Companies House

# MR01(ef)

## Registration of a Charge

Company name: **Retail Merchant Services Limited**

Company number: **06079704**

Received for Electronic Filing: **17/03/2017**

X62EHUG9

## Details of Charge

Date of creation: **13/03/2017**

Charge code: **0607 9704 0003**

Persons entitled: **FRANOVE HOLDINGS LIMITED**

Brief description: **ANY FREEHOLD, LEASEHOLD OR COMMONHOLD PROPERTY ACQUIRED BY THE COMPANY FOR MORE DETAILS PLEASE REFER TO THE INSTRUMENT. ALL THE COMPANY'S PRESENT AND FUTURE INTELLECTUAL PROPERTY FOR MORE DETAILS PLEASE REFER TO THE INSTRUMENT.**

**Contains fixed charge(s).**

**Contains floating 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 THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by: **MICHAEL MORRIS**

# CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 6079704

Charge code: 0607 9704 0003

The Registrar of Companies for England and Wales hereby certifies that a charge dated 13th March 2017 and created by Retail Merchant Services Limited was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 17th March 2017 .

Given at Companies House, Cardiff on 20th March 2017

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

**Weil, Gotshal & Manges**
110 Fetter Lane
London EC4A 1AY
+44 20 7903 1000 main tel
+44 20 7903 0990 main fax
weil.com

**Weil**

**Execution Version**

**13 March 2017**

# DEBENTURE

**between**

**THE COMPANIES LISTED IN SCHEDULE 1**
**EACH AS A CHARGOR**

**in favour of**

**FRANOVE HOLDINGS LIMITED**
**AS SECURITY AGENT**

I certify this to be a
true copy of the original

17 March 2017
Michael Morris
Collas Crill

## TABLE OF CONTENTS


1 DEFINITIONS AND INTERPRETATION ..... 1
2 COVENANT TO PAY ..... 4
3 CHARGING PROVISIONS ..... 4
4 CONTINUING SECURITY ..... 7
5 NEGATIVE PLEDGE ..... 7
6 REPRESENTATIONS AND WARRANTIES ..... 17
7 RESTRICTIONS ON DISPOSALS ..... 19
8 FURTHER ASSURANCE ..... 19
9 UNDERTAKINGS ..... 19
10 POWER TO REMEDY ..... 20
11 SECURITY POWER OF ATTORNEY ..... 20
12 ENFORCEMENT OF SECURITY ..... 20
13 THE SECURITY AGENT ..... 22
14 RECEIVER ..... 22
15 DELEGATION ..... 26
16 APPLICATION OF MONIES ..... 26
17 REMEDIES AND WAIVERS ..... 26
18 PROTECTION OF THIRD PARTIES ..... 26
19 ADDITIONAL SECURITY ..... 27
20 SETTLEMENTS CONDITIONAL ..... 27
21 SUBSEQUENT SECURITY ..... 27
22 SET-OFF ..... 27
23 NOTICES ..... 27
24 INVALIDITY ..... 27
25 ASSIGNMENT ..... 28
26 RELEASES ..... 28
27 CURRENCY CLAUSES ..... 28
28 CERTIFICATES AND DETERMINATIONS ..... 28
29 COUNTERPARTS ..... 29
30 GOVERNING LAW ..... 29
31 ENFORCEMENT ..... 29
SCHEDULE 1 CHARGORS ..... 30
SCHEDULE 2 MATERIAL PROPERTY ..... 31
SCHEDULE 3 SHARES ..... 32

**THIS DEBENTURE** is made on 13 March 2017 between the following parties:

(1) **THE COMPANIES** listed in Schedule 1 (each a "**Chargor**" and together, the "**Chargors**"); and

(2) **FRANOVE HOLDINGS LIMITED** a limited liability company incorporated in Guernsey with company registration number 62973 whose registered office is at Les Echelons Court, Les Echelons, St Peter Port, Guernsey, GY1 1AR) as security trustee (the "**Security Agent**") (the "**Deed**").

**IT IS AGREED** as follows

## 1 DEFINITIONS AND INTERPRETATION

### 1.1 Definitions

In this Deed:

"**Account**" means all monies from time to time standing to the credit of each account held by each Chargor with any bank, building society, financial institution or other person (each an "**Account**").

"**Assigned Agreements**" means any agreement evidencing Intercompany Debt.

"**Charged Property**" means, in respect of each Chargor, all of its assets and undertaking the subject of any Security created by, under or supplemental to, this Deed in favour of the Security Agent.

"**Chattels**" means all plant, machinery, vehicles, computers, office and other equipment, all furniture, furnishings, equipment and tools and any removals or replacement of them, present and future and the benefit of all contracts, licences, warranties, maintenance contracts relating to them and any renewals and replacements of them.

"**Declared Default**" means an Event of Default in respect of which any notice has been issued or rights exercised by the Noteholders under clause 15.2 (*Events of Default*) of the Vendor Note Instrument.

"**Excluded Assets**" means (a) any assets or any interest in an asset (including leasehold property, Intellectual Property and any Trading Receivables) subject to any Restriction, and (b) any leasehold property with less than 10 years remaining on the applicable lease as at, and at any time after, the date of this Deed.

"**Finance Documents**" has the meaning given to it in the Vendor Note Instrument.

"**Fixtures**" means in respect of any Secured Property, all fixtures and fittings (including trade fixtures and fittings) and fixed plant and machinery now or at any time after the date of this Deed on that Secured Property.

"**Floating Charge Assets**" means all the assets and undertaking from time to time subject to the floating charge created under Clause 3.4 (*Floating charge*).

"**Group**" has the meaning given to it in the Vendor Note Instrument.

"**Insurance Policies**" means, in respect of each Chargor, all policies of insurance present and future in which it has an interest.

"**Intellectual Property**" means in respect of each Chargor all present and future patents, rights to inventions, copyright and neighbouring and related rights, trade marks, business names and

domain names, rights in get-up, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

"**Intercompany Debts**" means all debts and monetary claims due from any member of the Group to any Chargor pursuant to any intercompany loan agreement.

"**Investments**" means all present and future certificated stocks, shares, loan capital, securities, bonds and investments (whether or not marketable) for the time being owned (at law or in equity) by each Chargor (which shall for the avoidance of doubt include the Shares), including any:

**(a)** dividend, interest or other distribution paid or payable in relation to any of the Investments; and

**(b)** right, money, shares or property accruing, offered or issued at any time in relation to any of the Investments by way of redemption, substitution, exchange, conversion, bonus, preference or otherwise, under option rights or otherwise.

"**Issuer**" means RMS Holdco Limited, (a limited liability company registered in England and Wales with registration number 10597461).

"**Material Property**" means:

**(a)** the freehold and leasehold property specified in Schedule 2 (*Material Property*); and/or

**(b)** any such other freehold, leasehold or commonhold property acquired by a Chargor after the date of this Deed which is material in the context of the business as a whole and which the Issuer and the Security Agent have agreed shall be designated as a Material Property.

"**Note Documents**" has the meaning given to it in the Vendor Note Instrument.

"**Noteholders**" has the meaning given to it in the Vendor Note Instrument

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

"**Permitted Security**": means any Security that is not prohibited under the Vendor Note Instrument.

"**Premises**" means any building on a Secured Property.

"**Receiver**" means any receiver, manager or (if permitted by law) administrative receiver appointed by the Security Agent in respect of each Chargor or the Charged Property.

"**Related Rights**" means:

**(a)** all monies paid or payable in respect of any Investment (whether as income, capital or otherwise)

**(b)** all shares, investments or other assets derived from any Investment and

**(c)** all rights derived from or incidental to any Investment.

"**Restriction**" means, in relation to any asset of a Chargor, any legal requirement or third party arrangement (including shareholder agreements, landlord consent requirements, contracts, leases, licensing arrangements or joint venture arrangements) which would prevent, prohibit, restrict, limit or condition absolutely or conditionally (whether by contract or otherwise) such asset from being subject to legal, valid, binding and enforceable Security (or if secured, would give a third party the right to terminate or otherwise amend any rights, benefits and/or obligations of any such Chargor in respect of those assets or require such Chargor to take any action materially adverse to its interests).

"**Relevant Agreements**" means all contracts and agreements entered into by the Chargor in connection with or for the purpose of carrying on its businesses, including but not limited to merchant and introducer agreements and including any intra company loans entered into by the Chargor (or any of them).

"**Secured Obligations**" means, in respect of each Chargor, all monies and liabilities now or after the date of this Deed due, owing or incurred by each Chargor to the Noteholders (or any of them) under the Finance Documents (or any of them) in any manner and in any currency or currencies and whether present or future, actual or contingent, whether incurred solely or jointly with any other person and whether as principal or surety, together with all interest accruing on such monies and liabilities and all costs, charges and expenses incurred by the Noteholders under any Finance Document, except for any obligation which, if it were included here, would constitute unlawful financial assistance, or its equivalent in any other jurisdiction.

"**Secured Property**" means at any time the Material Property and all other freehold, leasehold or commonhold property which is subject to any Security created by, under or supplemental to this Deed.

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

"**Security Period**" means the period beginning on the date of this Deed and ending on the date on which the Secured Obligations have been irrevocably and unconditionally satisfied in full and all amounts made available by the Noteholders under the Note Documents (or any of them) have been cancelled.

"**Shares**" means all shares owned by a Chargor in its Subsidiaries including but not limited to the shares, if any, specified in Schedule 3 (*Shares*).

"**Trading Receivables**" means all present and future book and other debts, and monetary claims due or owing to any Chargor and other rights of any nature enjoyed or held by any Chargor in relation to any of them arising in the ordinary course of trading.

"**Vendor Notes**" means the £30,000,000 8.5 per cent secured loan notes due 2022 of the Issuer issued pursuant to the Vendor Note Instrument).

"**Vendor Note Instrument**" means the vendor loan note instrument executed by RMS Holdco Limited pursuant to which the Vendor Notes are constituted, dated on or around the date of this Deed.

**1.2 Interpretation**

**(a)** Unless otherwise defined in this Deed, a term defined in the Vendor Note Instrument has the same meaning when used in this Deed or any notices, acknowledgements or other documents issued under or in connection with this Deed.

**(b)** In this Deed the term dispose includes any sale, lease, licence, transfer or loan.

(c) Clause 1.2 of the Vendor Note Instrument is incorporated in this Deed as if set out here in full but so that each reference in that clause to this Deed shall be read as a reference to this Deed.

### 1.3 Third party rights

(a) Unless expressly provided to the contrary in any Note Document, a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any term of this Deed or any other Note Document issued or entered into under or in connection with it but this does not affect any right or remedy of a third party which exists or is available apart from the Contracts (Rights of Third Parties) Act 1999.

(b) Unless expressly provided to the contrary in any Note Document the consent of any person who is not a Party is not required to rescind or vary this Deed or any other Note Document entered into under or in connection with it.

### 1.4 Incorporated terms

The terms of the Note Documents and of any side letters relating to the Note Documents and the Secured Obligations are incorporated into this Deed to the extent required for any purported disposition of any Charged Property contained in this Deed to be a valid disposition in accordance with section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.

### 1.5 Double recovery

To the extent any amount claimed under an indemnity contained in this Deed is recovered under the provisions of another Note Document (a "**Repeated Clause**") the Repeated Clause shall not entitle the Security Agent to a double recovery in respect of the amount that it has recovered under the Note Documents.

## 2 COVENANT TO PAY

2.1 Each Chargor covenants with the Security Agent as security trustee for the Noteholders, to pay and discharge the Secured Obligations when they become due for payment and discharge in accordance with the terms of the Note Documents.

2.2 Each payment by each Chargor of a Secured Obligation which is made in accordance with the provisions of another Note Document shall operate in satisfaction (to the same extent) of the covenant contained in Clause 2.1.

## 3 CHARGING PROVISIONS

### 3.1 General

All Security created by each Chargor under Clause 3.2 to Clause 3.4 (inclusive) is:

(a) a continuing security for the payment and discharge of the Secured Obligations;

(b) (save for the Shares) granted with full title guarantee;

(c) granted in respect of all the right, title and interest (if any), present and future, of each Chargor in and to the Charged Property; and

(d) granted in favour of the Security Agent as security trustee for the Noteholders.

### 3.2 Legal mortgages

Each Chargor charges by way of legal mortgage the Material Property, and all Premises and Fixtures on the Material Property.

### 3.3 Fixed charges

Each Chargor charges by way of fixed charge:

**(a)** all interests and estates in any freehold, leasehold or commonhold property now or subsequently owned by it (other than any freehold, leasehold or commonhold property effectively charged by way of legal mortgage under Clause 3.2) and, in each case, the Premises and Fixtures;

**(b)** the proceeds of sale of its Secured Property and all licences to enter on or use any Secured Property;

**(c)** the benefit of all other present and future agreements, instruments and rights relating to its Secured Property;

**(d)** all Chattels;

**(e)** all Investments and all corresponding Related Rights;

**(f)** all Trading Receivables;

**(g)** all Accounts;

**(h)** all Intellectual Property;

**(i)** all its goodwill and uncalled capital;

**(j)** all its rights in respect of each Insurance Policy, including all claims, the proceeds of all claims and all returns of premium in connection with each Insurance Policy, to the extent not effectively assigned under Clause 3.5;

**(k)** all its rights in respect of each Relevant Agreement and all other agreements, instruments and rights relating to the Charged Property, to the extent not effectively assigned under Clause 3.5; and

**(l)** to the extent that any assignment in Clause 3.5 is ineffective as an assignment, the assets referred to in that Clause.

### 3.4 Floating charge

Each Chargor charges by way of floating charge all its assets and undertaking wherever located both present and future other than any assets effectively charged by way of legal mortgage or fixed charge or assigned under Clause 3.2, Clause 3.3 and Clause 3.5.

### 3.5 Assignment

As further continuing security for the payment of the Secured Obligations, each Chargor assigns absolutely by way of security and with full title guarantee to the Security Agent (for the benefit of itself and the other secured parties):

**(a)** all its rights, title and interest in the Assigned Agreements provided that on payment and discharge in full of the Secured Obligations the Security Agent will re-assign the relevant

Assigned Agreements to that Chargor. Until the occurrence of a Declared Default each Chargor may continue to deal with the counterparties to the relevant Assigned Agreements; and

**(b)** all its rights in each Insurance Policy, including all claims, the proceeds of all claims and all returns of premium in connection with each Insurance Policy.

**3.6 Notice of Assigned Agreements**

By the Chargors entering into this Deed, notice that the Chargors have assigned or charged their rights under the Assigned Agreements shall be deemed to have been delivered to and acknowledged by the relevant counterparties to the Assigned Agreements.

**3.7 Qualifying floating charge**

This Deed contains a qualifying floating charge and paragraph 14 of Schedule B1 to the Insolvency Act 1986 applies to the floating charge created by or under this Deed.

**3.8 Conversion of floating charge to a fixed charge**

The Security Agent may, at any time if a Declared Default has occurred, by notice in writing to each Chargor convert the floating charge created under Clause 3.4 into a fixed charge as regards any Floating Charge Asset as it shall specify in the notice.

**3.9 Automatic conversion of floating charge to a fixed charge**

If (unless permitted in writing by the Security Agent or not prohibited under the terms of any Note Document):

**(a)** a Chargor creates or takes any steps to create any Security over any of its Floating Charge Assets;

**(b)** a Chargor disposes or attempts to dispose of all or any part or the Charged Property (other than the Floating Charge Assets);

**(c)** any person levies or attempts to levy any distress, attachment, execution or other legal process against any Floating Charge Asset; or

**(d)** any corporate action, legal proceedings or other procedures or steps are taken for the winding up, dissolution, administration or reorganisation of a Chargor,

the floating charge created by this Deed will automatically and immediately without notice be converted into a fixed charge over the relevant assets or, in the circumstances described in Clause 3.9(d), over all of the Floating Charge Assets.

**3.10 Assets acquired after any floating charge has crystallised**

Any asset acquired by any Chargor after any crystallisation of the floating charge created under this Deed that, but for that crystallisation, would be subject to a floating charge under this Deed, shall (unless the Security Agent confirms otherwise to such Chargor in writing) be charged to the Noteholder by way of first fixed charge.

**3.11 Small company moratorium**

Where a Chargor is an eligible company within the meaning of paragraphs 2 to 4 (inclusive) of Schedule A1 to the Insolvency Act 1986, then the obtaining of a moratorium, including any preliminary decision, or investigation in terms of paragraph 43 of Schedule A1 to the Insolvency

Act 1986 shall not cause the floating charge created by this Deed to crystallise into a fixed charge, nor cause restrictions which would not otherwise apply to be imposed on the disposal of its property and assets by a Chargor.

**3.12 Excluded assets**

**(a)** There shall be excluded from the charge created by Clause 3 (*Charging Provisions*) and from the operation of Clause 8 (*Further Assurance*) any Excluded Asset of each Chargor.

**(b)** The Chargors shall use all reasonable endeavours to to identify, satisfy and remove any Restriction.

## 4 CONTINUING SECURITY

**4.1** The Security constituted by this Deed shall be continuing security and shall remain in full force and effect regardless of any intermediate payment or discharge by a Chargor or any other person of the whole or any part of the Secured Obligations.

**4.2** The Security constituted by this Deed:

**(a)** is in addition to any other Security which the Noteholders may hold at any time for the Secured Obligations (or any of them); and

**(b)** may be enforced without first having recourse to any other rights of the Noteholders.

## 5 NEGATIVE PLEDGE

**5.1** Subject to Clause 5.3, no Chargor shall during the Security Period create or permit to subsist any Security over any of its assets.

**5.2** Subject to Clause 5.3, no Chargor shall during the Security Period:

**(a)** sell, transfer or otherwise dispose of any of its assets on terms whereby they are or may be leased to or re-acquired by a Chargor or any other member of the Group;

**(b)** sell, transfer or otherwise dispose of any of its receivables on recourse terms;

**(c)** enter into any arrangement under which money or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts; or

**(d)** enter into any other preferential arrangement having a similar effect,

in circumstances where the arrangement or transaction is entered into primarily as a method of raising Financial Indebtedness or of financing the acquisition of an asset.

**5.3** Clause 5.1 and Clause 5.2 do not apply to any Security or arrangement which is not prohibited by the Vendor Note Instrument.

**5.4 Compliance with laws and regulations**

**(a)** The Chargor shall not, without the Security Agent's prior written consent, use or permit the Charged Property to be used in any way contrary to law.

**(b)** The Chargor shall:

**(i)** comply with the requirements of any law and regulation relating to or affecting the Charged Property or the use of it or any part of them;

(ii) obtain, and promptly renew from time to time, and comply with the terms of all authorisations that are required in connection with the Charged Property or their use or that are necessary to preserve, maintain or renew any Charged Property; and

(iii) promptly effect any maintenance, modifications, alterations or repairs that are required by any law or regulation to be effected on or in connection with the Charged Property.

**5.5 Enforcement of rights**

The Chargor shall use its reasonable endeavours to:

(a) procure the prompt observance and performance of the covenants and other obligations imposed on the Chargor's counterparties (including each counterparty in respect of each Assigned Agreement, a Relevant Agreement and each insurer in respect of an Insurance Policy); and

(b) enforce any rights and institute, continue or defend any proceedings relating to any of the Charged Property that the Security Agent may require from time to time.

**5.6 Notice of misrepresentation and breaches**

The Chargor shall, promptly on becoming aware of any of the same, notify the Security Agent in writing of:

(a) any representation or warranty set out in Clause 6 which is incorrect or misleading in any material respect when made or deemed to be repeated; and

(b) any breach of any covenant set out in this Deed.

**5.7 Title documents**

(a) Each Chargor will, within 10 Business Days of the date of this Deed (or, if later, within 10 Business Days of acquiring any Investments) deposit with the Security Agent (or as it shall direct) all share certificates relating to the Investments together with stock transfer forms executed in blank and left undated on the basis that the Security Agent shall be able to hold such certificates and stock transfer forms until the Secured Obligations have been paid in full and shall be entitled, at any time following the occurrence of a Declared Default to complete, under its power of attorney given in this Deed, the stock transfer forms on behalf of the relevant Chargor in favour of itself or such other person as it shall select, provided that prior to the occurrence of a Declared Default:

(i) each Chargor shall be entitled to receive and retain all dividends, distributions and other monies paid on or derived from its Investments; and

(ii) subject to Clause 5.7, each Chargor shall be entitled to exercise all voting and other rights and powers attaching to its Investments or, if any of the same are exercisable by the Security Agent or any of its nominees, to direct in writing the exercise of those voting and other rights and powers.

(b) The Chargor shall, as so required by the Security Agent (acting reasonably), deposit with the Security Agent and the Security Agent shall, for the duration of this Deed be entitled to hold:

(i) all deeds and documents of title relating to the Charged Property that are in the possession or control of the Chargor (and if these are not within the possession or

control of the Chargor, the Chargor undertakes to obtain possession of all these deeds and documents of title);

(ii) all Insurance Policies and any other insurance policies relating to any of the Charged Property that the Chargor is entitled to possess;

(iii) all deeds and documents of title (if any) relating to the book debts as the Security Agent may specify from time to time; and

(iv) copies of all the Assigned Agreements and the Relevant Agreements, certified to be true copies by either a director of the Chargor or by the Chargor's solicitors.

**5.8 Insurance**

(a) The Chargor shall insure and keep insured (or where, in the case of any leasehold property, insurance is the responsibility of the landlord under the terms of the lease, either procure that the landlord insures and keeps insured or, if and to the extent that the landlord does not do so, itself insure and keep insured) the Charged Property against:

(i) loss or damage by fire or terrorist acts;

(ii) other risks, perils and contingencies that would be insured against by reasonably prudent persons carrying on the same class of business as the Chargor; and

(iii) any other risk, perils and contingencies as the Security Agent may reasonably require.

(b) Any such insurance must be with an insurance company or underwriters, and on such terms, as are reasonably acceptable to the Security Agent, and must include property owners' public liability and third party liability insurance and be for not less than the replacement value of the relevant Secured Property (meaning in the case of any Premises, the total cost of entirely rebuilding, reinstating or replacing the premises in the event of their being destroyed, together with architects', surveyors', engineers' and other professional fees and charges for shoring or propping up, demolition, site clearance and reinstatement with adequate allowance for inflation) and loss of rents payable by the tenants or other occupiers of the Secured Property for a period of at least three years, including provision for increases in rent during the period of insurance

(c) The Chargor shall, if requested by the Security Agent, produce to the Security Agent each policy, certificate or cover note relating to the Insurance Policy.

(d) The Chargor shall, if requested by the Security Agent (acting reasonably), procure that a note of the Security Agent's interest is endorsed upon each Insurance Policy but without the Security Agent having any liability for any premium in relation to those Insurance Policies unless it has expressly and specifically requested to be made liable in respect of any increase in premium or unpaid premium in respect of any Insurance Policy.

**5.9 Insurance premiums**

The Chargor shall:

(a) promptly pay all premiums in respect of each Insurance Policy and do all other things necessary to keep that policy in full force and effect; and

(b) (if the Security Agent so requires (acting reasonably)) produce to, or deposit with, the Security Agent the receipts for all premiums and other payments necessary for effecting and keeping up each Insurance Policy maintained by it.

**5.10 No invalidation of insurance**

The Chargor shall not do or omit to do, or permit to be done or omitted, any act or thing that may invalidate or otherwise prejudice any insurance policy maintained by it.

**5.11 Proceeds of insurance policies**

All monies payable under any insurance policy maintained by it at any time (whether or not the security constituted by this Deed has become enforceable) shall:

**(a)** on request by the Security Agent (acting reasonably) be immediately paid to the Security Agent;

**(b)** if they are not paid directly to the Security Agent by the insurers, be held, pending such payment, by the Chargor as trustee of the same for the benefit of the Security Agent; and

**(c)** at the option of the Security Agent, be applied in making good or recouping expenditure in respect of the loss or damage for which those monies are received.

**5.12 Information**

The Chargor shall:

**(a)** give the Security Agent such information concerning the location, condition, use and operation of the Charged Property as the Security Agent may require (acting reasonably);

**(b)** permit any persons designated by the Security Agent and any Receiver to enter on its premises and inspect and examine any Charged Property, and the records relating to that Charged Property, at all reasonable times and on reasonable prior notice; and

**(c)** promptly notify the Security Agent in writing of any action, claim, notice or demand made by or against it in connection with all or any part of a Secured Asset or of any fact, matter or circumstance which may, with the passage of time, give rise to such an action, claim, notice or demand, together with, in each case, the Chargor's proposals for settling, liquidating, compounding or contesting any such action, claim, notice or demand and shall, subject to the Security Agent's prior approval, implement those proposals at its own expense,

**5.13 Confidentiality**

**(a)** The Security Agent shall keep all information in whatever form directly or indirectly disclosed to it or any of its representatives, agents or employees, officers and advisers ("**Representatives**") pursuant to Clause 5.12 (*Information*) ("**Confidential Information**") confidential and shall not directly or indirectly disclose any Confidential Information to any person other than its Representatives (provided that the Security Agent procures that such Representatives are bound by this Clause 5.13) save as required:

**(i)** by any order of any court of competent jurisdiction,

**(ii)** by the rules of any applicable listing authority or stock exchange;

**(iii)** by the laws or regulations with jurisdiction over the affairs of the Security Agent;

**(iv)** for the purpose of exercising its rights under or in connection with this deed.

**(b)** The provisions of this clause shall not apply to any Confidential Information that:

(i) is or becomes generally available to the public (other than as a result of its disclosure by the receiving party or its Representatives in breach of this clause);

(ii) was available to the receiving party on a non-confidential basis before disclosure by the disclosing party;

(iii) was, is or becomes available to the receiving party on a non-confidential basis from a person who, to the receiving party's knowledge, is not bound by a confidentiality agreement with the disclosing party or otherwise prohibited from disclosing the information to the receiving party;

(iv) the parties agree in writing is not confidential or may be disclosed.

(c) Following the end of the Security Period, the Security Agent shall return to the Chargors or destroy all Confidential Information.

**5.14 Payment of outgoings**

The Chargor shall promptly pay all taxes, fees, licence duties, registration charges, insurance premiums and other outgoings in respect of the Charged Property and, on demand, produce evidence of payment to the Security Agent.

**5.15 Appointment of accountants**

(a) The Chargor shall:

(i) at its own cost, if at any time so required by the Security Agent (acting reasonably), appoint an accountant or firm of accountants nominated by the Security Agent to investigate the financial affairs of the Chargor and those of its subsidiaries and report to the Security Agent; and

(ii) co-operate fully with any accountants so appointed and immediately provide those accountants with all information requested.

(b) The Chargor authorises the Security Agent to make an appointment as it shall think fit at any time, without further authority from the Chargor. In every case, the Chargor shall pay, or reimburse the Security Agent for, the fees and expenses of those accountants.

**5.16 Maintenance**

The Chargor shall keep all premises and fixtures and fittings on each Secured Property in good and substantial repair and condition.

**5.17 Preservation of property, fixtures and equipment**

The Chargor shall not, without the prior written consent of the Security Agent:

(a) pull down or remove the whole, or any part of, any building forming part of any Secured Property or permit the same to occur;

(b) make or permit any alterations to any Secured Property, or sever or remove, or permit to be severed or removed, any of its fixtures; or

(c) remove or make any alterations to any of the Chattels belonging to, or in use by, the Chargor on any Secured Property (except to effect necessary repairs or replace them with new or improved models or substitutes).

### 5.18 Conduct of business on properties

The Chargor shall carry on its trade and business on those parts (if any) of the Secured Property as are used for the purposes of trade or business in accordance with the standards of good management from time to time current in that trade or business.

### 5.19 Planning information

The Chargor shall:

**(a)** give full particulars to the Security Agent of any notice, order, direction, designation, resolution or proposal given or made by any planning authority or other public body or authority ("**Planning Notice**") that specifically applies to any Secured Property, or to the locality in which it is situated, within seven days after becoming aware of the relevant Planning Notice; and

**(b)** at its own expense, immediately on request by the Security Agent, and at the cost of the Chargor, take all reasonable and necessary steps to comply with any Planning Notice, and make, or join with the Security Agent in making, any objections or representations in respect of that Planning Notice that the Security Agent may desire.

### 5.20 Compliance with covenants and payment of rent

The Chargor shall:

**(a)** observe and perform all covenants, stipulations and conditions to which each Secured Property, or the use of it, is or may be subjected, and (if the Security Agent so requires) produce evidence sufficient to satisfy the Security Agent that those covenants, stipulations and conditions have been observed and performed;

**(b)** diligently enforce all covenants, stipulations and conditions benefiting each Secured Property and shall not (and shall not agree to) waive, release or vary any of the same; and

**(c)** (without prejudice to the generality of the foregoing) where a Secured Property, or part of it, is held under a lease, duly and punctually pay all rents due from time to time, and perform and observe all the tenant's covenants and conditions.

### 5.21 Payment of rent and outgoings

The Chargor shall:

**(a)** where a Secured Property, or part of it, is held under a lease, duly and punctually pay all rents due from time to time; and

**(b)** pay (or procure payment of the same) when due all charges, rates, taxes, duties, assessments and other outgoings relating to or imposed on each Secured Property or on its occupier.

### 5.22 Maintenance of interests in properties

The Chargor shall not, without the prior written consent of the Security Agent:

**(a)** grant, or agree to grant, any licence or tenancy affecting the whole or any part of any Secured Property, or exercise, or agree to exercise, the statutory powers of leasing or of accepting surrenders under sections 99 or 100 of the Law of Property Act 1925; or

(b) in any other way dispose of, surrender or create, or agree to dispose of surrender or create, any legal or equitable estate or interest in the whole or any part of any Secured Property.

**5.23 Registration restrictions**

If the title to any Secured Property is not registered at the Land Registry, the Chargor shall procure that no person (other than itself) shall be registered under the Land Registration Acts 1925 to 2002 as proprietor of all or any part of any Secured Property without the prior written consent of the Security Agent. The Chargor shall be liable for the costs and expenses of the Security Agent in lodging cautions against the registration of the title to the whole or any part of any Secured Property from time to time.

**5.24 Development restrictions**

The Chargor shall not, without the prior written consent of the Security Agent:

(a) make or, insofar as it is able, permit others to make any application for planning permission or development consent in respect of the Secured Property; or

(b) carry out, or permit, or suffer to be carried out on any Secured Property any development as defined in the Town and Country Planning Act 1990 and the Planning Act 2008, or change or permit or suffer to be changed the use of any Secured Property.

**5.25 No restrictive obligations**

The Chargor shall not, without the prior written consent of the Security Agent, enter into any onerous or restrictive obligations affecting the whole or any part of any Secured Property, or create or permit to arise any overriding interest, easement or right whatever in or over the whole or any part of any Secured Property.

**5.26 Proprietary rights**

The Chargor shall procure that no person shall become entitled to assert any proprietary or other like right or interest over the whole or any part of any Secured Property without the prior written consent of the Security Agent.

**5.27 Inspection**

The Chargor shall permit the Security Agent, any Receiver and any person appointed by either of them to enter on and inspect any Secured Property on reasonable prior notice.

**5.28 Property information**

The Chargor shall inform the Security Agent promptly of any acquisition by the Chargor of, or contract made by the Chargor to acquire, any freehold, leasehold or other interest in any property.

**5.29 VAT option to tax**

The Chargor shall not, without the prior written consent of the Security Agent:

(a) exercise any VAT option to tax in relation to any Secured Property; or

(b) revoke any VAT option to tax exercised, and disclosed to the Security Agent, before the date of this Deed.

**5.30 Registration at the Land Registry**

The Chargor consents to an application being made by the Security Agent to the Land Registrar for the following restriction in Form P to be registered against its title to each Material Property:

> "No disposition of the registered estate by the proprietor of the registered estate [or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction] is to be registered without a written consent signed by the proprietor for the time being of the charge dated [DATE] in favour of [NAME OF PARTY] referred to in the charges register [or [their conveyancer or specify appropriate details]]."

**5.31 Nominations**

**(a)** The Chargor shall terminate with immediate effect all nominations it may have made (including, without limitation, any nomination made under section 145 or section 146 of the Companies Act 2006) in respect of any Investments and, pending that termination, procure that any person so nominated:

**(i)** does not exercise any rights in respect of any Investments without the prior written approval of the Security Agent; and

**(ii)** immediately on receipt by it, forward to the Security Agent all communications or other information received by it in respect of any Investments for which it has been so nominated.

**(b)** The Chargor shall not, during the Security Period, exercise any rights (including, without limitation, any rights under sections 145 and 146 of the Companies Act 2006) to nominate any person in respect of any of the Investments.

**5.32 Pre-emption rights and restrictions on transfer**

The Chargor shall (as far as it is able to by the exercise of all voting rights, powers of control and other means available to it):

**(a)** obtain all consents, waivers, approvals and permissions that are necessary, under the articles of association (or otherwise) of an issuer of any Investments, for the transfer of the Investments to the Security Agent or its nominee, or to a purchaser on enforcement of the security constituted by this Deed; and

**(b)** procure the amendment of the share transfer provisions (including, but not limited to, deletion of any pre-emption provisions) under the articles of association, other constitutional document or otherwise of each issuer of the Investments in any manner that the Security Agent may require in order to permit the transfer of the Investments to the Security Agent or its nominee, or to a purchaser on enforcement of the security constituted by this Deed.

**5.33 Dividends and voting rights before enforcement**

**(a)** The Chargor shall indemnify the Security Agent against any loss or liability incurred by the Security Agent (or its nominee) as a consequence of the Security Agent (or its nominee) acting in respect of the Investments at the direction of the Chargor pursuant to Clause 5.7(a)(ii) (*Title documents*), except to the extent such loss or liability has resulted from the Security Agent's gross negligence, willful misconduct or breach of obligations under the Finance Documents.

**(b)** The Security Agent shall not, by exercising or not exercising any voting rights or otherwise, be construed as permitting or agreeing to any variation or other change in the rights attaching to or conferred by any of the Investments that the Security Agent considers prejudicial to, or impairing the value of, the security created by this Deed.

**5.34 Dividends and voting rights after enforcement**

After the security constituted by this Deed has become enforceable:

(a) all dividends and other distributions paid in respect of the Investments and received by the Chargor shall be held by the Chargor on trust for the Security Agent and immediately paid to the Security Agent and, if received by the Security Agent, shall be retained by the Security Agent; and

(b) all voting and other rights and powers attaching to the Investments shall be exercised by, or at the direction of, the Security Agent and the Chargor shall, and shall procure that its nominees shall, comply with any directions the Security Agent may give, in its absolute discretion, concerning the exercise of those rights and powers.

**5.35 Calls on investments**

5.36 Notwithstanding the security created by this Deed, the Chargor shall promptly pay all calls, instalments and other payments that may be or become due and payable in respect of all or any of the Investments. The Chargor acknowledges that the Security Agent shall not be under any liability in respect of any such calls, instalments or other payments.

**5.37 No alteration of constitutional documents or rights attaching to investments**

The Chargor shall not, without the prior written consent of the Security Agent (not to be unreasonably withheld), amend, or agree to the amendment of:

(a) the memorandum or articles of association, or any other constitutional documents, of any issuer of the Shares that is not a public company; or

(b) the rights or liabilities attaching to, or conferred by, all or any of the Shares.

**5.38 Preservation of investments**

The Chargor shall ensure (as far as it is able to by the exercise of all voting rights, powers of control and other means available to it) that any issuer of the Investments that is not a public company shall not:

(a) consolidate or subdivide any of the Investments, or re-organise, exchange, repay or reduce its share capital in any way;

(b) issue any new shares or stock unless such shares are charged in favour of the Noteholders on terms no more onerous than those set out in this Deed; or

(c) refuse to register any transfer of any of the Investments that may be lodged with it for registration by, or on behalf of, the Security Agent or the Chargor in accordance with this Deed.

**5.39 Investments information**

The Chargor shall, promptly following receipt, send to the Security Agent copies of any notice, circular, report, accounts and any other document received by it that relates to the Investments.

**5.40 Compliance with requests for information**

The Chargor shall promptly copy to the Security Agent and comply with all requests for information which are made under the Companies Act 2006 (including, without limitation, under sections 790D, 790E and 793 of the Companies Act 2006) relating to all or any part of the

Charged Property. If it fails to do so, the Security Agent may elect to provide such information as it may have on behalf of the Chargor.

**5.41 Maintenance of equipment**

The Chargor shall:

(a) maintain the Chattels in good and serviceable condition (except for expected fair wear and tear) in compliance with all relevant manuals, handbooks, manufacturer's instructions and recommendations and maintenance or servicing schedules;

(b) at its own expense, renew and replace any parts of the Chattels when they become obsolete, worn out or damaged with parts of a similar quality and of equal or greater value; and

(c) not permit any Chattels to be:

(i) used or handled other than by properly qualified and trained persons; or

(ii) overloaded or used for any purpose for which it is not designed or reasonably suitable.

**5.42 Payment of equipment taxes**

The Chargor shall promptly pay all taxes, fees, licence duties, registration charges, insurance premiums and other outgoings in respect of the Chattels and, on demand, produce evidence of such payment to the Security Agent.

**5.43 Notice of charge**

(a) The Chargor shall, if so requested by the Security Agent (acting reasonably), affix to and maintain on each Chattel in a conspicuous place, a clearly legible identification plate containing the following wording:

"NOTICE OF CHARGE

This [DESCRIBE ITEM] and all additions to it [and ancillary equipment] are subject to a fixed charge dated [DATE] in favour of [SECURITY AGENT]."

(b) The Chargor shall not, and shall not permit any person to, conceal, obscure, alter or remove any plate affixed in accordance with this clause.

**5.44 Realising Trading Receivables**

Following the occurrence of a Declared Default:

(a) the Chargor shall as an agent for the Security Agent, collect in and realise all Trading Receivables and, pending that payment, hold those proceeds in trust for the Security Agent; and

(b) the Chargor shall, if called on to do so by the Security Agent, execute a legal assignment of the Trading Receivables to the Security Agent on such terms as the Security Agent may require and give notice of that assignment to the debtors from whom the Trading Receivables are due, owing or incurred.

**5.45 Preservation of Trading Receivables**

Following the occurrence of a Declared Default, the Chargor shall not (except as provided by Clause 10.1 or with the prior written consent of the Security Agent) release, exchange, compound, set off, grant time or indulgence in respect of, or in any other manner deal with, all or any of the Trading Receivables.

**5.46 Relevant agreements**

**(a)** The Chargor shall, unless the Security Agent agrees otherwise in writing, comply with the terms of any Relevant Agreement which is material in the context of the Group's business as a whole, and any other document, agreement or arrangement comprising the Charged Property (other than the Insurance Policies).

**(b)** The Chargor shall not, unless the Security Agent agrees otherwise in writing:

**(i)** amend or vary or agree to any change in, or waive any requirement of;

**(ii)** settle, compromise, terminate, rescind or discharge (except by performance); or

**(iii)** abandon, waive, dismiss, release or discharge any action, claim or proceedings against any counterparty to a Relevant Agreement or other person in connection with,

any Relevant Agreement or any other document, agreement or arrangement comprising the Charged Property (other than the Insurance Policies).

**5.47 Preservation of intellectual property rights**

The Chargor shall take all necessary action to safeguard and maintain present and future rights in, or relating to, the Intellectual Property including (without limitation) by observing all covenants and stipulations relating to those rights, and by paying all applicable renewal fees, licence fees and other outgoings.

**5.48 Registration of intellectual property**

On request by the Security Agent (acting reasonably) the Chargor shall use all reasonable efforts to register applications for the registration of any Intellectual Property, and shall keep the Security Agent informed of all matters relating to each such registration.

**5.49 Maintenance of intellectual property**

The Chargor shall use reasonable endeavors not to permit any Intellectual Property to be abandoned, cancelled or to lapse.

## 6 REPRESENTATIONS AND WARRANTIES

**6.1** Each Chargor makes the representations and warranties set out in this Clause 6 to the Security Agent.

**6.2 Shares**

**(a)** The relevant Shares identified in Schedule 3 (*Shares*) as being held by the Chargor (the "**Relevant Shares**") are fully paid or credited as fully paid and are not subject to any option to purchase or similar rights.

**(b)** The Relevant Shares represent the whole of the issued share capital of the relevant company identified in Schedule 3 (*Shares*) as a Subsidiary of the Chargor (the "**Relevant**

**Company**") and no person has any option, warrant or other similar right to subscribe for any shares of the Relevant Company.

(c) The Chargor is the sole beneficial owner of the Relevant Shares and subject only to the stamping, registration of the relevant stock transfer forms delivered pursuant to the Acquisition Agreement and becoming registered as a shareholder of the Relevant Company, will be the sole legal owner of the Relevant Shares.

(d) The Chargor has complied with all notices relating to all or any of the Relevant Shares received by it pursuant to sections 790D and 790E of the Companies Act 2006.

(e) No warning notice has been issued under paragraph 1(2) of Schedule 1B of the Companies Act 2006, and no restrictions notice has been issued under paragraph 1(3) of Schedule 1B of the Companies Act 2006, in respect of all or any of the Relevant Shares.

**6.3 No Security**

The Charged Property is free from any Security other than Permitted Security, the Security created by this Deed or the Loan Note Security Documents.

**6.4 No adverse claims**

The Chargor has not received, or acknowledged notice of, any adverse claim by any person in respect of the Charged Property or any interest in them which is material in the context of the value or title of the Charged Property.

**6.5 No adverse covenants**

So far as the Chargor is aware, there are no covenants, agreements, reservations, conditions, interests, rights or other matters whatsoever, that materially and adversely affect the Charged Property.

**6.6 No breach of laws**

So far as the Chargor is aware, there is no breach of any law or regulation which materially and adversely affects the Charged Property.

**6.7 No interference in enjoyment**

No facility necessary for the enjoyment and use of the Secured Property is subject to terms entitling any person to terminate or curtail its use.

**6.8 No overriding interests**

Nothing has arisen, has been created or is subsisting, that would be an overriding interest in any Secured Property.

**6.9 Avoidance of security**

No Security expressed to be created under this Deed is liable to be avoided, or otherwise set aside, on the liquidation or administration of the Chargor or otherwise (subject to applicable bankruptcy, reorganisation, insolvency, moratorium or similar laws affecting creditors' rights generally and subject to equitable principles of general application ("**Legal Reservations**").

**6.10 No prohibitions or breaches**

So far as the Chargor is aware, there is no prohibition on assignment in any Insurance Policy, Relevant Agreement or Assigned Agreement and the entry into this Deed by the Chargor does not, and will not, constitute a breach of any Insurance Policy, Relevant Agreement or Assigned Agreement or any other agreement or instrument binding on the Chargor or its assets.

**6.11 Enforceable security**

This Deed constitutes and will constitute the legal, valid, binding and enforceable obligations of the Chargor, and is and will continue to be effective security over all and every part of the Charged Property in accordance with its terms (subject to any Legal Reservations).

**6.12 Times for making representations and warranties**

The representations and warranties set out in Clause 6.1 to Clause 6.11 are made by the Chargor on the date of this Deed and the representations and warranties are deemed to be repeated on each day of the Security Period with reference to the facts and circumstances existing at the time of repetition.

## 7 RESTRICTIONS ON DISPOSALS

7.1 Subject to Clause 7.2, no Chargor shall during the Security Period enter into a single transaction or a series of transactions (whether related or not) and whether voluntary or involuntary to sell, lease, transfer or otherwise dispose of any Charged Property.

7.2 Clause 7.1 does not apply to any such transaction which is otherwise not prohibited by the Vendor Note Instrument.

## 8 FURTHER ASSURANCE

8.1 Each Chargor shall promptly do all such acts and execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Security Agent may reasonably specify (and in such form as the Security Agent may reasonably require) in favour of the Security Agent or its nominee(s):

(a) to create, perfect, protect and maintain the Security created or intended to be created under or evidenced by this Deed or for the exercise of any rights, powers and remedies of the Security Agent or the Noteholders provided by or pursuant to this Deed or by law;

(b) to confer on the Security Agent or confer on the Noteholders Security over any property and assets of a Chargor located in any jurisdiction equivalent or similar to the Security intended to be conferred by or pursuant to this Deed; and/or

(c) (if this Deed has become enforceable) to facilitate the realisation of the assets which are, or are intended to be, the subject of the Security created by or under this Deed.

8.2 Each Chargor shall take all such action as is available to it (including making all filings and registrations) as may be necessary for the purpose of the creation, perfection, protection or maintenance of any Security conferred or intended to be conferred on the Security Agent or the Noteholders by or pursuant to this Deed.

8.3 Any document required to be executed by the Chargors under this Clause 8 will be prepared at the cost of the Chargors.

## 9 UNDERTAKINGS

9.1 The Security Agent may retain any document delivered to it under Clause 5.7 (*Title documents*) or otherwise until the Security created under this Deed is released. If reasonably required to effect

any transaction which is not prohibited under the Vendor Note Instrument, the Security Agent shall, as soon as reasonably practicable after receipt of a request from any Chargor, return any such document to that Chargor.

**9.2** Each Chargor undertakes to the Security Agent that it shall not do or cause or permit to be done anything which may in any way materially depreciate, jeopardise or otherwise prejudice the value to the Noteholders of the Security created by or under this Deed.

**9.3** The undertakings in this Clause 9 shall remain in force during the Security Period.

## 10 POWER TO REMEDY

**10.1** If a Chargor fails to comply with any of the undertakings set out in Clause 9 (*Undertakings*), it shall allow and irrevocably authorises the Security Agent and/or such persons as it shall nominate to take such action on behalf of the Chargor as shall be necessary to ensure that it complies with those undertakings.

**10.2** If a Chargor fails to perform any obligation or other covenant affecting the Secured Property or other Charged Property where such failure could reasonably be expected to be prejudicial to the interests of the Noteholders, the Chargor shall permit the Security Agent or its agents and contractors:

**(a)** upon reasonable notice and at a reasonable time to enter on the Secured Property;

**(b)** to comply with or object to any notice served on a Chargor relating to the Secured Property or other Charged Property; and

**(c)** to take any action the Security Agent may reasonably consider expedient to prevent or remedy any breach of any such term or to comply with or object to any such notice.

**10.3** Each Chargor shall promptly following a demand from the Security Agent indemnify the Security Agent against any cost, loss or liability incurred by it in taking any of the steps referred to in this Clause 10.

## 11 SECURITY POWER OF ATTORNEY

Each Chargor, by way of security, irrevocably and severally appoints the Security Agent, each Receiver and any of their delegates or sub-delegates to be its attorney to take any action following the occurrence of an Event of Default which is continuing which a Chargor is obliged to take under this Deed. Each Chargor ratifies and confirms whatever any attorney does or purports to do pursuant to its appointment under this Clause 11.

## 12 ENFORCEMENT OF SECURITY

### 12.1 When security is enforceable

The security constituted by this Deed shall become immediately enforceable if a Declared Default has occurred

### 12.2 Acts of enforcement

The Security Agent may, at its absolute discretion, at any time after the Security created by or under this Deed is enforceable:

**(a)** enforce all or any part of the Security created by or under this Deed in any manner it sees fit;

(b) exercise its rights and powers conferred upon mortgagees by the Law of Property Act 1925, as varied and extended by this Deed, and rights and powers conferred on a Receiver by this Deed, whether or not it has taken possession or appointed a Receiver to any of the Charged Property;

(c) appoint a Receiver to all or any part of the Charged Property;

(d) appoint an administrator in respect of a Chargor and take any steps to do so;

(e) exercise its power of sale under section 101 of the Law of Property Act 1925 (as amended by this Deed); or

(f) if permitted by law, appoint an administrative receiver in respect of a Chargor.

**12.3 Right of appropriation**

To the extent that the Security created by this Deed constitutes a "security financial collateral arrangement" and the Charged Property constitute "financial collateral" for the purpose of the Financial Collateral Arrangements (No 2) Regulations 2003 ("**Regulations**"), the Security Agent shall have the right on giving prior notice to the Chargor, at any time after the Security created by or under this Deed becomes enforceable, to appropriate all or any part of the Charged Property in or towards discharge of the Secured Obligations. The parties agree that the value of the appropriated Charged Property shall be, in the case of cash, the amount of cash appropriated and, in the case of Shares, determined by the Security Agent by reference to any available publicly available market price from a reputable source and in the absence of which by such other means as the Security Agent (acting reasonably and in good faith) may select including, without limitation, an independent valuation. For the purpose of Regulation 18(1) of the Regulations, the Chargor agrees that any such determination by the Security Agent will constitute a valuation "in a commercially reasonable manner".

**12.4 Statutory powers - general**

(a) For the purposes of all powers implied by statute, the Secured Obligations are deemed to have become due and payable on the date of this Deed.

(b) Section 103 of the Law of Property Act 1925 and section 93 of the Law of Property Act 1925 do not apply to the Security constituted by or under this Deed.

(c) The statutory powers of leasing conferred on the Security Agent are extended so that, without the need to comply with any provision of section 99 or section 100 of the Law of Property Act 1925, the Security Agent is empowered to lease and make agreements for lease at a premium or otherwise, accept surrenders of leases and grant options or vary or reduce any sum payable under any leases or tenancy agreements as it may think fit.

(d) Each Receiver and the Security Agent is entitled to all the rights, powers, privileges and immunities conferred by the Law of Property Act 1925 and the Insolvency Act 1986 on mortgagees and Receivers.

**12.5 Contingencies**

If the Security Agent enforces the Security constituted by or under this Deed at a time when no amounts are due to the Noteholders under the Note Documents but at a time when amounts may or will become so due, the Security Agent (or the Receiver) may pay the proceeds of any recoveries effected by it into an interest bearing suspense account.

**12.6 Mortgagee in possession - no liability**

Neither the Security Agent nor any Receiver will be liable, by reason of entering into possession of a Secured Property, to account as mortgagee in possession or for any loss on realisation or for any default or omission for which a mortgagee in possession might otherwise be liable.

## 13 THE SECURITY AGENT

Security Agent as trustee

**(a)** The Security Agent declares that it holds the Charged Property on trust for the Noteholders on the terms contained in this Deed.

**(b)** Each of the Noteholders authorises the Security Agent to perform the duties, obligations and responsibilities and to exercise the rights, powers, authorities and discretion specifically given to the Security Agent under or in connection with this Deed together with any other incidental rights, powers, authorities and discretions.

## 14 RECEIVER

### 14.1 Appointment of Receiver

**(a)**

**(i)** At any time after any Security created by or under this Deed is enforceable, the Security Agent may appoint a Receiver to all or any part of the Charged Property in accordance with Clause 12.2(c).

**(ii)** At any time, if so requested in writing by a Chargor, without further notice, the Security Agent may appoint a Receiver to all or any part of the Charged Property as if the Security Agent had become entitled under the Law of Property Act 1925 to exercise the power of sale conferred under the Law of Property Act 1925.

**(b)** Any Receiver appointed under this Deed shall be the agent of the Chargor and the Chargor shall be solely responsible for his acts or defaults and for his remuneration and liable on any contracts or engagements made or entered into by him and in no circumstances whatsoever shall the Security Agent be in any way responsible for any misconduct, negligence or default of the Receiver.

**(c)** Where the Chargor is an eligible company within the meaning of paragraphs 2 to 4 (inclusive) of Schedule A1 to the Insolvency Act 1986:

**(i)** obtaining a moratorium; or

**(ii)** anything done with a view to obtaining a moratorium including any preliminary decision or investigation in terms of paragraph 43 of Schedule A1 to the Insolvency Act 1986,

shall not be grounds for appointment of a Receiver.

### 14.2 Removal

The Security Agent may by written notice remove from time to time any Receiver appointed by it (subject to the provisions of section 45 of the Insolvency Act 1986 in the case of an administrative receiver) and, whenever it may deem appropriate, appoint a new Receiver in the place of any Receiver whose appointment has terminated.

### 14.3 Powers of Receiver

**(a) General**

(i) In addition to those conferred by the Law of Property Act 1925 on any Receiver appointed under that Act, each Receiver has, and is entitled to exercise, all of the rights, powers and discretions set out in this Clause 14.3.

(ii) If there is more than one Receiver holding office at the same time, unless the document appointing him states otherwise, each Receiver may exercise all of the powers conferred on a Receiver under this Deed or under the Insolvency Act 1986 individually and to the exclusion of any other Receivers.

(iii) A Receiver of a Chargor has all the rights, powers and discretions of an administrative receiver under the Insolvency Act 1986.

(iv) A Receiver may, in the name of a Chargor:

(A) do all other acts and things which he may consider expedient for realising any Charged Property; and

(B) exercise in relation to any Charged Property all the powers, authorities and things which he would be capable of exercising if he were its absolute beneficial owner.

**(b) Borrow money**

A Receiver may raise and borrow money (either unsecured or on the security of any Charged Property, either in priority to the security constituted by this Deed or otherwise) on any terms and for whatever purpose which he thinks fit. No person lending that money need enquire as to the propriety or purpose of the exercise of that power or to check the application of any money so raised or borrowed.

**(c) Carry on business**

A Receiver may carry on the business of a Chargor as he thinks fit and, for the avoidance of doubt, a Receiver may apply for such Authorisations as he considers in his absolute discretion appropriate.

**(d) Compromise**

A Receiver may settle, adjust, refer to arbitration, compromise and arrange any claims, accounts, disputes, questions and demands with or by any person who is or claims to be a creditor of a Chargor or relating in any way to any Charged Property.

**(e) Delegation**

A Receiver may delegate his powers in accordance with Clause 15 (*Delegation*).

**(f) Employees**

For the purposes of this Deed, a Receiver as he thinks appropriate, on behalf of a Chargor or for itself as Receiver, may:

(i) appoint and discharge managers, officers, agents, accountants, servants, workmen and others upon such terms as to remuneration or otherwise as he may think proper; and

(ii) discharge any such persons appointed by a Chargor.

**(g) Leases**

A Receiver may let any Charged Property for any term and at any rent (with or without a premium) which he thinks proper and may accept a surrender of any lease or tenancy of any Charged Property on any terms which he thinks fit (including the payment of money to a lessee or tenant on a surrender).

**(h) Legal actions**

A Receiver may bring, prosecute, enforce, defend and abandon all actions, suits and proceedings or submit to arbitration or any form of alternative dispute resolution in the name of a Chargor in relation to any Charged Property as he considers expedient.

**(i) Possession**

A Receiver may take immediate possession of, get in and collect any Charged Property.

(j) Protection of assets

A Receiver may, in each case as he may think fit:

(i) make and effect all repairs and insurances and do all other acts which a Chargor might do in the ordinary conduct of its business be they for the protection or for the improvement of the Charged Property;

(ii) commence and/or complete any building operations on the Secured Property or other Charged Property; and

(iii) apply for and maintain any planning permission, building regulation approval or any other permission, consent or licence.

**(k) Receipts**

A Receiver may give valid receipts for all monies and execute all assurances and things which may be expedient for realising any Charged Property.

**(l) Sale of assets**

A Receiver may sell, exchange, convert into monies and realise any Charged Property by public auction or private contract in any manner and on any terms which he thinks proper. The consideration for any such transaction may consist of cash, debenture or other obligations, shares, stock or other valuable consideration and any such consideration may be payable in a lump sum or by instalments spread over such period as he thinks fit. Fixtures and any plant and machinery annexed to any part of the Secured Property may be severed and sold separately from the property containing them without the consent of a Chargor.

**(m) Subsidiaries**

A Receiver may form a Subsidiary of a Chargor and transfer to that Subsidiary any Charged Property.

**(n) Deal with Charged Property**

A Receiver may, without restriction sell, let or lease, or concur in selling, letting or leasing, or vary the terms of, determine, surrender or accept surrenders of, leases or tenancies of, or grant options and licences over or otherwise dispose of or deal with, all or

any part of the Charged Property without being responsible for loss or damage, and so that any such sale, lease or disposition may be made for cash payable by instalments, loan stock or other debt obligations or for shares or securities of another company or other valuable consideration. The Receiver may form and promote, or concur in forming and promoting, a company or companies to purchase, lease, licence or otherwise acquire interests in all or any of the Charged Property or otherwise, arrange for such companies to trade or cease to trade and to purchase, lease, license or otherwise acquire all or any of the Charged Property on such terms and conditions whether or not including payment by instalments secured or unsecured as he may think fit.

**(o) Voting rights**

A Receiver may exercise all voting and other rights attaching to the Shares, Related Rights, and stocks, shares and other securities owned by a Chargor and comprised in the Charged Property in such manner as he may think fit.

**(p) Security**

A Receiver may redeem any prior Security and settle and pass the accounts of the person entitled to the prior Security so that any accounts so settled and passed shall (subject to any manifest error) be conclusive and binding on a Chargor and the money so paid shall be deemed to be an expense properly incurred by the Receiver.

**(q) Acquire land**

The Receiver may purchase or acquire any land and purchase, acquire or grant any interest in or right over land.

**(r) Development**

A Receiver may implement or continue the development of (and obtain all consents required in connection therewith) and/or complete any buildings or structures on, any real property comprised in the Secured Property and do all acts and things incidental to the Secured Property.

**(s) Landlord's obligations**

A Receiver may on behalf of a Chargor and without consent of or notice to a Chargor exercise all the powers conferred on a landlord or a tenant by the Landlord and Tenants Acts, the Rents Acts and Housing Acts or any other legislation from time to time in force in any relevant jurisdiction relating to rents or agriculture in respect of any part of the Secured Property.

**(t) Uncalled capital**

A Receiver may make calls conditionally or unconditionally on the members of a Chargor in respect of uncalled capital.

**(u) Incidental matters**

A Receiver may do all other acts and things including without limitation, signing and executing all documents and deeds as may be considered by the Receiver to be incidental or conducive to any of the matters or powers listed here or granted by law or otherwise incidental or conducive to the preservation, improvement or realisation of the Charged Property and to use the name of a Chargor for all the purposes set out in this Clause 13.

**14.4 Remuneration**

The Security Agent may from time to time fix the remuneration of any Receiver appointed by it.

## 15 DELEGATION

**15.1** The Security Agent and any Receiver may delegate by power of attorney or in any other manner all or any of the powers, authorities and discretions which are for the time being exercisable by the Security Agent and the Receiver (as appropriate) under this Deed to any person or persons as it shall think fit (acting reasonably). Any such delegation may be made upon such terms and conditions (including the power to sub-delegate) as the Security Agent and Receiver (as appropriate) may think fit (acting reasonably).

**15.2** The Security Agent and any Receiver will not be liable or responsible to the Chargor or any other person for any losses, liabilities or expenses arising from any act, default, omission or misconduct on the part of any delegate other than losses arising as a result of gross negligence or wilful misconduct in so delegating.

## 16 APPLICATION OF MONIES

**16.1** Sections 109(6) and (8) (Appointment, powers, remuneration and duties of receiver) of the Law of Property Act 1925 shall not apply to a Receiver appointed under this Deed.

**16.2** All monies received by the Security Agent or any Receiver under this Deed shall be applied in accordance with the following order of priority:

**(a)** in discharging any sums owing to the Security Agent, any Receiver or delegate;

**(b)** for application towards discharge of the Secured Obligations; and

**(c)** the balance (if any) in payment or distribution to the Chargors.

**16.3** The Security Agent and any Receiver may place any money received, recovered or realised pursuant to this Deed in an interest bearing suspense account and it may retain the same for such period as it considers expedient without having any obligation to apply the same or any part of it in or towards discharge of the Secured Obligations.

## 17 REMEDIES AND WAIVERS

**17.1** No failure to exercise, nor any delay in exercising, on the part of the Security Agent or any Receiver, any right or remedy under this Deed 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 Deed are cumulative and not exclusive of any rights or remedies provided by law.

**17.2** A waiver given or consent granted by the Security Agent under this Deed will be effective only if given in writing and then only in the instance and for the purpose for which it is given.

## 18 PROTECTION OF THIRD PARTIES

**18.1** No person (including a purchaser) dealing with the Security Agent or a Receiver or its or his agents has an obligation to enquire of the Security Agent, Receiver or others:

**(a)** whether the Secured Obligations have become payable;

**(b)** whether any power purported to be exercised has become exercisable;

**(c)** whether any Secured Obligations or other monies remain outstanding;

(d) how any monies paid to the Security Agent or to the Receiver shall be applied; or

(e) the status, propriety or validity of the acts of the Receiver or Security Agent.

**18.2** The receipt of the Security Agent or any Receiver shall be an absolute and a conclusive discharge to a purchaser and shall relieve him of any obligation to see to the application of any monies paid to or by the direction of the Security Agent or any Receiver.

**18.3** In Clause 18.1 and Clause 18.2, purchaser includes any person acquiring, for money or monies worth, any lease of, or Security over, or any other interest or right whatsoever in relation to, the Charged Property or any of them.

## 19 ADDITIONAL SECURITY

The Security created by or under this Deed is in addition to and is not in any way prejudiced by any guarantee or security now or subsequently held by the Noteholders.

## 20 SETTLEMENTS CONDITIONAL

**20.1** If the Security Agent (acting reasonably) believes that any amount paid by a Chargor or any other person in respect of the Secured Obligations is capable of being avoided or set aside for any reason, then for the purposes of this Deed, such amount shall not be considered to have been paid.

**20.2** Any settlement, discharge or release between a Chargor and the Noteholders shall be conditional upon no Security or payment to or for the Noteholders by the Chargor or any other person being avoided or set aside or ordered to be refunded or reduced by virtue of any law relating to bankruptcy, insolvency or liquidation or otherwise.

## 21 SUBSEQUENT SECURITY

If the Security Agent or the Noteholders receives notice of any other subsequent Security or other interest affecting all or any of the Charged Property it may open a new account or accounts for the Chargor in its books. If it does not do so then, unless it gives express written notice to the contrary to the Chargor, as from the time of receipt of such notice by the Security Agent, all payments made by the Chargor to the Security Agent or to the Noteholders shall be treated as having been credited to a new account of the Chargor and not as having been applied in reduction of the Secured Obligations.

## 22 SET-OFF

The Noteholders may, set off any matured obligation due from a Chargor under the Note Documents (to the extent beneficially owned by the Noteholders) against any matured obligation owed by the Noteholders to the Chargor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Noteholders may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

## 23 NOTICES

Any communication under this Deed or any other Security or Note Document created by or under this Deed, shall be made and given in accordance with the terms of clause 18 (*Notices*) of the Vendor Note Instrument.

## 24 INVALIDITY

If, at any time, any provision of this Deed 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 such provision under the law of any other jurisdiction will in any way be affected or impaired.

## 25 ASSIGNMENT

The Noteholders may assign or otherwise transfer all or any part of its rights under this Deed or any Security created by or under it in accordance with the terms of the Note Documents.

## 26 RELEASES

Upon the expiry of the Security Period and in relation to any asset which is permitted to be disposed of pursuant to the Vendor Note Instrument, the Security Agent shall, at the request and cost of the Chargors, wind up the trustees set out in this Deed and take whatever action is necessary to cancel any applicable guarantees and release and reassign to each Chargor:

**(a)** its rights arising under this Deed;

**(b)** the relevant Charged Property from the Security created by and under this Deed,

and return all applicable documents or deeds of title delivered to it under this Deed.

## 27 CURRENCY CLAUSES

**Currency of account**

**(a)** Subject to Clause 27(b) to Clause 27(e) below, sterling is the currency of account and payment for any sum due from each Chargor under this Deed and any other Note Document.

**(b)** A repayment of any amount pursuant to the Note Document shall be made in the currency in which that amount is denominated, pursuant to the Note Documents, on its due date.

**(c)** Each payment of interest shall be made in the currency in which the sum in respect of which the interest is payable was denominated, pursuant to the Note Document when that interest accrued.

**(d)** Each payment in respect of costs, expenses or Taxes shall be made in the currency in which the costs, expenses or Taxes are incurred.

**(e)** Any amount expressed to be payable in a currency other than sterling shall be paid in that other currency.

**(f)** If a payment is made to the Security Agent under this Deed in a currency ("**Payment Currency**") other than the currency in which it is expressed to be payable ("**Contractual Currency**"), the Security Agent may convert that payment into the Contractual Currency at the rate at which it (acting reasonably and in good faith) is able to purchase the Contractual Currency with the Payment Currency on or around the date of receipt of the payment and to the extent that the converted amount of the payment falls short of the amount due and payable each Chargor will remain liable for such shortfall.

## 28 CERTIFICATES AND DETERMINATIONS

Any certification or determination by the Noteholders of a rate or amount under any Note Document is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

## 29 COUNTERPARTS

This Deed or any Note Document entered into under or in connection with this Deed may be executed in any number of counterparts, and by each party on separate counterparts. Each counterpart is an original, but all counterparts shall together constitute one and the same instrument. Delivery of a counterpart of this Deed or any such Note Document entered into under or in connection with this Deed by e-mail attachment or telecopy shall be an effective mode of delivery.

## 30 GOVERNING LAW

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

## 31 ENFORCEMENT

### 31.1 Jurisdiction of English courts

**(a)** The courts of England have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed (including a dispute relating to the existence, validity or termination of this Deed or any non-contractual obligation arising out of or in connection with this Deed) ("**Dispute**").

**(b)** The Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary.

**(c)** This Clause 31 is for the benefit of the Security Agent. As a result, the Security Agent shall not be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law, the Security Agent may take concurrent proceedings in any number of jurisdictions.

### 31.2 Service of process

**(a)** Any letter or other communication notifying a claim or serving legal proceedings under or in connection with this Deed may not be made by way of fax and must be made pursuant to clause 18 (*Notices*) of the Vendor Note Instrument.

**(b)** Each Chargor expressly agrees and consents to the provisions of this Clause 31 and Clause 30 (*Governing law*).

**This Deed** has been entered into as a deed on the date given at the beginning of this Deed.

## SCHEDULE 1

## CHARGORS

| Name of Chargor | Country of Incorporation | Registered Office | Registered Number |
|---|---|---|---|
| RMS Holdco Limited | England | 1st Floor 11 Charles II Street, London, United Kingdom, SW1Y 4QU | 10597461 |
| Retail Merchant Group Limited | England | Matrix House, North Fourth Street, Milton Keynes, Buckinghamshire, MK9 1NJ | 06257540 |
| Retail Merchant Services Limited | England | Matrix House, North Fourth Street, Milton Keynes, Buckinghamshire, MK9 1NJ | 06079704 |
| Retail Merchant Finance Limited | England | Matrix House, North Fourth Street, Milton Keynes, Buckinghamshire, MK9 1NJ | 06079692 |

## SCHEDULE 2

## MATERIAL PROPERTY

None at the date of this Deed.

## SCHEDULE 3

## SHARES

| Name of Chargor | Name of subsidiary | Number and description |
|---|---|---|
| RMS Holdco Limited | Retail Merchant Group Limited | 2,800,000 Ordinary shares of £1.00 each |
| Retail Merchant Group Limited | Retail Merchant Services Limited | 1 Ordinary Share of £1.00 |
| Retail Merchant Group Limited | Retail Merchant Finance Limited | 1 Ordinary Share of £1.00 |

## SIGNATURES TO THE DEBENTURE

**Chargors**

Executed as a deed by )
**RMS HOLDCO LIMITED** ) .....
acting by a director in the presence of ) Director JOHN ROSENBERG

.....
Signature of witness

Name SARAH HYNES

Address 4 TYNEMOUTH ROAD, SURREY, CR4 2BN

Executed as a deed by )
**RETAIL MERCHANT GROUP LIMITED** ) .....
acting by a director in the presence of ) Director

.....
Signature of witness

Name .....

Address .....

.....

Executed as a deed by )
**RETAIL MERCHANT SERVICES LIMITED** ) .....
acting by a director in the presence of ) Director

.....
Signature of witness

Name .....

Address .....

.....

## SIGNATURES TO THE DEBENTURE

**Chargors**

Executed as a deed by )
**RMS HOLDCO LIMITED** ) .....
acting by a director in the presence of ) Director

.....
Signature of witness

Name .....

Address .....

.....

Executed as a deed by )
**RETAIL MERCHANT GROUP LIMITED** ) .....
acting by a director in the presence of ) Director

K.A Walden
Signature of witness

Name KAREN WALDEN

Address C/O RETAIL MERCHANT SERVICES LTD

MATRIX HOUSE, NORTH FOURTH ST, MILTON KEYNES
MK9 1NJ

Executed as a deed by )
**RETAIL MERCHANT SERVICES LIMITED** ) .....
acting by a director in the presence of ) Director

K.A Walden
Signature of witness

Name KAREN WALDEN

Address C/O RETAIL MERCHANT SERVICES LTD

MATRIX HOUSE, NORTH FOURTH ST, MILTON KEYNES
MK9 1NJ

Executed as a deed by )
**RETAIL MERCHANT FINANCE LIMITED** )
acting by a director in the presence of ) Director

K.A Walden
.....
Signature of witness

Name KAREN WALDEN

Address C/O RETAIL MERCHANT SERVICES LTD

MARX HOUSE, NORTH FORTH ST, MILTON KEYNES

MK9 1NT

**Security Agent**

Executed as a deed by
**FRANOVE HOLDINGS LIMITED** acting
by Paul Bentham, a director, acting by Simon Graham as attorney under a power of attorney dated 7.2.17
~~, a director~~, in the presence of:

~~Director~~

Witness Signature:

Witness name: KRISTY PRICE

Occupation: PERSONAL ASSISTANT

Address: LES ECHELONS COURT
LES ECHELONS
ST PETER PORT
GUERNSEY
GY1 1AR