Companies House

MR01(ef)

Registration of a Charge

Company name: **A F SMART REPAIRS LIMITED**

Company number: **07537368**

Received for Electronic Filing: **17/05/2018**

X766C488

Details of Charge

Date of creation: **16/05/2018**

Charge code: **0753 7368 0001**

Persons entitled: **ASHLEY FINANCE LTD**

Brief description:

Contains fixed charge(s).

Contains floating charge(s) (floating charge covers all the property or undertaking of the company).

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: **ANGELA BROWN**

CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 7537368

Charge code: 0753 7368 0001

The Registrar of Companies for England and Wales hereby certifies that a charge dated 16th May 2018 and created by A F SMART REPAIRS LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 17th May 2018 .

Given at Companies House, Cardiff on 21st May 2018

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

ashley finance

Dated

16 MAY 2018

DEBENTURE

granted by

A F SMART REPAIRS LTD

to

ASHLEY FINANCE LIMITED

DEBENTURE

THIS DEBENTURE is made on 16 day of May 2018 by the Company ("the Company") described in section 1 of the schedule attached to and forming part of this Debenture ("the Schedule") in favour of **ASHLEY FINANCE LIMITED** (a company registered in England and Wales with the number of 2797120) of First Floor, Equinox North, Great Park Road, Bradley Stoke, Bristol BS32 4QL ("the Invoice Finance Provider")

WITNESSES as follows:

1. In this Debenture:

(1) the following expressions shall have the meanings assigned to them below:

"the Act"
the Insolvency Act 1986;

"the Agreement"
the invoice finance agreement (details of which are contained in section 2 of the Schedule) made between the Invoice Finance Provider and the Company and any agreement made supplemental to, in variation of or in substitution for such agreement;

"the Charged Property"
the Specified Debts, the Other Debts and the Floating Assets;

"the Floating Assets"
(i) the whole of the company's undertaking and all its property assets and rights whatsoever and wheresoever, both present and future, including its stock in trade and its uncalled capital other than the Specified Debts and the Other Debts; and

(ii) the Specified Debts and Other Debts to the extent only that the fixed charge created by clause 3(1) shall for any reason be ineffective as a fixed charge;

"the Floating Charge"
the floating charge created by clause 3(2);

"the LPA"
the Law of Property Act 1925;

"Obligations"
all monetary and other liabilities and obligations now or at any time owed or incurred (whether solely or jointly with any other person) by the Company to or in favour of the Invoice Finance Provider, present or future, actual or contingent, liquidated or unliquidated, whether arising in or by contract, tort, restitution, assignment or breach of statutory duty and whether arising under the Agreement or otherwise;

"Other Debts"
all amounts of indebtedness now or at any time hereafter owing or becoming due to the Company on any account whatsoever (other than the Specified Debts) together with all Associated Rights (as defined in the Agreement but so that for the purpose of that definition a "Contract of Sale" shall mean a contract giving rise to such indebtedness) pertaining to such amounts of indebtedness;

"Specified Debt"
any Debt (as defined in the Agreement and assigned or purported to be assigned to the Invoice Finance Provider pursuant to the Agreement) which fails to vest absolutely and effectively in the Invoice Finance Provider for any reason;

(2) the expression "receiver" shall have the meaning assigned to it in section 29 of the Act and where the context so admits shall include:

(i) an administrative receiver as defined in that section and
(ii) an administrator appointed pursuant to the Enterprise Act 2002.

2. The Company covenants on demand (i) fully to discharge by payment to the Invoice Finance Provider without any deduction or set-off all monetary liabilities included in the Obligations and (ii) duly to perform all the Obligations other than monetary liabilities.

3. To secure payment and performance as provided for in clause 2 the Company as beneficial owner hereby charges in favour of the Invoice Finance Provider;

(1) by way of first fixed charge all Specified Debts and the Other Debts; and
(2) by way of Floating Charge the Floating Assets.

4. The Company shall be at liberty to sell any item included in the Floating Assets in the normal course of and for the purpose of carrying on its business (on terms not less favourable than those usual in a business of the nature of that carried on by the Company) until the conversion of the Floating Charge into a fixed charge in relation to that item or all the Floating Assets in accordance with clause 10 or the enforcement of the Invoice Finance Provider's rights under this Debenture in accordance with clause 11.

5. The Company hereby warrants that except as hitherto disclosed to the Invoice Finance Provider in writing or except as provided for in the Agreement the Company is the beneficial owner of all the Charged Property and that all the Charged Property is free from any charge or other encumbrance or trust and the Company shall not during the continuance of this Debenture except with the Invoice Finance Provider's prior written consent or as provided for in the Agreement:

(1) create any mortgage, charge, pledge or other encumbrance or confer any lien (except in the ordinary course of business) in respect of the Charged Property or any part of it ranking in priority to or equally with this Debenture or to which the rights created by this Debenture would otherwise be made subject;

(2) create any trust in relation to any part or the whole of the Charged Property or (except in accordance with the provisions of Clause 4) sell or part with possession of any part of the Charged Property;

(3) sell, assign, discount, invoice finance, compound or release any of the Specified Debts or Other Debts or do anything which may delay or impede the recovery of any of them;

(4) do or cause to permit to be done anything which may prejudice the value of any of the Charged property or the rights created by this Debenture in favour of the Invoice Finance Provider;

(5) enter into any leases agreement for leases or accept any surrender of leases or confer on any person firm or company any licence right or interest in any of the Charged Property.

6. All the provisions of the Agreement relating to the Debts (as defined in the Agreement) shall apply to all Specified Debts as if such provisions were set out herein in full and as if the ownership of all such Specified Debts were vested in the Invoice Finance Provider pursuant to the Agreement.

7. The Company shall at all times during the continuance of this Debenture:

(1) collect in and realise the Other Debts in the ordinary course of business (which expressions shall not include invoice finance or discounting or selling the Other Debts in any other way);

(2) promptly pay into such bank account as the Invoice Finance Provider may from time to time approve in writing any monies which the Company may receive in respect of the Other Debts and pending such payment hold such moneys in trust for the Invoice Finance Provider;

(3) pay or otherwise deal with any monies standing to the credit of such bank account in accordance with any directions which the Invoice Finance Provider may give to the Company at any time;

(4) if called upon at any time by the Invoice Finance Provider (at the Company's expense including any stamp duty and in such form as the Invoice Finance Provider may prescribe):

(i) complete and execute a formal written assignment of any or all of the Other Debts and give written notice of such assignment to every person by whom any such Other Debts shall be owing;
(ii) (whether or not such written assignment shall have been executed) give irrevocable instructions to such persons to make payment of all Other Debts (then owing or to become owing by such persons thereafter) direct to the Invoice Finance Provider; and
(iii) sign all such deeds and documents and do all such things as the Invoice Finance Provider may require to perfect the Invoice Finance Provider's security over all or such part of the Floating Assets as the Invoice Finance Provider may specify;

(5) keep proper books of account and other records relating to the Company's business and ensure that the Invoice Finance Provider or any person appointed by it may inspect and take copies of the Company's accounts computer data and records and any other documents on or by which any of the Charged Property is recorded or evidenced at all reasonable times;

(6) provide the Invoice Finance Provider with copies of the Company's audited accounts and those of any of its subsidiaries (as defined in section 736 of the Companies Act 1985) no later than 3 months after the end of the appropriate accounting reference period and produce such management accounts budgets and forecasts as the Invoice Finance Provider may from time to time request and furnish the Invoice Finance Provider with such financial information relating to its affairs as the Invoice Finance Provider or any person appointed by it may at any time reasonably require;

(7) keep all tangible items included in the Charged Property in a good state of repair and proper working order and keep all the Company's insurable property insured to its full value with a reputable insurance office against all risks for which insurance cover is usual in a business of the nature of that carried on by the Company and at the Invoice Finance Provider's request immediately produce to the Invoice Finance Provider the policies and the latest premium receipts and procure that the Invoice Finance Provider's interest is noted on the policies failing which the Invoice Finance Provider may take out or renew such insurance on the Company's behalf and at its expense (and all monies which may become payable by virtue of such insurance shall be held by the Company on trust for the Invoice Finance Provider).

8. Until the enforcement of the Invoice Finance Provider's rights under clause 11 and in the absence of any directions or request by the Invoice Finance Provider to the Company pursuant to clause 7(3) or clause 7(4) any monies received by the Company in respect of the Other Debts and paid into the bank account referred to in clause 7(2) shall upon such payment stand released from the fixed charge created by clause 3(1) and (for the avoidance of doubt) shall stand subject to the floating Charge created by clause 3(2); but such release shall not in any way affect the continued subsistence of such fixed charge on the Specified Debts and remainder of the Other Debts for the time being outstanding.

9. (1) The Company hereby irrevocably appoints the Invoice Finance Provider and the directors and the secretary for the time being of the Invoice Finance Provider and any receiver appointed by virtue of an appointment in accordance with clause 12 jointly and each of them severally to be the attorney of the Company to execute in the name of the Company such deeds and documents and to do such other things as may be requisite to perfect to the Invoice Finance Provider title to any of the Charged Property or to enable the Invoice Finance Provider to exercise any of its rights hereunder including (without prejudice to the generality of the foregoing) its rights to enforce payment of, collect or realise any of the Specified Debts or Other Debts and for the purpose of receiving any monies payable to the company under any policy of insurance referred to in clause 7(7) and for compromising or compounding any claim thereunder.

(2) Any such attorney so appointed shall have full power to appoint any substitute attorney or agent to execute any of the deeds or documents and to perform any of the things referred to in clause 9(1) and to remove the same and the Company shall be bound by whatever any such attorney, substitute attorney or agent shall do by virtue of the powers given in clause 9(1) or in this clause.

10. (1) Without prejudice to any other rights of the Invoice Finance Provider in this Debenture and whether or not it has exercised any of those rights the Invoice Finance Provider may at any time by notice in writing to the Company convert the Floating Charge into a fixed charge over any item in or over all the Floating Assets and upon the making of any demand under clause 11 the Floating Charge shall forthwith automatically be converted into a fixed charge over all the Floating Assets.

(2) The Floating Charge shall forthwith automatically be converted into a fixed charge (without the requirement of notice or any other act by the Invoice Finance Provider) over any item included in the Floating Assets upon which distress or execution is levied or threatened.

(3) Upon the conversion of the Floating Charge into a fixed charge over all or any item in the Floating Assets the Company's right to sell or otherwise dispose of such assets or item shall cease.

(4) If the Floating Charge shall be converted into a fixed charge as to part only of the Floating Assets then the Company shall remain at liberty to deal with the remainder of the Floating Assets in accordance with clause 4 without prejudice to the Invoice Finance Provider's rights under clause 10(1) in respect of such remainder.

11. Section 103 of the LPA shall not apply to this security and (without prejudice to any of the Invoice Finance Provider's rights under the Agreement) the Invoice Finance Provider shall be entitled on demand to payment in full of all or any part of the monetary liabilities included in the Obligations and to exercise any or all of the Invoice Finance Provider's' powers of possession and sale and to appoint any person to be a receiver over any or all of the Charged Property on the occurrence of any of the following events or at any time thereafter:

(1) any breach of any of the Company's obligations and undertakings hereunder;

(2) the failure of the Company to pay any monetary liability included in the Obligations when it is due to be paid;

(3) the calling by the Company of any meeting of its creditors;

(4) the Company becoming unable to pay its debts within the meaning of Section 123 of the Act;

(5) the levying or threat of execution or distress on any of the property of the Company;

(6) the appointment of a receiver of any part of the Company's income or assets;

(7) the serving or threat of a garnishee order nisi on any person in respect of any judgment debt owing by the Company;

(8) the presentation of a petition for the winding up of the Company or for an administration order in relation to the Company pursuant to the Act;

(9) a proposal for a voluntary arrangement between the Company and its creditors whether pursuant to the Act or otherwise;

(10) the Company ceasing or threatening to cease to carry on its business;

(11) any event (other than any event specified in this clause) which gives the Invoice Finance Provider the right to give notice for immediate termination of the Agreement in accordance with the terms thereof whether or not the Invoice Finance Provider shall have exercised any such right.

12. The power of appointing a receiver hereunder may be exercised in writing under the hand of any director or the secretary for the time being of the Invoice Finance Provider or of any person authorised in writing by any of them. The Invoice Finance Provider may, subject to the provisions of section 45(1) of the Act, in like manner remove any such receiver so appointed; and, in the case of the removal or the vacation of office or death of any such receiver, appoint another person in the place of such receiver. Every receiver appointed pursuant to this clause (whether or not he shall be an administrative receiver as defined in section 29(2) of the Act) shall be entitled to exercise all the statutory powers conferred on a receiver, including all the powers contained in schedule 1 to the Act, without any of the restrictions contained in the LPA.

13. (1) Every receiver appointed under this Debenture shall at all times be the agent of the Company and the Company shall alone be responsible for all acts defaults and omissions of such receiver and for the payment of all his remuneration, costs and expenses. The Invoice Finance Provider shall be under no liability to any such receiver for his remuneration, costs, expenses or in any other way whatsoever.

(2) If two or more individuals shall hold office as receiver of the same item included in the Charged Property by virtue of such an appointment such individuals shall have the right to exercise all or any of their powers severally as well as jointly.

(3) Entry into possession of any of the Charged property shall not render the Invoice Finance Provider or any receiver appointed under this Debenture liable to account as mortgagee in possession.

(4) No person dealing with the Invoice Finance Provider or any such receiver shall be bound or concerned to enquire whether:

(i) any right or power conferred on the Invoice Finance Provider or any receiver by this Debenture has arisen; or

(ii) the exercise of any such right or power has been properly or regularly carried out; or

(iii) any monies secured by this Debenture remain owing; and the protection to purchasers contained in sections 104 and 107 of the LPA shall apply to any person purchasing from or dealing with the Invoice Finance Provider or any such Receiver.

14. All monies received by any receiver appointed under this Debenture shall be applied (subject to the claims of any creditors having priority to this Debenture) for the following purposes in the following order:

(1) in payment of all costs charges and expenses of and in relation to the receiver's appointment and the exercise of his powers and of any other expenses properly discharged by him;

(2) in payment of his remuneration as agreed between him and the person who appointed him;

(3) in payment of any costs relating to the realisation of any property;

(4) in or on account of the discharge of the Obligations together with any interest for which provision is made herein; and

(5) in payment of any surplus to the Company.

15. The Company agrees to indemnify and hold harmless each of the Invoice Finance Provider and any Receiver appointed under this Debenture from and against all actions, claims, expenses, demands and liabilities whether arising out of any contract or in tort or in any other way incurred or which may at any time be incurred by it or him or by any agent, officer or employee for whose debt, default or miscarriage it or he may be answerable in respect of anything done in the preparation of this Debenture or the exercise or purported exercise of any of its or his rights or powers in connection with this Debenture.

16. If the Company shall fail to pay any monetary liability included in the Obligations when demanded the Company shall pay interest thereon calculated at 5% over the base rate of Lloyds Bank Plc. for the time being in force. Such interest shall be payable and compounded monthly and shall accrue daily, after as well as before any judgment, from the date when such liability is due to be paid until payment in full.

17. The security created by this Debenture shall be additional to and not in substitution of any other security created or which may hereafter be created in respect of the Obligations and it shall be a continuing security and it shall not be considered to be satisfied in whole or in part by any intermediate payment by the Company.

18. For the purpose of gaining access to or inspecting or (following any event specified in clause 11) taking possession of any of the ledgers computer data and other records and documents included in the Associated Rights or for the purpose of taking copies of any of such ledgers data records and documents any duly authorised official of the Invoice Finance Provider and any receiver appointed by the Invoice Finance Provider and any person authorised by such receiver shall have the right (in addition to and without prejudice to all its or his other powers or rights) at any time to enter upon any premises at which the Company carries on business and

upon any other premises in which any part or all of such computer equipment and data and other records and documents are for the time being kept or stored.

19. Neither this charge nor any of the Obligations shall be affected by any grant of any time or indulgence or the conclusion of any agreement not to sue or of any compromise or composition of the release of any other charge lien or other security or any part thereof to or with any person whether or not such person shall be jointly liable with the Company in respect of any of the Obligations or by the failure of the Invoice Finance Provider to take or perfect or hold unencumbered any other security in respect of the Obligations.

20. The Invoice Finance Provider may at any time in its entire discretion without notice or other formality combine any two or more accounts held by it in the name of the Company.

21. In the absence of any manifest error a certificate by a director or the secretary of the Invoice Finance Provider as to the amount of any or all monetary liabilities included in the Obligations shall be conclusive evidence in any proceedings.

22. The Invoice Finance Provider shall have the right to assign the whole or any part of the benefit of this Debenture and the expression "the Invoice Finance Provider" wherever used herein shall be deemed to include its subsidiaries assignees and other successors whether immediate or derivative who shall be entitled to enforce and proceed upon this Debenture in the same manner as if named herein. The Invoice Finance Provider shall be entitled to impart information concerning the Company to any such subsidiary assignee or successor or any participant or any proposed assignee successor or participant.

23. Any written notice or demand required or permitted to be given or made by the Invoice Finance Provider to or on the Company shall be validly serviced or made:

    (1) if handed to any of the Company's officers; or

    (2) if delivered or sent by first class prepaid post to the address of the company specified in Section 1 of the Schedule or to any address at which the Company carries on business or to its registered office; or

    (3) if transmitted by facsimile to the Company's facsimile number made known to the Invoice Finance Provider by the Company at any time.

    Any such notice or demand, if served personally, shall take effect upon its service and, if sent by post, shall take effect within two Business Days of the time of its posting and, if transmitted by facsimile, shall take effect upon its transmission.

24. In this Debenture except where the context otherwise requires:

    (1) the singular shall include the plural and vice versa and any of the three genders shall include the other two:

    (2) references to clauses (unless otherwise specified) are references to clauses of this deed;

(3) the meaning of general words introduced by the word "other" shall not be limited by reference to any preceding word or enumeration indicating a particular class of acts matters or things;

(4) reference to any Act of Parliament shall be deemed to include such Act as amended or re-enacted from time to time and to any order or regulation made thereunder; and

25. This Debenture shall be construed and take effect according to English law and the Company hereby submits to the non-exclusive jurisdiction of the English Courts. If any provision hereof shall be held to be invalid or unenforceable no other provision hereof shall be affected and all such other provisions shall remain in full force and effect. If any of the provisions of this charge shall conflict with any provision in the Agreement then such provision of the Agreement shall prevail.

THE SCHEDULE

1. **The Company:**

   A F SMART REPAIRS LTD (a company registered in England and Wales with the number 07537368) of Unit 61a Wellington Road Industrial Estate, Bean Road, Coseley, West Midlands, WV14 9EE

2. **The Agreement:**

   The Invoice Finance Agreement (incorporating the Invoice Finance Provider's Standard Terms and Conditions) dated 16 May 2018

IN WITNESS WHEREOF the Company and the Invoice Finance Provider have executed these presents as a deed the day and year first above written:

Executed as a deed by **A F SMART REPAIRS LTD** acting by its two Directors: -

.....
Lee Flello
Director

.....
Hayley Hewitt
Director

SIGNED as a **DEED** by JOHN SKARRATT
as attorney for **ASHLEY FINANCE LIMITED**
under a power of attorney dated 6 November 2017

.....
Signature of John Skarratt
as attorney for Ashley Finance Ltd

In the presence of:

.....
(Signature of Witness)

Name: Angela Brown.
Address: C/O 80 Mosley Street, Manchester, M2 3FX
Occupation: New Business Manager