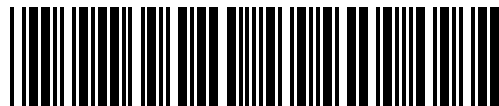




Registration of a Charge

Company Name: **VIRGIN ACTIVE ASIA PACIFIC HOLDINGS LIMITED**

Company Number: **07806208**



Received for filing in Electronic Format on the: **20/05/2021**

XA4WBNY9

Details of Charge

Date of creation: **13/05/2021**

Charge code: **0780 6208 0005**

Persons entitled: **HSBC CORPORATE TRUSTEE COMPANY (UK) LIMITED (IN ITS CAPACITY AS SECURITY TRUSTEE FOR THE SECURED PARTIES)**

Brief description: **NOT APPLICABLE**

Contains fixed charge(s).

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

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

Certified by: **BENJAMIN LEWIS**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 7806208

Charge code: 0780 6208 0005

The Registrar of Companies for England and Wales hereby certifies that a charge dated 13th May 2021 and created by VIRGIN ACTIVE ASIA PACIFIC HOLDINGS LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 20th May 2021 .

Given at Companies House, Cardiff on 21st May 2021

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



Companies House



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

DATED

13 May

2021

VIRGIN ACTIVE ASIA PACIFIC HOLDINGS LIMITED
(as Grantor)

- and -

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

SUPPLEMENTAL SPECIFIC SECURITY DEED



Matter Ref: 1R4537.001498

Hogan Lovells
Level 13, St Georges Square, 225 St Georges Terrace, Perth WA 6000
Level 17, 20 Martin Place, Sydney NSW 2000

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This Deed is dated

13 May

2021

BETWEEN:

- (1) Virgin Active Asia Pacific Holdings Limited, a limited liability company incorporated in England and Wales with registered number 07806208 (the "**Grantor**"); and
- (2) HSBC Corporate Trustee Company (UK) Limited as security trustee for the Secured Parties (the "**Security Agent**").

RECITALS

- (A) The Grantor is, or will be, the legal and beneficial owner of or otherwise has or will have sufficient right, interest or power to grant a Security Interest in its Collateral.
- (B) From time to time, the Grantor may wish one or more Secured Parties to provide financial accommodation to or for the account of the Grantor or another person.
- (C) The Grantor has agreed to grant security over its Collateral in favour of the Security Agent to secure payment of the Secured Moneys on the terms set out in this Deed.

It is AGREED as follows.

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

The following definitions apply unless the context requires otherwise:

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

"Attorney" means any attorney appointed under this Deed.

"Authorised Officer" means:

- (a) in respect of the Grantor, any director or secretary, or any person from time to time nominated as an Authorised Officer by the Grantor by a notice to the Security Agent accompanied by certified copies of signatures of all new persons so appointed; and
- (b) in respect of the Security Agent or a Secured Party, any person whose title or acting title includes the word Chief, Counsel, Executive, Head, Manager, Director or President or cognate expressions, or any secretary, director, associate or authorised signatory, or any lawyer acting for a Secured Party.

"Collateral" means all the present and after-acquired Marketable Securities and Additional Rights held or owned by the Grantor in the Company, including any Proceeds of that Collateral.

"Company" means Virgin Active Australia Pty Limited ACN 126 741 133.

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

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

"Declared Default" means an Event of Default which has occurred and is continuing and notice of such Event of Default and of the intention to enforce any security has been given by the Agent pursuant to clause 28.23 (*Acceleration*) of the Senior Facilities Agreement or clause 22.23 (*Acceleration*) of the Junior Facility Agreement.

"Delegate" means any person appointed by the Security Agent or any Receiver pursuant to this Deed and any person appointed as attorney of the Security Agent and/or any Receiver or Delegate.

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

"Event of Default" has the meaning given to it in the Senior Facilities Agreement and/or an Event of Default under and as defined in the Junior Facility Agreement.

"Existing Security Deed" means the document titled 'Specific Security Deed' dated 28 July 2017 entered into between the Grantor and the Security Agent.

"Expenses" means all costs (including legal fees), charges, expenses and damages sustained or incurred by the Security Agent or any Receiver or delegate at any time in connection with the Collateral or the Secured Money or in taking, holding or perfecting this Deed or in protecting, preserving, defending or enforcing the security constituted by this Deed or in exercising any rights, powers or remedies provided by or pursuant to this Deed (including any right or power to make payments on behalf of the Grantor under the terms of this Deed) or by law in each case on a full indemnity basis.

"Finance Document" means each Senior Finance Document and each Junior Finance Document;

"Insolvency Event" means the occurrence of any of the events or circumstances set out in clause 28.7 (*Insolvency*) to 28.10 (*Similar events elsewhere*) (inclusive) of the Senior Facilities Agreement or clause 22.7 (*Insolvency*) to 22.10 (*Similar events elsewhere*) of the Junior Facility Agreement.

"Intercreditor Agreement" means the intercreditor agreement dated 28 June 2017 as amended and restated on or about the date of this Deed made between, among others, Virgin Active Investment Holdings Limited as the Parent, the Original Debtors as defined therein, Virgin Active Holdings Limited as the Company, HSBC Bank plc as the Senior Agent, HSBC Corporate Trustee Company (UK) Limited as the Security Agent and the Senior Lenders as defined therein.

"Junior Facility Agreement" means the term loan facility agreement dated on or about the Restructuring Effective Date made between, amongst others, Virgin Active Holdings Limited (as borrower), and Brait Capital International Limited and Virgin Holdings Limited (as lenders).

"Junior Finance Document" means the Junior Facility Agreement, the Settlement Agreement, any Accession Deed, any Compliance Certificate, any Fee Letter, the Intercreditor Agreement, any Selection Notice, any Transaction Security Document, any Utilisation Request and any other document designated as a "Finance Document" by the Agent and the Borrower (and for this purpose terms referred to in this definition shall have the meanings given to them in the Junior Facility Agreement);

"Junior Finance Party" means the Junior Agent, the Security Agent and each Lender (under and as defined in the Junior Facility Agreement);

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

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

"Power" means a power, right, authority, discretion or remedy which is conferred on the Security Agent, or any Secured Party, Controller or Attorney:

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

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

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

"PPSR" means the Personal Property Securities Register maintained under the PPSA.

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

"Receiver" means an administrative receiver, a receiver and manager or a receiver, in each case, appointed under this Deed.

"Relevant Party" means the Security Agent, each Officer of the Security Agent, each Controller, Receiver or delegate and each Attorney.

"Secured Money" means all present and future indebtedness, moneys, obligations and liabilities of each Obligor to the Secured Parties under the Finance Documents (including this Deed), in whatever currency denominated, whether actual or contingent and whether owed jointly or severally or as principal or as surety or in some other capacity, including any liability in respect of any further advances or variations made under the Finance Documents, together with Expenses and all interest under clause 5.1(b) (*Covenant to pay and perform*).

"Secured Party" means each Senior Finance Party, each Junior Finance Party and any Controller, Receiver or Delegate.

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

"Senior Facilities Agreement" means the facilities agreement dated 28 June 2017 and made between, among others, Virgin Active Investment Holdings Limited (as the Parent), Virgin Active Holdings Limited (as the Company), the subsidiaries of the Parent listed in Part I of Schedule 1 as Original Borrowers and Original Guarantors, the financial institutions listed therein as Bookrunners and Mandated Lead Arrangers, the financial institutions listed therein as Arrangers, the financial institutions listed in Part II of Schedule 1 as Original Lenders, HSBC Bank plc as Agent of the other Finance Parties and HSBC Corporate Trustee Company (UK) Limited as the Security Agent.

"Senior Finance Document" means the Senior Facilities Agreement, any Accession Deed, any Ancillary Document, any Compliance Certificate, any Fee Letter, any Hedging Agreement, the Intercreditor Agreement, an Additional Facility Notice, an Additional Facility Accession Undertaking, any Selection Notice, any Transaction Security Document, any Utilisation Request and any other document designated as a "Finance Document" by the Agent and the Parent and/or the Company.

"Senior Finance Party" means the Agent, an Arranger, the Security Agent, a Lender, an Issuing Bank, a Hedge Counterparty and an Ancillary Lender.

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

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

1.2 **Senior Facilities Agreement definitions**

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

1.3 **Interpretation**

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

- (a) References to any party shall be construed so as to include that party's respective successors in title, permitted assigns and permitted transferees.
- (b) **"Assets"** and **"property"** include present and future properties (including any interest (legal or equitable) in real or personal property and any thing in action), revenues and rights of every description.
- (c) A **"Finance Document"** or a Transaction Document or any other agreement or instrument is a reference to that Finance Document or Transaction Document or other agreement or instrument as amended, novated, supplemented, extended or restated.
- (d) **"Indebtedness"** includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent.
- (e) **"Including"** and **"in particular"** shall not be construed restrictively but shall mean respectively "including, without prejudice to the generality of the foregoing" and "in particular, but without prejudice to the generality of the foregoing".

- (f) A "**person**" includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium or partnership or other person (whether or not having separate legal personality).
- (g) A "**regulation**" includes any regulation, rule, official directive, request or guideline (whether or not having the force of law, but if not having force of law which are binding or customarily complied with) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation.
- (h) A provision of law is a reference to that provision as amended or re-enacted.
- (i) "**Variation**" includes any variation, amendment, accession, novation, restatement, modification, assignment, transfer, supplement, extension, deletion or replacement however effected and "**vary**" and "**varied**" shall be construed accordingly.
- (j) Subject to clause 17.5 (*Variation and waiver*), references to this Deed or to any other document (including any Finance Document) include references to this Deed or such other document as varied in any manner from time to time, even if changes are made to the composition of the parties to this Deed or such other document or to the nature or amount of any facilities made available under such other document.
- (k) The singular shall include the plural and vice versa and any gender shall include the other genders.
- (l) Clauses, paragraphs and Schedules shall be construed as references to clauses and paragraphs of, and Schedules to, this Deed.
- (m) Headings in this Deed are inserted for convenience and shall not affect its interpretation.
- (n) A Default (including an Event of Default) is "**continuing**" if it has not been remedied or waived.

1.4 **Document or agreement**

A reference to:

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

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

1.5 **Benefit of Security Interest**

The Security Interest under this Deed is held by the Security Agent as trustee for itself and each other Secured Party.

1.6 **Consents and opinion**

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

1.7 Conflicts of terms

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

1.8 PPSA terms incorporated

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

- (a) accession;
- (b) account;
- (c) advance;
- (d) after-acquired property;
- (e) amendment demand;
- (f) attach;
- (g) investment instrument;
- (h) negotiable instrument;
- (i) Registrar; and
- (j) term deposit.

2. GRANT OF SECURITY INTEREST

2.1 Security Interest

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

2.2 Attachment

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

2.3 **Prior Security**

- (a) It is acknowledged that the Grantor has previously entered into the Existing Security Deed under which the Grantor granted security over the Collateral in favour of the Security Agent.
- (b) The Grantor's obligations under this Deed are subject, and without prejudice, to the provisions of the Existing Security Deed.
- (c) Notwithstanding any other provision of this Deed, where:
 - (i) any amount falls due to be paid to the Security Agent under the Existing Security Deed; or
 - (ii) any other obligation must be performed by the Grantor under the Existing Security Deed,

payment of such amount or performance of such other obligation (as the case may be) will be treated as discharging the equivalent liability or obligation (as applicable) under this Deed and vice versa.

2.4 **Consideration**

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

2.5 **Priority**

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

2.6 **Amendment or replacement**

- (a) The Grantor acknowledges that the Senior Facilities Agreement and the Junior Facility Agreement may each be amended or replaced from time to time.
- (b) The Grantor confirms that the Secured Money includes any amount payable under Senior Facilities Agreement or under the Junior Facility Agreement as amended or replaced, regardless of:
 - (i) how the Senior Facilities Agreement or the Junior Facility Agreement is amended or replaced; or
 - (ii) the reasons for the amendment or replacement; or

- (iii) whether the Secured Money increases or decreases as a result of the amendment or replacement; or
- (iv) whether the obligations under the Senior Facilities Agreement or the Junior Facility Agreement are more onerous as a result of the amendment or replacement.

2.7 Proceeds and continuation of security

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

3. DISCHARGE OF SECURITY INTERESTS

3.1 Release

Once the Security Agent is satisfied, acting in good faith, that all Secured Moneys have been unconditionally and irrevocably paid and discharged in full (but not otherwise) and without prejudice to clause 3.2 (*Reinstatement*), the Security Agent shall, at the request and cost of the Grantor, take whatever action is necessary to release the Security Interests of the Grantor granted under this Deed.

3.2 Reinstatement

- (a) If any discharge, release or arrangement (whether in respect of the obligations of an Obligor or any Security Interest for those obligations or otherwise) is made by the Security Agent or any other Finance Party in whole or in part on the faith of any payment, Security Interest or other disposition which is avoided or must be restored in insolvency, liquidation, administration or otherwise, without limitation, then the liability of the Grantor under, the Security Interest constituted by this Deed will continue or be reinstated as if the discharge, release or arrangement had not occurred.
- (b) The Security Agent may concede or compromise any claim that any payment or any discharge is liable to avoidance or restoration.

4. DEALING WITH COLLATERAL

4.1 Restricted dealings

Other than to the extent permitted under this Deed, the Intercreditor Agreement, the Senior Facilities Agreement or the Junior Facility Agreement, or with the prior written consent of the Security Agent, the Grantor must not do, or agree to do, any of the following:

- (a) create or extend or permit to arise or subsist any Security over the whole or any part of the Collateral;
- (b) 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 the whole or any part of the Collateral; or
- (c) give control of any of its Collateral (that falls within the description in section 21(2)(c) of the PPSA) to any person other than to the Security Agent.

The Grantor agrees to do everything necessary to ensure that a third person cannot acquire an interest in any Collateral free of, or having priority over, the Security Interests granted under this Deed, except as permitted under the Senior Facilities Agreement and the Junior Facility Agreement.

5. UNDERTAKINGS

5.1 Covenant to pay and perform

- (a) The Grantor must duly and punctually pay the Secured Money.
- (b) The Grantor covenants with the Security Agent that if it fails to pay any amount payable by it under this Deed on the due date for payment of that amount, the Grantor shall pay interest on any amounts due under this Deed from day to day until full discharge (whether before or after judgment, liquidation, winding-up or administration of the Grantor but only to the extent that (a) interest is not accruing on that amount under the Senior Facilities Agreement or the Junior Facility Agreement and (b) interest at a default rate is not otherwise being paid on that amount) at the rate and in the manner specified in clause 14.7 (*Default interest*) of the Senior Facilities Agreement or clause 9.3 (*Default interest*) of the Junior Facility Agreement, provided that, in the case of any Expense, such interest shall accrue and be payable as from the date on which the relevant Expense arose without the necessity for any demand being made for payment.
- (c) The Grantor must ensure that no Event of Default occurs. Without affecting the liability of the Grantor or any Power in any other respect (including where a breach of this clause is a breach of any other provision of any Finance Document) the Grantor shall not be liable in damages for a breach of its obligations under this paragraph (c) but the Security Agent may exercise the Powers following any breach of this paragraph (c) upon the occurrence of a Declared Default.

5.2 Undertakings in respect of the Collateral

- (a) The Grantor shall, in respect of any Marketable Securities which are in certificated form, promptly:
 - (i) deposit with the Security Agent, or as it may direct, all stock and share certificates and other documents of title or evidence of ownership from time to time relating to such Marketable Securities; and
 - (ii) execute and deliver to the Security Agent all share transfers and other documents as the Security Agent may from time to time request (acting reasonably) in order to enable the Security Agent (or its nominee(s)) to be registered as the owner or otherwise obtain a legal title to or to perfect its security interest in such Marketable Securities, to the extent that the Security Agent may at any time without notice complete and present such transfers and documents for registration,unless already previously deposited with the Security Agent under the Existing Security Deed.
- (b) The Grantor agrees that it will ensure that the terms of the constituent documents of any issuer ("**Issuer**") of Marketable Securities forming part of the Collateral do not restrict the transfer of any Collateral on enforcement of the Security Interests granted under this Deed or give the directors of any Issuer any discretion in relation to the registration of any such transfer in the share register of the Issuer.

- (c) The Grantor confirms that none of its Marketable Securities constitute an intermediated security as at the date of this Deed and shall, in respect of any Marketable Security which constitutes an intermediated security, promptly upon being requested to do so by the Security Agent:
- (i) give to any Issuer, broker, share registrar or other person specified by the Security Agent, an irrevocable direction (in a form approved by the Security Agent (acting reasonably)) in respect of any Marketable Security which forms part of the Collateral of the Grantor;
 - (ii) procure that such Marketable Security is the subject of an agreement between the Grantor, the Security Agent and the relevant controlling participant or other person who is entitled to effect dealings in respect of that Marketable Security (a "**Controlling Participant**"), on terms acceptable to the Security Agent (acting reasonably). The Grantor shall not, without the consent of the Security Agent, change a Controlling Participant which has entered into an agreement with the Security Agent under this paragraph unless required or otherwise permitted under that agreement; and
 - (iii) use its best endeavours to remove any transfer or dealing restrictions maintained in connection with such Marketable Security.

5.3 Voting Rights and Dividends relating to Marketable Securities

- (a) At any time before the Security Interest granted under this Deed has become enforceable:
- (i) the Grantor shall be entitled to exercise all voting and other rights and powers in respect of the Marketable Securities or, if any of the same are exercisable by the Security Agent (or its nominee(s)), to direct in writing the exercise of those voting and other rights and powers, provided that the Grantor shall not exercise or direct the exercise of any voting or other rights and powers in any manner prohibited by the Senior Facilities Agreement or the Junior Facility Agreement; and
 - (ii) the Grantor shall pay all dividends, interest and other moneys arising from the Marketable Securities in accordance with the Senior Facilities Agreement and the Junior Facility Agreement.
- (b) The Security Agent may, upon the occurrence of a Declared Default at its discretion (in the name of the Grantor or otherwise and without any further consent or authority from the Grantor):
- (i) exercise (or refrain from exercising) all voting and other rights and powers in respect of the Marketable Securities;
 - (ii) apply all dividends, interest and other moneys arising from the Marketable Securities in accordance with clause 15.1 (*Order of application*) of the Intercreditor Agreement and, if any of the same are paid or payable to any Grantor, that Grantor shall hold all such dividends, interest and other moneys on trust for the Security Agent (as security trustee for the Finance Parties) and pay the same immediately to the Security Agent or as it may direct to be applied in accordance with clause 15.1 (*Order of application*) of the Intercreditor Agreement;

- (iii) if not already so transferred, transfer the Marketable Securities into the name of, or (as applicable) into an account in the name of, the Security Agent (or its nominee(s)); and
- (iv) in addition to any other power created under this Deed, exercise (or refrain from exercising) all the powers and rights conferred on or exercisable by the legal or beneficial owner of the Securities and, except as expressly provided for in the Deed, all the powers and discretions conferred on trustees by law,

the proceeds of which shall form part of the Collateral.

- (c) The Grantor shall pay all calls and other payments which may be or become due in respect of all or any part of the Marketable Securities and, if it fails to do so, the Security Agent may, following a notice to that effect to the Grantor elect (but shall not be obliged) to make such payments on behalf of Grantor. Any sums so paid by the Security Agent shall be reimbursed by the Grantor to the Security Agent on demand and shall carry interest at the rate specified in Clause 5.1(b) (*Covenant to pay and perform*) from the date of payment by the Security Agent until reimbursed (after as well as before any judgment).
- (d) The Grantor shall remain liable to observe and perform all of the other conditions and obligations assumed by it in respect of any of all or any part of the Marketable Securities.
- (e) Neither the Security Agent nor its nominee(s) shall be liable to make any payment in respect of any calls or other payments which may be or become due in respect of the Marketable Securities or be under any duty to make any enquiry into the nature or sufficiency of any payment received by it in respect of the Marketable Securities or to present or file or make any claim, take any action or do any other act or thing for the purpose of collecting and/or enforcing the payment of any amount to which it may be entitled in respect of the Marketable Securities.
- (f) The Grantor shall copy to the Security Agent and comply with all requests for information which is within its knowledge and which are made under any law or any similar provision contained in any articles of association or other constitutional documents relating to all or any part of the Marketable Securities and, if it fails to do so, the Security Agent may elect (but shall not be obliged) to provide such information as it may have on behalf of (and at the expense of) the Grantor.
- (g) The Grantor shall not, without the prior written consent of the Security Agent, do or cause or permit to be done anything which shall require any company in which any of the Marketable Securities is held to treat any person who is not the registered holder of any of the Marketable Securities as entitled to enjoy or exercise any rights of a member in relation to the whole or any part of the Marketable Securities, except pursuant to the terms of this Deed.

5.4 Notification of certain dealings

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

5.5 Notification of change in details

The Grantor shall notify the Security Agent in writing:

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

5.6 **Priority agreement**

Where, by law, the Grantor may create another Security Interest over the Collateral and notwithstanding clause 4.1 (*Restricted dealings*), the Grantor agrees:

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

6. **REPRESENTATIONS AND WARRANTIES**

6.1 **Representations and warranties**

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

- (a) it is the legal or beneficial owner of its Collateral free from any Security Interest (other than the Security Interests under this Deed or expressly permitted under the Finance Documents);
- (b) all Marketable Securities held by the Grantor forming part of the Collateral are fully paid;
- (c) except as disclosed in writing by it, or on its behalf, to the Security Agent, its details set out in Schedule 1 (*Notice Details*) are true and correct in all respects and reflect the information contained in the source from which information in relation to it must be taken for the purposes of the PPS Regulations in order to register a financing statement in respect of the Security Interest granted under this Deed; and
- (d) none of the Collateral is consumer property.

6.2 **Survival of representations and warranties**

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

- (a) (in relation to paragraphs 6.1(a)-(d) inclusive) on the date of this Deed; and
- (b) (in relation to paragraph 6.1(d) only), at the same time as the Repeating Representations (as defined in the Senior Facilities Agreement and in the Junior Facility Agreement) are made in accordance with clause 24.31 (*Repetition*) of the Senior Facilities Agreement or clause 18.14 (*Repetition*) of the Junior Facility Agreement respectively; and
- (c) (in relation to paragraphs 6.1(a), (b) and (d)), whenever Collateral is acquired by the Grantor, but only in relation to that newly acquired Collateral.

7. ENFORCEMENT

7.1 Powers on enforcement

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

7.2 Assistance in realisation

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

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

7.3 Postponing or delaying realisation or enforcement

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

8. CONTROLLER

8.1 Appointment of Controller

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

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

An appointment may be made on any terms the Security Agent thinks fit and whether or not any Secured Party or any Authorised Officer of a Secured Party at any time has exercised any Power in clause 8.3 (*Powers of Controller*). Without limiting any other method of appointment permitted by law, an appointment may be made by an instrument signed by an Authorised Officer of the Security Agent or by, or on behalf of, the Security Agent.

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

8.2 Agency of Controller

- (a) Except to the extent otherwise provided by any law relating to an Insolvency Event, every Controller appointed under this Deed is the agent of the Grantor. The Grantor alone is responsible for a Controller's acts and defaults and for the Controller's remuneration and expenses.
- (b) If, for any reason, including operation of law, a Controller:
 - (i) appointed in the circumstances described in paragraph (a); or
 - (ii) appointed at any other time,

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

8.3 Powers of Controller

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

- (a) seize, take and retain possession of, get in and manage the Collateral;
- (b) sell any of the Collateral to any person on such terms as it thinks fit:
 - (i) by auction, private treaty or tender;
 - (ii) on such terms and special conditions as the Security Agent or the Controller thinks fit;
 - (iii) for cash or for a deferred payment of the purchase price, in whole or in part, with or without interest or security; or
 - (iv) in one lot or in separate parcels;

- (c) acquire Additional Rights;
- (d) grant to any person an option to purchase any of the Collateral of the Grantor;
- (e) carry on or concur in carrying on any business of the Grantor in respect of that Collateral;
- (f) do anything to maintain, protect or improve any of the Collateral or to obtain income or returns from any of the Collateral;
- (g) to:
 - (i) borrow or raise any money, in its name or the name of the Grantor, from the Security Agent or any other person approved by the Security Agent in writing;
 - (ii) give Guarantees; and
 - (iii) grant any Security Interest over any of the Collateral to secure that money or Guarantee. That Security Interest may rank in priority to or equally with or after, the security interest granted under this Deed. It may be given in the name of the Grantor or otherwise;
- (h) lend money or provide financial accommodation;
- (i) employ or discharge any person as employee, contractor, agent, professional adviser, consultant or auctioneer for any purpose and at any remuneration and on any other terms as the Security Agent or Controller thinks fit;
- (j) make or accept any arrangement or compromise;
- (k) give receipts for money and other assets which may come into the hands of the Controller;
- (l) apply for, take up, transfer or surrender any Authorisation or any variation of any Authorisation;
- (m) to:
 - (i) perform or enforce;
 - (ii) exercise or refrain from exercising the Grantor's rights and powers under;
or
 - (iii) obtain the benefit in other ways of,

any documents or agreements or rights which form part of the Collateral and any documents or agreements entered into in exercise of any Power;
- (n) make debtors bankrupt, wind up corporations and do any thing in relation to any actual or contemplated Insolvency Event (including attend and vote at meetings of creditors and appointing proxies for meetings);
- (o) commence, defend, conduct, settle, discontinue or compromise proceedings in the name of the Grantor or on behalf of the Grantor, any proceedings including proceedings in relation to any insurance in respect of any of the Collateral;

- (p) enter into and execute documents or agreements on behalf of the Grantor or the Security Agent or Controller. This includes using the Grantor's seal and signing, accepting and endorsing cheques, promissory notes and bills of exchange;
- (q) surrender, release or transfer any of the Collateral or exchange it with any person for other property;
- (r) promote the formation of any corporation with a view to purchasing any of the Collateral or assuming the obligations of the Grantor or otherwise;
- (s) delegate to any person acceptable to the Security Agent any Power conferred on the Security Agent or Controller (including delegation);
- (t) exercise any voting or other rights or powers in respect of any part of the Collateral;
- (u) pay any outgoing or indebtedness of the Grantor or any other person;
- (v) redeem any Security Interest or acquire it and any debt secured by it;
- (w) make calls on the members of the Grantor in respect of any unpaid capital;
- (x) take out insurance and make, enforce, compromise and settle all claims in respect of insurance; and
- (y) do anything incidental to the exercise of any other Power.

8.4 Termination

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

8.5 Powers in augmentation

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

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

9. POWER OF ATTORNEY

The Grantor, by way of security, appoints the Security Agent, every Authorised Officer of the Security Agent and every Receiver and every Delegate severally and independently to be its attorney and in its name, on its behalf and as its act and deed after the occurrence of a Declared Default to execute, deliver and perfect all documents and do all things which the attorney may consider to be required or desirable for:

- (a) carrying out any obligation imposed on the Grantor by this Deed; and/or
- (b) enabling the Security Agent or any Authorised Officer of the Security Agent or Controller to exercise, or delegate the exercise of, any of the rights, powers, authorities and discretions conferred on it or him by or pursuant to this Deed or by law (including, after the occurrence of a Declared Default, execute a legal mortgage,

transfer, assignment or other assurance in favour of the Security Agent of any of the Collateral or give control (as defined in section 25 or section 341A of the PPSA)),

and the Grantor shall ratify and confirm whatever any attorney does or purports to do pursuant to its appointment under this clause 9.

10. OTHER RIGHTS A RELEVANT PARTY MAY EXERCISE

10.1 Completion of documents

If a Declared Default occurs, Security Agent, any Authorised Officer of the Security Agent, any Controller, a Relevant Party or any Attorney may complete any document executed by or on behalf of the Grantor and deposited with any Secured Party. It may complete it in favour of any Secured Party, any appointee of any Secured Party or any purchaser.

11. PPSA PROVISIONS

11.1 Exclusion of PPSA provisions

To the extent the law permits:

- (a) for the purposes of sections 115(1) and 115(7) of the PPSA:
 - (i) a Relevant Party need not comply with sections 95, 118, 121(4), 125, 130, 132(3)(d), 132(4) or 135; and
 - (ii) sections 142 and 143 are excluded;
- (b) for the purposes of section 115(7) of the PPSA, a Relevant Party need not comply with sections 132 and 137(3); and
- (c) if the PPSA is amended after the date of this Deed to permit the Grantor and a Relevant Party to agree to not comply with or to exclude other provisions of the PPSA, a Relevant Party may notify the Grantor that any of these provisions is excluded, or that a Relevant Party need not comply with any of these provisions, as notified to the Grantor by the Relevant Party.

11.2 Exercise of Powers by Security Agent

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

11.3 Confidentiality

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

11.4 Registration

- (a) A Relevant Party may, at the Grantor's expense, effect any registration (including under the PPSA in any manner the Relevant Party considers appropriate) or give any notification, in connection with the Security Interest under this Deed. The Grantor consents to any such registration or notification and, agrees not to make an amendment demand.

- (b) Without limiting paragraph (a), the Grantor consents to the Relevant Party, in any relevant jurisdiction, effecting any other registration or making any other filing as the Relevant Party considers necessary or appropriate in connection with this Deed and the Security Interest created or arising under this Deed.

12. APPLICATION OF MONEY RECEIVED

12.1 Order and application of money received

At any time after any Security Interest granted under this Deed is enforceable, all moneys received by the Security Agent, a Controller, an Attorney or any other person acting on their behalf under this Deed or any Collateral must be applied in accordance with clause 15 (*Application of Proceeds*) of the Intercreditor Agreement. For the purposes of section 14(6)(a) of the PPSA, this clause constitutes the method of payment application agreed by the parties to this Deed.

12.2 Notice of subsequent Security Interests

- (a) If any Secured Party receives actual or constructive notice of a subsequent Security Interest affecting any Collateral of the Grantor, it may open a separate account in the name of the Grantor in the books of that Secured Party.
- (b) If that Secured Party does not open a new account it will be treated as if it had done so at the time it received actual or constructive notice of the Security Interest.
- (c) From the time the new account is opened or is taken to be opened:
 - (i) all advances and accommodation made available by that Secured Party to the Grantor;
 - (ii) all payments and repayments made by the Grantor to that Secured Party; and
 - (iii) money to be applied towards the Secured Money under clause 12.1 (*Order and application of money received*),

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

13. OTHER SECURITY INTERESTS OVER COLLATERAL

- (a) Any Relevant Party may rely on the certificate of a holder of another Security Interest affecting or purporting to affect the Collateral as to the amount and property secured by that Security Interest.
- (b) A Relevant Party may pay or agree to pay at any time the amount certified by the holder of a Security Interest or purported Security Interest to be necessary to discharge it or some of the indebtedness secured by it or to acquire it. From the date of payment that amount will be part of the Secured Money and the Grantor will indemnify the Relevant Party against that amount. This applies whether or not that Security Interest or purported Security Interest was valid or prior, equal or subsequent ranking or the property or money stated in the certificate was secured by it.

14. PROTECTION

14.1 Protection of third parties

- (a) No person dealing with any Relevant Party (or its agent) is bound to enquire whether:
 - (i) an Event of Default or a Declared Default has occurred or whether a Security Interest granted under this Deed has become enforceable;
 - (ii) any Secured Money is due and payable or as to the amount of the Secured Money;
 - (iii) a person who is, or purports or is purported to be, a Controller or Attorney is duly appointed; or
 - (iv) the right of the Relevant Party (or its agent) to exercise any Power has arisen or become exercisable or as to the proprietary or validity of the exercise or purported exercise of any such Power.
- (b) No person dealing with a Relevant Party is affected by express notice that the exercise of any Power is unnecessary or improper.
- (c) The irregular or improper exercise of the Power is, as regards the protection of any person, regarded as authorised by the Grantor and this Deed, and is valid.
- (d) The receipt of any Authorised Officer of the Security Agent or any Relevant Party for any money or assets payable to or receivable or received by it exonerates the person paying that money or handing over that asset from being concerned as to their application, or from being liable or accountable for their loss or misapplication.

15. ASSIGNMENT

- (a) Subject to the other Finance Documents, the Security Agent may assign or novate all or any of its rights or novate all or any of its obligations under this Deed to another person.
- (b) If the Security Agent's rights under this Deed are assigned or novated, the Secured Money will include all actual and contingent liability of the Grantor to the assignee, whether or not it was incurred before the assignment or novation or in contemplation of it.
- (c) The Security Agent may assign and transfer all of its rights and obligations under this Deed to any replacement Security Agent appointed in accordance with the Intercreditor Agreement. Upon such assignment and transfer becoming effective, the replacement Security Agent shall be, and be deemed to be, acting as agent and trustee for each of the Secured Parties (including itself) for the purposes of this Deed in replacement of the previous Security Agent.

16. SAVING PROVISIONS

16.1 Waiver of notices

- (a) To the extent the law permits, the Grantor waives:
 - (i) its right to receive any notice that is required by:

- (1) any provision of the PPSA (including notice of a verification statement); or
 - (2) any other law before a Relevant Party exercises a right, power or remedy; and
- (ii) any time period that must otherwise lapse under any law before a Relevant Party exercises a right, power or remedy.
- (b) If the law which requires a period of notice or a lapse of time cannot be excluded, but the law provides that the period of notice or lapse of time may be agreed, that period or lapse is one day or the minimum period the law allows to be agreed (whichever is the longer).

16.2 **Security not to be affected**

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

16.3 **Reinstatement of rights**

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

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

- (b) The obligations under this clause 16.3 are continuing obligations, independent of the Grantor's other obligations under this Deed, and survive the discharge of the Security Interests granted under this Deed or the termination of this Deed.

16.4 **Variation**

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

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

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

16.5 Continuing security

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

16.6 No merger of security

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

- (a) any other Guarantee or Security Interest; or
- (b) any judgment, right or remedy against any person,

which any Secured Party or any person claiming through any Secured Party may have at any time.

16.7 Exclusion of moratorium

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

- (a) lessens, varies or affects in favour of the Grantor any obligation under this Deed or any Finance Document; or
- (b) delays, prevents or prejudicially affects the exercise by any Relevant Party of any Power,

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

17. GENERAL

17.1 Prompt performance

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

17.2 Certificates and determinations

Any certificate or determination by the Security Agent of a rate or amount under this Deed is *prima facie* evidence of the matters to which it relates.

17.3 Grantor to bear costs

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

17.4 Set-Off

The Security Agent and each other Finance Party may (but shall not be obliged to), after the occurrence of a Declared Default, set-off any matured obligation due from the Parent, the Original Borrower, the Grantor or an Obligor under the Finance Documents (to the

extent beneficially owned by any Finance Party) against any obligation (whether matured or not) owed by the Security Agent or, as the case may be, that Finance Party to the Parent, the Original Borrower or that Obligor, regardless of the place of payment, booking branch or currency of either obligation.

17.5 Variation and waiver

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

17.6 Remedies and waivers cumulative

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

17.7 Conditions of consents, approvals or waivers

- (a) The Grantor agrees to comply with all conditions in any consent, approval or waiver given in connection with this Deed.
- (b) Any amendment, waiver or consent by the Security Agent under this Deed must be in writing and may be given subject to any conditions thought fit by the Security Agent. Any waiver or consent shall be effective only in the instance and for the purpose for which it is given.

17.8 Severability

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

17.9 Each signatory bound

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

17.10 Counterparts

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

17.11 **Governing law and jurisdiction**

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

17.12 **Service of process**

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

- (a) irrevocably appoints Virgin Active Australia Pty Limited as its agent for service of process in relation to any proceedings in connection with this Deed; and
- (b) agrees that failure by a process agent to notify the Grantor of the process will not invalidate the proceedings concerned.

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

18. **CONTRACTUAL RECOGNITION OF BAIL-IN**

18.1 **Definitions**

In this clause 18:

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

"Bail-In Legislation" means:

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

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

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

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

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

"Write-down and Conversion Powers" means:

- (c) in relation to any Bail-In Legislation described in the EU Bail-In Legislation Schedule from time to time, the powers described as such in relation to that Bail-In Legislation in the EU Bail-In Legislation Schedule; and

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

18.2 **Contractual recognition of bail-in**

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

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

SCHEDULE 1

Notice Details

Part A, Grantor

Grantor	Notice Details
Virgin Active Asia Pacific Holdings Limited	Address: One Fleet Place, London, EC4M 7WS Attention: The Company Secretary Email: [REDACTED]

Part B, Security Agent

Security Agent	Notice Details
HSBC Corporate Trustee Company (UK) Limited	Address: 8 Canada Square, London, E14 5HQ Attention: ISV Trustee Services Administration Email: [REDACTED]

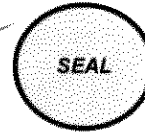
EXECUTION PAGE

EXECUTED as a DEED

by HSBC CORPORATE TRUSTEE COMPANY (UK) LIMITED acting by

.....
Authorised signatory


Daisuke Takekawa
Authorised Signatory

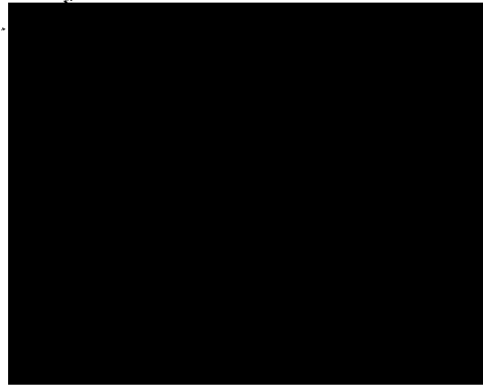


Witnessed by:

.....
Witness Name:


..... Carole Rathwa

Witness Address:



Grantor

The attorney executing this Deed confirms that he or she has no notice of the revocation or suspension of his or her power of attorney.

EXECUTED as a DEED

by Virgin Active Asia Pacific Holdings
Limited by its director

SEAL

Signature of director:

Name of director

in the presence of:

Signature of witness:

Name of witness:

Address of witness:

Occupation of witness: