of same, in each case to the extent that such debts and/or obligations are or were purported to be assigned to and/or to vest in and/or to be purchased by Invoice Finance under any Invoice Finance Facility Document; and in the foregoing definition, **"contract of sale"** means a contract by ASGE for the hiring or supply of goods or the provision of services to a customer,
- 20.8 **"ASGH"** means ASGH Limited incorporated under the Companies Acts (Company Number 07240096) having its registered office at 1 Bentalls, Basildon, Essex, SS14 3BS,

- 20 9 **"ASGH Assets"** means the whole of the property, assets and undertaking (including uncalled capital) which is or may be from time to time comprised in the property and undertaking of ASGH,
- 20 10 **"Assets"** means the whole of the property, assets and undertaking (including uncalled capital) which is or may be from time to time comprised in each Company's property and undertaking,
- 20.11 **"Bank Acceleration Event"** means any exercise by the Bank of its rights of acceleration of the Bank Liabilities following the occurrence of a Bank Event of Default and any consequential rights exercisable by the Bank in such circumstances,
- 20 12 **"Bank ACE Debenture"** means the debenture granted by ACE in favour of the Bank created on or around the date hereof in security for the Bank Liabilities,
- 20 13 **"Bank ASGE Debenture"** means the debenture granted by ASGE in favour of the Bank created on or around the date hereof in security for the Bank Liabilities,
- 20 14 **"Bank ASGH Debenture"** means the debenture granted by ASGH in favour of the Bank created on or around the date hereof in security for the Bank Liabilities,
- 20.15 **"Bank Debentures"** means the Bank ACE Debenture, Bank ASGE Debenture and Bank ASGH Debenture,
- 20 16 **"Bank DIO Floating Charge"** means the floating charge granted by DIO in favour of the Bank created on 18 December 2012 and registered with the Registrar of Companies on 28 December 2012, in security for the Bank Liabilities,
- 20 17 **"Bank Discharge Date"** means the first date on which all Bank Liabilities have been unconditionally and irrevocably fully and finally discharged to the satisfaction of the Bank, whether or not as the result of Enforcement Action, and the Bank is under no further obligation to provide financial accommodation to any Company,
- 20.18 **"Bank Event of Default"** means any event or circumstance specified as such in the Bank Loan Documents,
- 20 19 **"Bank Financial Covenants"** means each of the financial covenants as that term is defined in the Bank Loan Documents (as such covenants are amended, supplemented or replaced from time to time),
- 20 20 **"Bank Floating Charges"** means (i) the Bank Merson Floating Charge, and (ii) the Bank DIO Floating Charge,
- 20 21 **"Bank Guarantee"** means the guarantee granted on or around the date of this Agreement by each of Merson, DIO, PropCo, Property HoldCo, ASGH, ASGE and ACE in favour of the Bank,
- 20 22 **"Bank Legal Charge"** means the legal charge granted on or around the date hereof by Merson in favour of the Bank over the Basildon Property,
- 20 23 **"Bank Liabilities"** means the Liabilities owed by the Companies to the Bank,
- 20 24 **"Bank Loan Documents"** means
- 20.24 1 the base rate term loan facility letter between Merson and the Bank dated 7 April 2011,

- 20.24.2 the overdraft and engagements facility letter between Merson and the Bank dated 30 April 2012 and countersigned on 8 May 2012 (as amended and varied by way of overdraft and engagement facility letters from the Bank to Merson dated 3 December 2012, 28 February 2013 and 28 February 2015 (and countersigned on 18 December 2012, 6 March 2013 and 3 March 2015 respectively), by an annual renewal letter from the Bank dated 21 October 2014) and by an extension letter from the Bank dated on or around the date hereof,
- 20.24.3 the £1,120,000 base rate term loan facility letter from the Bank, and countersigned by Merson, on 1 July 2015,
- 20.24.4 the £1,085,000 base rate term loan facility from the Bank, and countersigned by Merson, on or around the date hereof,
- 20.24.5 the Bank Securities,
- 20.24.6 the Bank Guarantee, and
- 20.24.7 any other document specified as a "Bank Loan Document " by the Bank in terms of Clause 3.18.3,
- 20.25 **"Bank Merson Floating Charge"** means the floating charge granted by Merson in favour of the Bank created on 13 May 2011 and registered with the Registrar of Companies on 19 May 2011 in security for the Bank Liabilities,
- 20.26 **"Bank Securities"** means the Bank Floating Charges, the Bank Standard Security and the Bank Debentures,
- 20.27 **"Bank Standard Security"** means the standard security to be granted by Merson in favour of the Bank on or around the date of this Agreement in respect of the East Kilbride Property,
- 20.28 **"Basildon Property"** means 1 Bentalls, Basildon, Essex, SS14 3BS, registered at the HM Land Registry under Title Number EX262242 ,
- 20.29 **"Business Day"** means a day on which banks are generally open for business in Glasgow,
- 20.30 **"Creditors"** means the Bank, Invoice Finance and the Postponed Creditors,
- 20.31 **"DIO"** means DIO Limited incorporated under the Companies Acts (Company Number SC223940) having its registered office at 1 Law Place, Nerston Mains Industrial Estate, East Kilbride, G74 4QQ,
- 20.32 **"DIO Assets"** means the whole of the property, assets and undertaking (including uncalled capital) which is or may be from time to time comprised in the property and undertaking of DIO,
- 20.33 **"East Kilbride Property"** means 2 Young Place, Kelvin Industrial Estate, East Kilbride, G74 0TD, registered at the Land Register of Scotland under Title Number LAN 128908,
- 20.34 **"Encumbrance"** means a mortgage, charge (whether fixed or floating), pledge, lien, assignation in security or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect,
- 20.35 **"Enforcement Action"** means
- 20.35.1 in relation to any Liabilities

- 20 35 1 1 the acceleration of any Liabilities or the making of any declaration that any Liabilities are prematurely due and payable,
- 20 35 1 2 the making of any declaration that any Liabilities are payable on demand,
- 20 35 1 3 the making of a demand in relation to a Liability that is payable on demand,
- 20 35.1 4 the making of any demand against any Company in relation to any of its Liabilities to a Creditor,
- 20 35 1 5 the exercise of any right of set-off, account combination, payment netting attachment or execution against any Company in respect of any Liabilities,
- 20 35.1 6 the suing for, commencing or joining of any legal or arbitration proceedings against any Company to recover any Liabilities, or
- 20.35 1 7 the suing for, or the institution of, any creditors process (whether before or after judgement) against any Company in respect of any obligations owing to it (whether or not for the payment of money) in respect of a Liability,
- 20 35 2 the taking of any steps to enforce or require the enforcement of any Encumbrance or any guarantee, indemnity or other assurance against loss (including without limitation, the Securities and the crystallisation of any floating charge forming part of the Securities) or the exercise of any rights thereunder on default,
- 20.35.3 the entering into of any composition, compromise, assignation or arrangement with any Company,
- 20 35 4 the petitioning, applying or voting for, or the taking of any steps (including the appointment of any liquidator, receiver, administrative receiver, administrator or similar officer) in relation to, or with a view to the insolvency, liquidation, winding up, dissolution, receivership, administration or reorganisation of any Company's assets or any suspension of payments or moratorium of any indebtedness of any Company, or any analogous procedure or step in any jurisdiction (whether under the Securities, other Encumbrance or otherwise),
- 20 35.5 bringing or supporting any legal process against any Company or applying or taking any proceedings for an interdict or specific implement (or the equivalent in any jurisdiction) in respect of any Company and/or its obligations,

except that the following shall not constitute Enforcement Action

- 20 35 5 1 the taking of any action falling within paragraphs 20 35 1 4 or 20 35 4 above which is necessary (but only to the extent necessary) to preserve the validity, existence or priority of claims in respect of Liabilities, including the registration of such claims before any court or governmental authority and the bringing, supporting or joining of proceedings to prevent any loss of the right to bring, support or join proceedings by reason of applicable limitation periods, or
- 20 35 5 2 the Postponed Creditors bringing legal proceedings against any person solely for the purpose of

18 13 4 2 1 obtaining injunctive relief (or any analogous remedy outside

- England and Wales) to restrain any actual or putative breach of any Loan Document to which it is party,
 18 13 4 2 2 obtaining specific performance (other than specific performance of an obligation to make a payment) with no claim for damages, or
 18 13 4 2 3 requesting judicial interpretation of any provision of any Loan Document to which it is party with no claim for damages, or
 20 35 5 3 with reference to the exercise of rights on default referred to at paragraph 20 35 2 above, the rights of the Postponed Creditors on default pursuant to the Keyman Assignments, the rights of the Postponed Creditors pursuant to the Warrant Instrument, and the accrual and capitalisation (but not payment) of default interest pursuant to the Postponed Creditor Finance Documents,
- 20 36 **"English Law Securities"** means the Bank Debentures, the Postponed Creditor Debentures, the Invoice Finance ASGE Charge and the Bank Legal Charge,
- 20.37 **"Financial Covenants"** means the Bank Financial Covenants and the IF Financial Covenants,
- 20 38 **"HSBC Discharge Date"** means the later of the Bank Discharge Date and the Invoice Finance Discharge Date,
- 20 39 **"HSBC Liabilities"** means the Bank Liabilities and the Invoice Finance Liabilities,
- 20.40 **"HSBC Parties"** means the Bank and Invoice Finance,
- 20.41 **"IF Financial Covenants"** means each of the financial covenants (howsoever defined) in the Invoice Finance Facility Documents (as such covenants are amended, supplemented or replaced from time to time),
- 20 42 **"Invoice Finance Acceleration Event"** means any exercise by Invoice Finance of its rights of acceleration of the Invoice Finance Liabilities following the occurrence of an Invoice Finance Event of Default and any consequential rights exercisable by Invoice Finance in such circumstances,
- 20 43 **"Invoice Finance ASGE Charge"** means the fixed and floating charge granted by ASGE in favour of Invoice Finance dated on or around the date hereof in security for the Invoice Finance Liabilities,
- 20 44 **"Invoice Finance Discharge Date"** means the first date on which all Invoice Finance Liabilities have been unconditionally and irrevocably fully and finally discharged to the satisfaction of Invoice Finance, whether or not as the result of Enforcement Action, and Invoice Finance is under no further obligation to provide financial accommodation to the Company,
- 20 45 **"Invoice Finance Event of Default"** means any event of default (howsoever described) under the Invoice Finance Facility Documents,
- 20 46 **"Invoice Finance Facility Documents"** means
- 20 46 1 the agreement for the purchase of debts to be entered into between Merson and Invoice Finance,
- 20 46 2 the agreement for the purchase of debts to be entered into between ASGE and Invoice Finance,
- 20 46.3 any agreement varying, supplementing or replacing the documents referred to in

Clauses 20.46.1 and 20.46.2 above,

20.46.4 the Invoice Finance Floating Charge,

20.46.5 the Invoice Finance ASGE Charge,

20.46.6 the Invoice Finance Guarantee, and

20.46.7 any other document entered into between any Company and Invoice Finance from time to time,

20.47 **"Invoice Finance Floating Charge"** means the floating charge granted by Merson in favour of Invoice Finance created on or around the date hereof in security for the Invoice Finance Liabilities,

20.48 **"Invoice Finance Guarantee"** means the guarantee granted on or around the date hereof by each of Merson, DIO and ASGE in favour of Invoice Finance,

20.49 **"Invoice Finance Liabilities"** means the Liabilities owed by the Companies to Invoice Finance,

20.50 **"Invoice Finance Securities"** means the Invoice Finance Floating Charge and the Invoice Finance ASGE Charge,

20.51 **"Insolvency Event"** means

20.51.1 any resolution is passed or order made for the winding up, liquidation, dissolution, receivership, administration or reorganisation of any Company or any of its assets, a moratorium is declared in relation to any indebtedness of any Company or an administrator is appointed to any Company,

20.51.2 any composition, compromise, assignment or arrangement is made with any of the Companies' creditors,

20.51.3 the appointment of any liquidator, receiver, administrator, administrative receiver, compulsory manager or other similar officer in respect of any Company or any of its assets, or

20.51.4 any analogous procedure or step is taken in any jurisdiction,

20.52 **"Keyman Assignments"** means the assignments in security in respect of the life policies of Roderick Angus, Gavin McMurray and others to be granted in favour of the Postponed Creditors in accordance with the terms of the Mezzanine Facility Agreement,

20.53 **"Liabilities"** means all present and future liabilities and obligations whatsoever at any time of any Company to any Creditor under the Loan Documents and/or the Additional Bank Loan Arrangements, both actual and contingent and whether incurred solely or jointly or in any other capacity together with any of the following matters relating to or arising in respect of those liabilities and obligations

20.53.1 any refinancing, novation, deferral or extension,

20.53.2 any claim for breach of representation, warranty or undertaking or on an event of default or under any indemnity given under or in connection with any document or agreement evidencing or constituting any other liability or obligation falling within this definition,

20 53.3 any claim for damages or restitution, and

20 53.4 any claim as a result of any recovery by any Company of a Payment on the grounds of preference or otherwise,

and any amounts which would be included in any of the above but for any discharge, non-provability, unenforceability or non-allowance of those amounts in any insolvency or other proceedings,

20 54 **"Loan Documents"** means the Bank Loan Documents, the Invoice Finance Facility Documents and the Postponed Creditor Finance Documents,

20 55 **"Merson"** means Merson Signs Limited incorporated under the Companies Acts (Company Number SC020547) having its registered office at 1 Law Place, Nerston Mains Industrial Estate, East Kilbride, G74 4QQ,

20 56 **"Merson Assets"** means the whole of the property, assets and undertaking (including uncalled capital) which is or may be from time to time comprised in the property and undertaking of Merson,

20.57 **"Merson Debts"** means all of the debts and other obligations present, future and contingent of any customer to Merson under any contract of sale and includes the associated rights in relation to each debt, namely, Merson's rights provided by or retained under the contract of sale, Merson's title to goods which are the subject of a contract of sale where those goods remain in Merson's possession or have been returned to or repossessed by it, insurances, all negotiable and non-negotiable instruments, all securities, bonds, guarantees and indemnities and all of Merson's rights to any ledger, computer or electronic data or document recording or evidencing a debt, and the proceeds thereof in the event of sale of any of same, in each case to the extent that such debts and/or obligations are or were purported to be assigned to and/or to vest in and/or to be purchased by Invoice Finance under any Invoice Finance Facility Document, and in the foregoing definition, **"contract of sale"** means a contract by Merson for the hiring or supply of goods or the provision of services to a customer,

20 58 **"Mezzanine Event of Default"** means any event or circumstance specified as such in the Mezzanine Facility Agreement,

20.59 **"Mezzanine Facility Agreement"** means (a) until (but excluding) the date upon which all conditions precedent to the availability of facilities under the 2015 Mezzanine Facility Agreement have been satisfied or waived, the mezzanine facility agreement dated 18 December 2012 between each Company and the Postponed Creditors, and (b) from (and including) the date upon which all conditions precedent to the availability of facilities under the 2015 Mezzanine Facility Agreement have been satisfied or waived, the 2015 Mezzanine Facility Agreement,

20.60 **"Party"** means a party to this Agreement;

20 61 **"Payment"** means, in respect of any Liabilities (or any other liabilities or obligations), a payment, prepayment, repayment, redemption, defeasance or discharge of those Liabilities (or other liabilities or obligations) whether in cash or in kind including by way of set off,

20.62 **"Payment Default"** means an event of default arising under the Bank Loan Documents or the Invoice Finance Facility Documents in respect of a failure by any of the Companies to make any payment under and in accordance with the terms of the Bank Loan Documents or the Invoice Finance Facility Documents,

20 63 **"Pledge"** means the Polish law shares pledge granted by ASGE in favour of Abtech Corporation Limited (registered in Cyprus with registered number HE 314910) dated 16

February 2015,

- 20 64 **"Pledged Shares"** means the 50 shares in SPV2 (a Polish company registered in the Polish National Court Register under KRS number 0000363174) subject to the Pledge,
- 20 65 **"Postponed Creditors"** means Maven and The Scottish Loan Fund,
- 20 66 **"Postponed Creditor ACE Debenture"** means the debenture granted by ACE over its Assets in respect of the Postponed Creditor Liabilities created on or around the date hereof,
- 20 67 **"Postponed Creditor ASGE Debenture"** means the debenture granted by ASGE over its Assets (other than, until the Pledge is released, the Pledged Shares) in respect of the Postponed Creditor Liabilities created on or around the date hereof,
- 20.68 **"Postponed Creditor ASGH Debenture"** means the debenture granted by ASGH over its Assets in respect of the Postponed Creditor Liabilities created on or around the date hereof,
- 20.69 **"Postponed Creditor Debentures"** means the Postponed Creditor ACE Debenture, the Postponed Creditor ASGE Debenture and the Postponed Creditor ASGH Debenture,
- 20 70 **"Postponed Creditor DIO Floating Charges"** means (i) the bond and floating charge granted by DIO over its Assets in respect of the Postponed Creditor Liabilities, created on 18 December 2012 and registered with the Registrar of Companies on 22 December 2012 and (ii) the bond and floating charge granted by DIO over its Assets in respect of the Postponed Creditor Liabilities granted on or around the date hereof,
- 20.71 **"Postponed Creditor Enforcement Notice"** has the meaning given to that term in Clause 3 12 2,
- 20 72 **"Postponed Creditor Finance Documents"** has the meaning given to the term **"Finance Documents"** in the Mezzanine Facility Agreement,
- 20.73 **"Postponed Creditor Floating Charges"** means (i) the Postponed Creditor Merson Floating Charges, and (ii) the Postponed Creditor DIO Floating Charges,
- 20.74 **"Postponed Creditor Liabilities"** means the Liabilities owed by the Companies to the Postponed Creditors under or in connection with the Postponed Creditor Finance Documents,
- 20 75 **"Postponed Creditor Merson Floating Charge"** means (i) the bond and floating charge granted by Merson over its Assets in respect of the Postponed Creditor Liabilities created on 18 December 2012 and registered with the Registrar of Companies on 22 December 2012 and (ii) the bond and floating charge granted by Merson over its Assets in respect of the Postponed Creditor Liabilities created on or around the date hereof,
- 20 76 **"Postponed Creditor Permitted Payments"** means payments to the Postponed Creditors permitted under Clause 3 2,
- 20.77 **"Postponed Creditor Security Documents"** means (i) the Postponed Creditor Floating Charges, (ii) the Postponed Creditor Debentures, and (iii) the Keyman Assignments,
- 20.78 **"Preferential Payments"** means payments to which a preference attaches in terms of Sections 59, 175 and 386 of the Insolvency Act 1986,
- 20 79 **"PropCo"** means Williams and Co 2012 Ltd incorporated under the Companies Acts (Company Number SC024587) and having its registered office at 292 St Vincent Street, Glasgow, G2 5TQ,

- 20 80 **"Property HoldCo"** means Williams and Co 2013 Ltd incorporated under the Companies Acts (Company Number SC333117) and having its registered office at 292 St Vincent Street, Glasgow, G2 5TQ,
- 20 81 **"Relevant HSBC Party"** means
- 20 81 1 until the occurrence of the Bank Discharge Date, the Bank, and
- 20.81 2 thereafter, Invoice Finance,
- 20 82 **"Remaining ASGE Assets"** means the whole of the property, assets and undertaking (including uncalled capital) which is or may be from time to time comprised in the property and undertaking of ASGE other than the ASGE Debts and (only until the Pledge is released) the Pledged Shares,
- 20.83 **"Remaining Merson Assets"** means the whole of the property, assets and undertaking (including uncalled capital) which is or may be from time to time comprised in the property and undertaking of Merson, other than the East Kilbride Property, the Basildon Property and the Merson Debts,
- 20.84 **"Securities"** means the Bank Securities, the Invoice Finance Securities and the Postponed Creditor Security Documents,
- 20 85 **"Standstill Period"** has the meaning given to that term in Clause 3 14 2 2,
- 20.86 **"Stop Event"** means an event of default under the Bank Loan Documents, an event of default (howsoever described) under the Invoice Finance Facility Documents or a failure by any Company (as appropriate) to comply with the terms of the Financial Covenants,
- 20 87 **"Stop Notice"** has the meaning given to that term in Clause 3 3,
- 20 88 **"Subsidiary"** means a subsidiary within the meaning of section 1159 of the Companies Act 2006, and
- 20 89 **"Warrant Instrument"** has the meaning given to that term in the Mezzanine Facility Agreement
- 20 90 Unless a contrary indication appears, a reference in this Agreement to
- 20 90 1 the Bank, Invoice Finance, any Postponed Creditor, any Company or any other person shall be construed so as to include its successors in title, permitted assignees and permitted transferees,
- 20 90 2 without prejudice to any requirement to procure consent to the same, a reference to any agreement or instrument is a reference to that agreement or instrument as amended, novated, supplemented, extended or restated,
- 20.90 3 the singular includes the plural, and
- 20 90.4 a provision of law is a reference to that provision as amended or re-enacted
- 20 91 Clause headings are for ease of reference only

21 Governing Law

This Agreement and any non-contractual obligations arising out of or in connection with it are governed by Scots law (save in respect of any matters arising from, or connected with,

the ranking priority and/or enforcement of the English Law Securities which shall be governed by the laws of England and Wales)

22 Jurisdiction

- 22.1 The courts of Scotland have exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement (including a dispute relating to the existence, validity or termination of this Agreement or any non-contractual obligation arising out of or in connection with this Agreement) (a "Dispute")
- 22.2 The Parties agree that the courts of Scotland are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary
- 22.3 This Clause 22 is for the benefit of the Bank, Invoice Finance and the Postponed Creditors only. As a result, neither the Bank, Invoice Finance nor the Postponed Creditors shall be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Bank, Invoice Finance and the Postponed Creditors may take concurrent proceedings in any number of jurisdictions.

23

Consent to Registration

The parties to this Agreement consent to its registration for preservation

IN WITNESS WHEREOF these presents consisting of this and the preceding 24 pages together with the Schedule annexed are executed as follows

Subscribed for and on behalf of **HSBC BANK PLC**

At **141 BOTHWELL STREET**

On **27/7/2015**

By  its Authorised Signatory **CAVIN FORSYTH**

before this witness

NICOLA SORBIÉ Full Name



45 GORDON ST Address

GLASGOW G1 3PE

Subscribed for and on behalf of **HSBC INVOICE FINANCE (UK) LIMITED**

At **WORTHING**

On **28.7.15**

By  its Authorised Signatory **STEVEN JAMES FENNEL**

before this witness



Full Name

Tania Lovegrove

Address

HSBC Invoice Finance (UK) Limited
21 Fenchurch Road
Worthing BN1 3BQ

Subscribed for and on behalf of **MAVEN CAPITAL PARTNERS UK LLP** in its capacity as agent and security trustee for and on behalf of **SCOTTISH LOAN FUND L P** acting by its duly authorised attorney

At **Edinburgh**

On **24TH JULY 2015**

By **ALAN ROBERTSON** Attorney

before this witness

BETHAN WHITE Full Name

53 BATHWELL ST Address

GLASGOW



Subscribed by **SLF GP LIMITED** as general partner of **SCOTTISH LOAN FUND L.P.** acting by its duly authorised attorney

At **Edinburgh**

On **24TH JULY 2015**

By **ALAN ROBERTSON** Attorney

before this witness

BETHAN WHITE Full Name

53 BATHWELL ST Address

Glasgow.



Subscribed for and on behalf of **DIO LIMITED**

At **GLASGOW**

On **23RD JULY 2015**

By **Roddy Angus** Director

before this witness-

Catherine Feechan

SIGNATURE

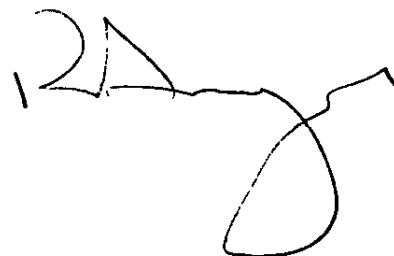
Full Name

CATHERINE FEECHAN

163 Bath St

Address

Glasgow



Subscribed for and on behalf of **MERSON SIGNS LIMITED**

At **GLASGOW**

On **23RD JULY 2015**

By **Roddy Angus** Director

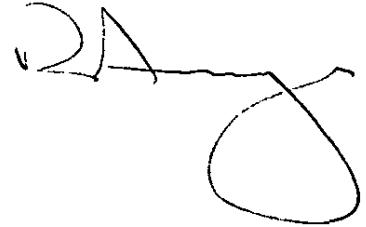
before this witness

Catherine Feechan SIGNATURE
Full Name

**CATHERINE
FEECHAN**

163 Bath St Address

Glasgow



Subscribed for and on behalf of **ASGH LIMITED**

At **GLASGOW**

On **23RD JULY 2015**

By **Roddy Angus** Director


before this witness

Catherine Feechan SIGNATURE
Full Name

**CATHERINE
FEECHAN**

163 Bath St Address

Glasgow



Subscribed for and on behalf of **ACE SIGNS GROUP LIMITED**

At **GLASGOW**

On **23RD JULY 2015**

By **Roddy Angus** Director

before this witness

Catherine Feechan SIGNATURE
Full Name

**CATHERINE
FEECHAN**

163 Bath Street Address

Glasgow



Subscribed for and on behalf of **ASG (ESSEX) LIMITED**

At **GLASGOW**

On **23RD JULY 2015**

By **Roddy Angus** Director

before this witness

Catherine Feechan

SIGNATURE
Full Name

CATHERINE
FEECHAN

163 Bute St. Address

Glasgow

A large, stylized handwritten signature, likely of Catherine Feechan, written in black ink. The signature is composed of a large, sweeping 'C' shape that loops around and ends with a horizontal stroke.

THIS IS THE SCHEDULE REFERRED TO IN THE FOREGOING INTERCREDITOR AGREEMENT
 BETWEEN HSBC BANK PLC, HSBC INVOICE FINANCE (UK) LIMITED, MAVEN CAPITAL
 PARTNERS UK LLP, THE SCOTTISH LOAN FUND LP, MERSON SIGNS LIMITED, DIO LIMITED,
 ASGH LIMITED, ACE SIGNS GROUP LIMITED AND ASG (ESSEX) LIMITED

The Companies

Name	Registered Office	Country of Incorporation	Registered No.
Merson Signs Limited	1 Law Place, Nerston Mains Industrial Estate, East Kilbride	Scotland	SC020547
Dio Limited	1 Law Place, Nerston Mains Industrial Estate, East Kilbride	Scotland	SC223940
ASGH Limited	1 Bentsalls, Basildon, Essex, SS14 3BS	England and Wales	07240096
ACE Signs Group Limited	1 Bentsalls, Basildon, Essex, SS14 3BS	England and Wales	04427113
ASG (Essex) Limited	1 Bentsalls, Basildon, Essex, SS14 3BS	England and Wales	00663171