

MR01

Particulars of a charge

631096/13

Laserform

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Please see 'How to pay' on the
last page

You can use the WebFiling
Please go to www.companieshouse.gov.uk

☒ **What this form is for**
You may use this form to register
a charge created or evidenced by
an instrument

☒ **What this form is NOT for**
You may not use this form to
register a charge where the
instrument Use form MR01

FRIDAY



A35

A3FBSHRC

29/08/2014

#30

COMPANIES HOUSE

This form **must be delivered to the Registrar for registration within 21 days** beginning with the day after the date of creation of the charge. If delivered outside of the 21 days it will be rejected unless it is accompanied by a court order extending the time for delivery

☒ You **must** enclose a certified copy of the instrument with this form. This will be scanned and placed on the public record. **Do not send the original.**

1 Company details

Company number 0 8 8 4 8 0 3 8

Company name in full Direct Consumer Retail Limited

For official use

→ **Filing in this form**
Please complete in typescript or in
bold black capitals

All fields are mandatory unless
specified or indicated by *

2 Charge creation date

Charge creation date 2 7 0 8 2 0 1 4

3 Names of persons, security agents or trustees entitled to the charge

Please show the names of each of the persons, security agents or trustees
entitled to the charge

Name Michael Ziff ✓

Name Harvey Jacobson ✓

Name

Name

If there are more than four names, please supply any four of these names then
tick the statement below

☐ I confirm that there are more than four persons, security agents or
trustees entitled to the charge

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Particulars of a charge

4

Brief description

Please give a short description of any land, ship, aircraft or intellectual property registered or required to be registered in the UK subject to a charge (which is not a floating charge) or fixed security included in the instrument

Brief description

None

Please submit only a short description. If there are a number of plots of land, aircraft and/or ships, you should simply describe some of them in the text field and add a statement along the lines of, "for more details please refer to the instrument"

Please limit the description to the available space

5

Other charge or fixed security

Does the instrument include a charge (which is not a floating charge) or fixed security over any tangible or intangible or (in Scotland) corporeal or incorporeal property not described above? Please tick the appropriate box

☒ Yes

☐ No

6

Floating charge

Is the instrument expressed to contain a floating charge? Please tick the appropriate box

☒ Yes Continue

☐ No Go to **Section 7**

Is the floating charge expressed to cover all the property and undertaking of the company?

☒ Yes

7

Negative Pledge

Do any of the terms of the charge prohibit or restrict the company from creating further security that will rank equally with or ahead of the charge? Please tick the appropriate box

☒ Yes

☐ No

8

Trustee statement ¹

You may tick the box if the company named in Section 1 is acting as trustee of the property or undertaking which is the subject of the charge

☐

¹ This statement may be filed after the registration of the charge (use form MR06)

9

Signature

Please sign the form here

Signature

Signature

X *David White LLP*

X

This form must be signed by a person with an interest in the charge

MR01

Particulars of a charge



Presenter information

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

Contact name Peter Considine (PMC/CHD/DCR 5-1)

Company name Walker Morris LLP

Address Kings Court

12 King Street

Post town Leeds

County/Region West Yorkshire

Postcode L S 1 2 H L

Country UK

DX 12051

Telephone 0113 283 2500



Certificate

We will send your certificate to the presenter's address if given above or to the company's Registered Office if you have left the presenter's information blank.



Checklist

We may return forms completed incorrectly or with information missing

Please make sure you have remembered the following:

- [x] The company name and number match the information held on the public Register
- [x] You have included a certified copy of the instrument with this form
- [x] You have entered the date on which the charge was created
- [x] You have shown the names of persons entitled to the charge
- [x] You have ticked any appropriate boxes in Sections 3, 5, 6, 7 & 8
- [x] You have given a description in Section 4, if appropriate
- [x] You have signed the form
- [x] You have enclosed the correct fee
- [x] Please do not send the original instrument, it must be a certified copy



Important information

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



How to pay

A fee of £13 is payable to Companies House in respect of each mortgage or charge filed on paper.

Make cheques or postal orders payable to 'Companies House'.



Where to send

You may return this form to any Companies House address. However, for expediency, we advise you to return it to the appropriate address below.

For companies registered in England and Wales
The Registrar of Companies, Companies House,
Crown Way, Cardiff, Wales, CF14 3UZ
DX 33050 Cardiff

For companies registered in Scotland
The Registrar of Companies, Companies House,
Fourth floor, Edinburgh Quay 2,
139 Fountainbridge, Edinburgh, Scotland, EH3 9FF
DX ED235 Edinburgh 1
or LP - 4 Edinburgh 2 (Legal Post)

For companies registered in Northern Ireland
The Registrar of Companies, Companies House,
Second Floor, The Linenhall, 32-38 Linenhall Street,
Belfast, Northern Ireland, BT2 8BG
DX 481 N R Belfast 1



Further information

For further information, please see the guidance notes on the website at www.companieshouse.gov.uk or email enquiries@companieshouse.gov.uk

This form is available in an alternative format. Please visit the forms page on the website at www.companieshouse.gov.uk



FILE COPY

D7

CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 8848038

Charge code: 0884 8038 0001

The Registrar of Companies for England and Wales hereby certifies that a charge dated 27th August 2014 and created by DIRECT CONSUMER RETAIL LTD was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 29th August 2014.

Given at Companies House, Cardiff on 3rd September 2014



Companies House



THE OFFICIAL SEAL OF THE
REGISTRAR OF COMPANIES

DATED 27th AUGUST 2014

DIRECT CONSUMER RETAIL LIMITED (1)

and

MICHAEL ZIFF AND HARVEY JACOBSON (2)

COMPOSITE GUARANTEE AND TRUST DEBENTURE

WALKER MORRIS LLP

Kings Court
12 King Street
LEEDS
LS1 2HL
Tel 0113 2832500
Fax 0113 2459412
Ref PMC

**WE CERTIFY THAT, SAVE FOR MATERIAL REDACTED
PURSUANT TO S.859G OF THE COMPANIES ACT 2006,
THIS COPY INSTRUMENT IS A CORRECT COPY OF
THE ORIGINAL INSTRUMENT**

Walker Morris LLP

28/08/14

WALKER MORRIS LLP

THE ORIGINAL INSTRUMENT
THE COPY INSTRUMENT IS A CORRECT COPY OF
PURSUANT TO 22 USC OF THE COMPANIES ACT 2003
WAS CERTAIN THAT SUCH A INSTRUMENT HAD BEEN

WITNESSED BEFORE ME

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THIS COMPOSITE GUARANTEE AND TRUST DEBENTURE is made on 27 August 2014

BETWEEN

- (1) **THE COMPANIES** details of which are set out in Schedule 1 to this Deed (together the **Chargors** and each a **Chargor**), and
- (2) **MICHAEL ZIFF** of [REDACTED] and **HARVEY JACOBSON** of [REDACTED] acting jointly in their capacity as agent and trustee for the Beneficiaries (as defined below) of the security constituted by this Composite Guarantee and Trust Debenture (in such capacity referred to as the **Security Trustee** which expression shall include their successors and assigns in that capacity or trustees of the trust under which this security is held)

THIS DEBENTURE WITNESSES AS FOLLOWS

1 INTERPRETATION

1.1 In this deed the following words have the meanings set out next to them

Administrator means any person appointed or to be appointed by the Security Trustee as administrator to any Chargor pursuant to Schedule B1 of the Insolvency Act 1986,

Appointee means any person, firm or company or fluctuating body of persons (including every Receiver) to whom the Security Trustee may from time to time 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 Trustee under this Deed or under any legislation in relation to the Charged Assets, and any person, firm or company or fluctuating body of persons to whom any such Appointee lawfully sub-delegates any or all of such powers, authorities and discretions,

Beneficiaries mean the the Lenders and the Security Trustee,

Charged Assets means all assets, rights and property of the Chargors the subject of any security created hereby or pursuant hereto and each and every item included therein or part or parts thereof,

Charged Properties means those of the Charged Assets referred to in clauses 3.1.1 and 3.1.2 hereof and each and every part or parts thereof,

this Deed means this Composite Guarantee and Trust Debenture as the same may from time to time be varied, amended, substituted, novated or assigned and as supplemented by any Deed of Accession,

Deed of Accession means a deed of accession in the form required by the Security Trustee,

Discharge Date means the date on which the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full and the Beneficiaries are under no obligation to make any further credit facilities available,

Finance Documents means all documents evidencing the Loans and any other credit or financial facility made available by one or more Lenders to a Chargor, as the same may be varied, amended, supplemented, substituted, replaced or novated from time to time,

Guarantee means the guarantee given by each Chargor set out in clauses 2.2 and 2.3 and schedule 3 of this Deed,

Insurances means all contracts and policies of insurance of whatever nature which are from time to time taken out by or on behalf of the Chargors or (to the extent of such interest) in which any of the Chargors has an interest (excluding in each case, policies maintained for the benefit of third parties to the extent that sums are payable to such third parties thereunder),

Intellectual Property Rights means in relation to a Chargor, all its patents (including supplementary protection certificates), utility models, registered and unregistered trade marks (including service marks), business names, rights in passing off, copyright, database rights, registered and unregistered rights in designs (including in relation to semi-conductor products), trade secrets, know-how and confidential information and all similar and/or equivalent rights, including all rights under any agreements to use any of the above, licences and permissions relating thereto and, in each case, any extensions and renewals of, and any applications for, such rights,

Lenders means Michael Ziff, Debra Ziff, Sam Ziff, Henry Ziff, Alex Ziff, Harvey Jacobson, Jeanette Jacobson, any person related to any of the foregoing persons (including by marriage) and any trust whose trustees and/or beneficiaries comprise of any one or more of the foregoing persons and/or their relatives,

Loans means each loan advanced by, each loan note issued by a Chargor and subscribed for by, and any other credit or financial facility extended to a Chargor by, a Beneficiary,

Receiver means a receiver and manager or (if the Security Trustee so specifies in the appointment and an administrative receiver may be appointed to any Chargor) an administrative receiver appointed by the Security Trustee under this Deed,

Secured Liabilities means all monies, obligations and liabilities whether principal, interest or otherwise which are now or at any time hereafter may become due, owing or incurred to the Security Trustee and/or the Beneficiaries or any of them by each Chargor and covenanted and/or guaranteed to be paid or discharged by each Chargor to the Beneficiaries under clause 2 and whether as principal debtor, guarantor, surety and whether alone or jointly with any other person or company or otherwise,

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 hereof and ending on the Discharge Date,

VAT means value added tax

1 2 Any reference in this Deed to

1 2 1 The **Security Trustee** shall be construed so as to include a new trustee appointed pursuant to clause 21 5 2 of this Deed and **Beneficiary** shall be construed so as to include any assignee or successor in title of such Beneficiary

1 2 2 the term **including** shall be construed as meaning **including without limitation**

1 3 Save where the contrary is indicated, any reference in this Deed to a statute or statutory provision shall be construed as a reference to such statute or statutory provision as the same may be amended or re-enacted and all instruments, orders, plans, regulations, bye-laws, permissions and directions made at any time thereunder

- 1 4 Where a party to this Deed agrees to indemnify another party against any claim or liability in connection with any matter, the expression, claim or liability (or other similar reference) shall be deemed to include all liabilities, outgoings, costs (on a full and unqualified indemnity basis and including any VAT thereon), damages, losses and expenses whatsoever directly or indirectly relating to or arising out of the subject matter under consideration
- 1 5 References to clauses and Schedules shall be references to clauses of and schedules to this Deed,
- 1 6 Words denoting the singular number only shall include the plural number also and vice versa

2 MONIES SECURED

- 2 1 Each Chargor hereby covenants with the Security Trustee for itself and/or on behalf of each Beneficiary that it will on demand in writing made to it by the Security Trustee for itself and/or on behalf of each Beneficiary (provided such sums are due and payable) pay and discharge to the Security Trustee all monies and liabilities now or in the future due, owing or incurred by such Chargor to each Beneficiary under or pursuant to the Finance Documents
- 2 2 Each Chargor irrevocably and unconditionally jointly and severally
- 2 2 1 guarantees to each Beneficiary punctual performance by each Chargor of all that Chargor's obligations under the Finance Documents,
- 2 2 2 undertakes with each Beneficiary that whenever another Chargor does not pay any amount when due under or in connection with any Finance Document, it shall immediately on demand pay that amount as if it was the principal obligor, and
- 2 2 3 indemnifies each Beneficiary immediately on demand against any cost, loss or liability suffered by that Beneficiary if any obligation guaranteed by it is or becomes unenforceable, invalid or illegal The amount of the cost, loss or liability shall be equal to the amount which that Beneficiary would otherwise have been entitled to recover
- 2 3 The Guarantee is given subject to and with the benefit of the provisions set out in Schedule 3 to this Deed

- 2 4 Payment of the Secured Liabilities direct to the relevant Beneficiary in accordance with the provisions of the relevant Finance Document will (subject to the provisions of clauses 14 and 24 below) be a good discharge of the above covenants

3 CHARGING PROVISIONS

- 3 1 Each Chargor with full title guarantee and as beneficial owner and as a continuing security for the payment of all the Secured Liabilities hereby assigns by way of security and charges (as relevant) to the Security Trustee on its own behalf and on behalf of the Beneficiaries

3 1 1 by way of first legal mortgage, all interests or estates in any freehold or leasehold properties belonging to each such Chargor at the date hereof and/or the proceeds of sale thereof together with all buildings fixtures (including trade fixtures) and fixed plant and machinery at any time thereon (whether under any agreement, option, licence, charge, lien or otherwise) and the proceeds of sale of all or any part thereof and the benefit of any covenants for title given or entered into by any predecessor in title of the Chargor and any monies paid or payable in respect of such covenants,

3 1 2 by way of specific equitable charge all estates or interests in any freehold or leasehold properties (except the properties referred to in clause 3 1 1 above) at any time hereafter during the Security Period belonging to or charged to such Chargor and/or the proceeds of sale thereof together with all buildings, fixtures (including trade fixtures) and fixed plant and machinery at any time thereon (whether under any agreement, option, licence, charge, lien or otherwise) and the proceeds of sale of all or any part thereof and the benefit of any covenants for title given or entered into by any predecessor in title of the Chargor and any monies paid or payable in respect of such covenants,

3 1 3 by way of first fixed charge

- (a) all book debts and other debts and other monetary claims whether actual or contingent now or at any time during the Security Period due or owing to such Chargor and the benefit of all things in action due or owing to or purchased or otherwise acquired by such Chargor or to or in which the Chargors may now or at any time hereafter be or become entitled or interested, together with the full benefit of all rights and remedies relating thereto including any negotiable or non-negotiable

instruments, guarantees, bonds, indemnities, debentures, legal and equitable charges and other security, reservation or proprietary rights, rights of tracing, liens and all other rights and remedies of whatsoever nature in respect of the same but excluding those debts, rights and remedies charged by other sub-clauses of this clause 3 1,

- (b) all credit balances and bank deposits with any person,
- (c) all the plant and machinery, vehicles, computers and other equipment of such Chargor now or hereafter owned by such Chargor and all spare parts, replacements, modifications and additions for or to the same and the full benefit of all warranties and maintenance contracts in relation thereto but excluding any of the same for the time being forming part of the Chargor's stock in trade or work in progress,
- (d) all stocks, shares, securities or other interests (together with all rights in respect thereof or incidental thereto) whether marketable or otherwise now or at any time during the Security Period belonging to such Chargor (other than in relation to Group Companies),
- (e) all stocks, shares, securities or other interests (together with all rights in respect thereof or incidental thereto) in relation to Group Companies whether marketable or otherwise now or at any time during the Security Period belonging to such Chargor,
- (f) the full benefit of all present and future Insurances and all proceeds thereof and all bonuses and other monies, benefits and advantages that may be or become payable or accrue thereunder or under any substituted policy and all the right, title and interest whatsoever of such Chargor therein together with all rights and remedies relating thereto,
- (g) all its present and future Intellectual Property Rights,
- (h) the benefit of all or any licences presently held or hereafter acquired by such Chargor in connection with its business or the use of any of the Charged Assets and the right to recover and receive all compensation which may at any time become payable to it in respect thereof,
- (i) any beneficial interest, claim or entitlement of such Chargor in any pension fund,

(j) the goodwill and the uncalled capital of such Chargor both present and future, and

(k) all amounts realised upon the enforcement or execution of any order of the court in favour of such Chargor under sections 212, 213, 214, 238, 239, 244 and/or 423 of the Insolvency Act 1986,

3 1 4 by way of floating charge the undertaking and all property, assets and rights of such Chargor whatsoever and wheresoever both present and future (including without limitation the property, assets and rights of such Chargor referred to in clauses 3 1 1 to 3 1 3 (inclusive) if and in so far as such mortgages and/or charges therein comprised or any part or parts of the same shall be for any reason ineffective as such)

3 2

3 2 1 No Chargor shall during the Security Period without the prior consent in writing of the Security Trustee

(a) create or permit to exist any Security on or affecting the Charged Assets,

(b) sell, transfer, lease, lend or otherwise dispose of, whether by a single transaction or a number of transactions and whether related or not the whole or any part of the Charged Assets save for disposals in the ordinary course of trading of any Charged Assets which are subject only to the floating charge comprised in clause 3 1 4 above before that charge has crystallised,

3 2 2 None of the foregoing prohibitions in this clause 3 2 shall be construed as limiting any powers exercisable by any Receiver appointed under this Deed as the agent of any Chargor

3 3 The Security Trustee may at any time by notice to any Chargor at any time (including, without limitation, if the Security Trustee shall consider any of the Charged Assets to be in danger of being seized or sold under any form of distress, attachment or execution levied or threatened or to be otherwise to be in jeopardy) convert the floating charge comprised in clause 3 1 4 into a specific charge as regards any Charged Assets specified (whether individually, by class or otherwise) in that notice and, in either case, may appoint a Receiver thereof

3 4 Service of a notice by the Security Trustee pursuant to clause 3 3 in relation to any of the Charged Assets (or any class thereof) shall not be construed as a waiver or abandonment of the Security Trustee's right to serve similar notices in respect of any other of the Charged Assets (or any class thereof) or of any other of the rights of the Security Trustee and/or any of the Beneficiaries under this Deed

3 5 If, without the Security Trustee's prior written consent

3 5 1 any Chargor resolves to take or takes any steps to

- (a) charge or otherwise encumber any of the Charged Assets subject to a floating charge,
- (b) create a trust over any of the Charged Assets subject to a floating charge,
- (c) dispose of any of the Charged Assets subject to a floating charge except as expressly permitted or with the prior written consent of the Security Trustee or by way of sale in the ordinary course of such Chargor's trading,

3 5 2 any person resolves to take or takes any step to levy any distress, execution, sequestration or other process against any Charged Asset subject to a floating charge,

then the floating charge created by clause 3 1 4 shall be automatically and instantly crystallised (without the necessity of notice) into a fixed charge over such Charged Assets

3 6 It is hereby agreed and acknowledged by each Chargor that the floating charge comprised in clause 3 1 4 is a qualifying floating charge for the purposes of paragraph 14(1) of Schedule B1 to the Insolvency Act 1986 and that paragraph 14(2) of that Schedule applies to that floating charge

4 COVENANTS OF THE CHARGOR

Each Chargor hereby covenants with the Security Trustee for itself and on behalf of each Beneficiary that during the Security Period it

- 4 1 shall keep the Charged Properties and all fixtures now or for the time being thereon in good and substantial repair and condition and all plant and machinery now or for the time being thereon in good working order in all material respects,
- 4 2 shall keep proper books and records and permit the Security Trustee and any persons authorised by the Security Trustee on reasonable notice and during normal business hours to have access to and inspect the same,
- 4 3 shall not deal with its book or other debts or securities for money otherwise than in the ordinary course of getting in and realising the same, which expression shall not authorise the selling, factoring or discounting by any Chargor of its book debts or negotiable instruments held by it or any dealing by any Chargor with any such debtor or negotiable instruments held by it in a manner inconsistent with the provisions of clause 4 7,
- 4 4 shall keep such of the Charged Assets as are insurable, insured in the joint names of such Chargor and the Security Trustee or with the interest of the Security Trustee and the Beneficiaries endorsed or noted on the policies in such manner as the Security Trustee may require against loss or damage by fire and such other risks as the Security Trustee shall from time to time require to the full reinstatement value thereof (or such lower value as the Security Trustee may reasonably approve) or as the Security Trustee may reasonably decide with such insurance office or underwriters as may from time to time be approved by the Security Trustee in writing and each Chargor shall maintain such other insurances as are normally maintained by a prudent company carrying on a similar business,
- 4 5 shall punctually pay all premiums and other monies necessary for keeping the aforesaid insurances in force and deposit with the Security Trustee such policies and receipts (or other evidence) for such payments as the Security Trustee may reasonably require and upon default of the same the Security Trustee may (but shall not be obliged to) take out or renew such insurances in such sum(s) as the Security Trustee may reasonably think expedient and all monies expended by the Security Trustee under this clause 4 5 shall be deemed to be properly paid by the Security Trustee
- 4 6 shall, unless otherwise agreed with the Security Trustee, apply all monies which may at any time be received or receivable under any insurances (whether effected by the Chargor or the Security Trustee and whether or not effected in pursuance of the covenants in this clause) in replacing, restoring or reinstating the Charged Assets in

respect of which the monies were received, or if so required by the Security Trustee after any demand under this Deed, towards the discharge of the monies hereby secured,

4 7 shall in relation to the book and other debts referred to in clause 3 1 3(a)

4 7 1 immediately on receipt pay into its current account nominated by the Security Trustee all monies which it may receive in respect of such debts

4 7 2 if called upon to do so by the Security Trustee

(a) execute a legal assignment of such debts to the Security Trustee (as trustee and agent for the Beneficiaries) in such terms as the Security Trustee may require and give notice thereof to the debtors from whom such debts are owing or incurred and take such other steps as the Security Trustee may require to perfect such legal assignment,

(b) deliver an account to the Security Trustee of the particulars of and the amounts due in respect of each such debt at that date, and

4 7 3 not without the prior consent in writing of the Security Trustee purport to charge, waive, assign or otherwise deal with such debts in favour of any other person

4 8 shall, if called upon to do so by the Security Trustee and forthwith deliver to the Security Trustee the certificates or other documents of title relating to all or any of the stocks, shares, securities or other interest referred to in clause 3 1 3(d) and 3 1 3(e) and execute all such transfers and other documents as may be necessary to enable the Security Trustee or its nominees to be registered as the owners of or otherwise to obtain good legal title to the same,

4 9 shall notify the Security Trustee of any contract made by the Chargor for the acquisition by the Chargor of any freehold or leasehold property and in the case of any such property the title to which (either before or after the acquisition thereof) is registered under the Land Registration Acts 1925 to 1986 shall notify the Security Trustee of the title number(s) thereof and contemporaneously with the making of the application to the Land Registry for the registration of the Chargor as the Registered Proprietor thereof shall request the Chief Land Registrar to enter a Notice of this Deed on the Charges Register of the said title number(s),

- 4 10 shall (subject to the rights of any prior mortgagee) deposit with the Security Trustee the deeds and documents of title in its possession or control save for documents sent to the Land Registry relating to any such property as is referred to in clause 3 1 2 upon its acquisition by the Chargor and to any other equitably charged property and shall at any time if called upon to do so by the Security Trustee execute over all or any part thereof a charge by way of legal mortgage in favour of the Security Trustee in such form as the Security Trustee may require and in the case of any leasehold property shall use its best endeavours to obtain any requisite consent therefor from the lessor,
- 4 11 shall promptly inform the Security Trustee of any event or of the receipt of any material notice which adversely affects the title of the Chargor to the Charged Properties or any fixtures thereon or which adversely affects its ability to carry on its business or the security created by this Deed in any material respect,
- 4 12 shall allow the Security Trustee or its agents with or without surveyors, workmen and others at all reasonable times on reasonable notice to enter or inspect the Charged Property to view the state of repair thereof and to carry out at the Chargor's expense any repairs thereto which the Security Trustee considers necessary (without thereby becoming liable as a mortgagee in possession),
- 4 13 shall (where the Chargor is tenant) comply with all material covenants on the part of the tenant under any lease under which the whole or any part of the Charged Properties are held and shall not do any act or thing whereby the said lease or leases may become liable to forfeiture or otherwise be determined,
- 4 14 shall (where the Chargor is landlord) comply with all material covenants on the part of the landlord under any lease, underlease, tenancy or agreement for lease, licence or agreement to which the Charged Properties are now or may become subject and shall duly and efficiently implement any provision for review in any such lease, underlease, tenancy or agreement,
- 4 15 shall (where the Chargor is landlord) enforce the due observation and performance in all material respects of all tenant's obligations under any lease, underlease, tenancy, agreement for lease, licence or agreement to which the Charged Properties are or may become subject,

- 4 16 shall in relation to the Charged Properties comply or procure compliance in all material respects with all obligations under any present or future statute, regulation, order or instrument or under any bye-law, regulation or requirement of any competent authority or planning permissions or other approvals, licences or consents and produce to the Security Trustee within seven days of receipt every material notice, order or proposal given or made by any competent authority and either comply with the same or make such objections and representations against the same as the Security Trustee may reasonably require or approve,
- 4 17 shall not sever or permit to be severed (save as authorised or permitted by this Deed) from the Charged Properties any fixtures and/or fittings now or subsequently affixed to or placed upon the Charged Properties except for the purpose of replacing them with others of equal or greater value or where such fixtures and/or fittings are obsolete or redundant and any such replacements shall be subject to the security created by this Deed,
- 4 18 shall not, without the prior consent in writing of the Security Trustee, exercise any of the powers of leasing or agreeing to lease vested in or conferred on mortgagors by common law or by statute or create or suffer to be created a tenancy of any description of the Charged Properties or confer upon any person which is not a Chargor any contractual licence, right or interest to occupy the whole or any part of the said property or accept or agree to accept a surrender of any lease, underlease tenancy, licence or agreement,
- 4 19 at any time shall at the request of the Security Trustee call up (and not call up without the prior consent in writing of the Security Trustee) any uncalled capital both present and future and any monies received from the calling up of capital shall, if required by the Security Trustee, be applied in or towards the discharge of the Secured Liabilities,

and in the case of default by the Chargor in the performance of any of the foregoing covenants the Security Trustee may (but shall not be obliged to) do whatever may be necessary to make good such default and all sums expended by the Security Trustee in that behalf shall be reimbursed by such Chargor to the Security Trustee on demand and until so reimbursed by the Chargor shall be added to the Secured Liabilities and bear interest accordingly and the Security Trustee may effect insurances in such amounts and against such risks as the Security Trustee shall decide irrespective of whether the Chargor is in default in the manner described in clause 4 4 of this Deed

5 POWER OF SALE

- 5 1 For the purposes of all powers implied by statute the Secured Liabilities shall be deemed to have become due and payable on the date hereof and the Security Trustee may exercise the statutory power of sale conferred on mortgagees by the Law of Property Act 1925 free from the restrictions imposed by section 103 thereof
- 5 2 Immediately upon the Security Trustee or any of the Beneficiaries making demand upon the Chargors for payment and discharge in accordance with the provisions of the agreements in respect of the Secured Liabilities the monies hereby secured shall be deemed to have become due within the meaning of section 101 of the Law of Property Act 1925 and this security shall immediately become enforceable and the power of sale and other powers conferred by the said section 101 as varied or extended by this Deed and all other powers conferred upon the Security Trustee by this Deed shall be immediately exercisable
- 5 3 The statutory powers of leasing conferred on the Security Trustee shall be extended so as to authorise the Security Trustee to lease and make agreements for leases at a premium or otherwise and accept surrenders of leases and grant options as the Security Trustee shall consider expedient and without the need to comply with any of the provisions of sections 99 and 100 of the Law of Property Act 1925 and for the purposes of sections 99 and 100 of the said Act the expression **mortgagor** shall include any encumbrancer deriving title under the original mortgage, and sections 99(18) and 100(12) of the said Act shall not apply
- 5 4 The Security Trustee shall, so far as it is lawful to do so, be entitled to consolidate all or any of the securities created by or pursuant to this Deed with any other securities whether now in existence or hereafter created and accordingly the restriction upon the right of consolidating mortgage securities contained in section 93(1) of the Law of Property Act 1925 shall not apply to this Deed
- 5 5 Section 109(1) of the Law of Property Act 1925 shall not apply to this Deed

6 APPOINTMENT OF RECEIVER

The Security Trustee may at any time after the Security Trustee or any of the Beneficiaries has demanded payment of the Secured Liabilities or the floating charge comprised in clause 3 1 4 has crystallised pursuant to the provisions of this Deed, or if, in relation to any Chargor, that Chargor so requests the Security Trustee in writing, (whether or not the Security Trustee has entered into

or taken possession of the Charged Assets or any of them) by writing appoint, to the full extent permitted by law, any person or persons (including, in relation to any such Receiver or Receivers, a manager or official of the Security Trustee or any of the Beneficiaries) to be either (1) an administrator or administrators of all or any of the Chargors in accordance with Section 8 and Schedule B1 to the Insolvency Act 1986 or (2) a Receiver or Receivers of all or any of the Charged Assets upon such terms as to remuneration and otherwise as the Security Trustee may from time to time think fit and may similarly remove any Receiver and appoint another in his stead and any Receiver so appointed shall be the agent of such Chargor for all purposes and the Chargor shall be solely responsible for his contracts, engagements, acts, defaults, omissions and losses and for liabilities incurred by him for his misconduct and for his remuneration, and any such Receiver shall have all of the powers in relation to the Chargors and the property hereby charged conferred by the Law of Property Act 1925 on mortgagees and on mortgagees in possession and Receivers appointed under the said Act and as are specified in Schedule 1 of the Insolvency Act 1986 and in addition shall have the following powers namely

- 6 1 to enter upon, take possession of, collect and get in the Charged Assets and for that purpose to make or to require the directors of the Chargors to make calls upon the holders of the Chargors' share capital in respect of any such capital of the Chargors which remains uncalled and to enforce payment of calls so made and any previous unpaid calls by taking proceedings in the name of the Chargors or his own name,
- 6 2 to carry on, manage or concur in carrying on or managing the business of the Chargor as he may think fit including (without limitation) power to perform, repudiate, rescind, or vary any contract or agreement to which the Chargor is a party,
- 6 3 to carry out, continue or complete the development of any of the Charged Properties or any other development in relation to which the Chargor may from time to time be engaged in such manner as the Receiver may from time to time think fit and to carry out, continue, vary, repudiate, terminate or otherwise act in relation to any contract for, or in connection with, any such development and in particular and by way of addition to, but without prejudice to the generality of the foregoing, to agree to any restriction, alteration or extension of the works covered by any such contract and to employ, engage or dismiss the services of any builder or other contractor or professional adviser involved in or to be involved in such development or the demolition, improvement, repair or construction thereof,

- 6 4 for the purpose of exercising any of the powers, authorities and discretions conferred on him by or pursuant to this Deed and/or defraying any costs, charges, losses or expenses (including his remuneration) which shall be incurred by him in the exercise thereof or for any other purpose to make advances or to raise or borrow money either unsecured or secured on the Charged Assets in priority to or pari passu with or subsequent to the security hereby constituted or otherwise and at such rate or rates of interest and generally on such terms and conditions as the Receiver may think fit,
- 6 5 to sell or concur in selling or exchanging the Charged Assets or any of them and to grant or concur in granting leases, tenancies, licences and rights of user for any term and to grant or concur in granting renewals and surrenders or accept or concur in accepting surrenders of any leases or tenancies at or for such consideration, rents and premiums and upon such terms and conditions (including provisions for the review of rent and the granting of long leases at a premium with or without a rent reserved) as the Receiver shall in his absolute discretion think fit and without prejudice to the generality of the foregoing he may do any of the aforementioned things for a consideration, consisting of cash, debentures 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 may think fit, and carry into effect and complete any such transaction by executing any deeds or documents as may be necessary or appropriate in the name of or on behalf of the Chargor Sales of property may be by public auction, tender or private treaty with or without advertisement and in such lot or lots as the Receiver may in his absolute discretion think fit Fixtures and/or plant and machinery may (where legally possible) be severed and sold separately from the property containing them without the consent of the Chargor,
- 6 6 to promote the formation of a subsidiary company and/or companies of any of the Chargors with a view to such subsidiary company and/or companies purchasing, leasing, licensing or otherwise acquiring an interest in all or any of the assets of the Chargor,
- 6 7 to make allowances to and arrangements with any lessees, tenants or other persons from whom any rents and profits may be receivable (including the granting of any licences and reviewing rent in accordance with the terms of and varying the provisions of any leases affecting the Charged Properties),

- 6 8 to make and effect all such repairs, structural and other alterations, improvements, additions and developments in or to the Charged Properties and/or the Charged Assets as he may consider fit and to purchase or otherwise acquire any materials, articles or things and do anything else in connection with the Charged Properties and/or the Charged Assets which the Receiver may think desirable for the purpose of making productive or increasing the letting or market value of the Charged Properties and/or the Charged Assets or protecting the security constituted by this Deed,
- 6 9 to arrange for or provide all the services (including without prejudice to the generality of the foregoing the lighting, heating and cleansing) which may be deemed proper for the efficient use or management of the Charged Properties,
- 6 10 to effect and renew insurances,
- 6 11 to redeem any prior Security and to settle and approve the accounts of the encumbrancer and accounts so settled and approved shall be conclusive and binding on the Chargor and the money so paid shall be a receivership expense,
- 6 12 to exercise or permit the Chargor or any nominees of the Chargor to exercise any powers or rights incidental to the ownership of the Charged Assets in such manner as he may think fit and in particular (as regards shares, stock and securities) any voting rights conferred by the same and (as regards securities) any rights of enforcing the same by foreclosure, sale or otherwise,
- 6 13 to 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 any Chargor or relating in any way to the Charged Assets,
- 6 14 to bring, prosecute, enforce, defend and abandon all such actions, suits and proceedings in relation to the Charged Assets as may seem to him to be expedient,
- 6 15 to take or defend proceedings in the name of the Chargor including proceedings for the compulsory winding up of the Chargor and proceedings for directions under section 35(1) of the Insolvency Act 1986,
- 6 16 to appoint, hire and employ and to remunerate agents, servants, attendants, workmen and others on such terms and generally in such manner as he shall think fit either in connection with any exercise by him of any of the foregoing powers or otherwise for any purpose connected with the Charged Assets and to discharge any person so appointed, hired or employed, and

6 17 to do all such other acts and things as he may consider necessary or desirable for the realisation of any of the Charged Assets or incidental or conducive to any of the matters, powers or authorities conferred on a Receiver under or by virtue of this Deed and to exercise in relation to the Charged Assets all such powers and authorities and do all such things as he would be capable of exercising if he were the owner of the same with full title guarantee and as absolute beneficial owner,

and and it is hereby agreed and declared that the powers conferred upon any such Receiver may be exercised by him either in his own name or in the name of the relevant Chargor (in the case of joint Receivers such powers being exercised jointly or severally)

7 APPLICATION AND PROCEEDS

7 1 All monies received by the Security Trustee, or any Receiver appointed by it, pursuant to this Deed shall, after the security hereby constituted shall have become enforceable, subject to the repayment of any claims having priority to the security comprised in this Deed and save insofar as otherwise directed by the Security Trustee, be applied in the following order (but without prejudice to the right of the Security Trustee or any of the Beneficiaries to recover any shortfall from the Chargors or any of them)

7 1 1 in payment of all proper costs, charges and expenses of and incidental to the appointment of the Receiver and the exercise of all or any of his powers including his remuneration and all outgoings properly paid by the Receiver and liabilities incurred by him as a result of such exercise,

7 1 2 in payment of all proper costs, charges and expenses of the Security Trustee incurred in connection with the exercise of all or any of its powers and duties under or in respect of this Deed and/or the Charged Assets,

7 1 3 in or towards payment or discharge to the Security Trustee, for the account of the Beneficiaries, of the Secured Liabilities in such order and in such proportions as the Security Trustee may from time to time require including to any suspense or impersonal account to be so held for so long as the Security Trustee shall think fit pending application in or towards the discharge of the Secured Liabilities, and

7 1 4 the surplus (if any) shall be paid to the relevant Chargor or Chargors or such other person or entity as may be entitled thereto

- 7 2 In making any disposal of the Charged Assets in exercise of their respective powers the Receiver or the Security Trustee may accept or dispose of as and by way of consideration cash, shares, loan capital or other obligations including consideration fluctuating to or dependant on profit or turnover and consideration the amount whereof is to be determined by any third party and any contract for such disposal may contain conditions excluding or restricting the personal liability of the Receiver or the Security Trustee

8 ADDITIONAL POWERS OF THE TRUSTEE

- 8 1 All or any of the powers, authorities and discretions which are conferred by this Deed, either expressly or impliedly, upon a Receiver of the Charged Assets may be exercised by the Security Trustee in relation to the Charged Assets without first appointing a Receiver of the Charged Assets or notwithstanding the appointment of a Receiver of the Charged Assets
- 8 2 The powers conferred by this Deed in relation to the Charged Assets on the Security Trustee or on any Receiver of the Charged Assets shall be in addition to, and not in substitution for, the powers conferred on mortgagees or Receivers under any legislation and where there is any ambiguity or conflict between the powers contained in any legislation and those conferred by this Deed as aforesaid then the terms of this Deed shall to the extent possible prevail
- 8 3 The Security Trustee may at any time and from time to time delegate by power of attorney or in any other manner to any Appointee all or any of the powers, authorities and discretions which are for the time being exercisable by the Security Trustee under this Deed or under any legislation in relation to the Charged Assets and any such delegation may be made upon such terms and conditions (including power to sub-delegate) and subject to such regulations as the Security Trustee may think fit and the Security Trustee shall not be in any way liable or responsible to any Chargor for any loss or damage arising from any act, default, omission or misconduct on the part of any such Appointee

9 FURTHER DOCUMENTATION

- 9 1 Each Chargor shall execute and do all such assurances, acts and things as the Security Trustee may reasonably require for perfecting or protecting the security created by this Deed over the Charged Assets or for facilitating the realisation of the Charged Assets and the exercise of all powers, authorities and discretions vested in the Security Trustee

or in any Appointee and shall in particular execute all mortgages, charges, transfers, conveyances, assignments and assurances of the Charged Assets whether to the Security Trustee or to its nominee(s) and give all notices, orders and directions which the Security Trustee may think expedient

- 9 2 The Security Trustee may at any time after the security hereby constituted has become enforceable redeem any prior Security against the Charged Assets or procure the transfer thereof to themselves and may settle and pass the accounts of the holder of such prior Security and any accounts so settled and passed shall be conclusive and binding on the Chargors and all principal monies, interest, costs, charges and expenses of and incidental to such redemption and transfer shall be paid by the Chargors to the Security Trustee and/or any of the Beneficiaries (as appropriate) on demand

10 POWER OF ATTORNEY

- 10 1 Each Chargor hereby by way of security and in order more fully to secure performance of its obligations under this Deed irrevocably appoints the Security Trustee and any Appointee to be its attorney and on its behalf and in its name or otherwise to execute and do all such assurances, acts and things which such Chargor ought to do under the covenants and provisions contained in this Deed including (without prejudice to the generality of the foregoing) to make any demand upon or to give any receipt to any person by whom any such debt as is referred to in clause 3 1 3(a) is for the time being owing, or for the proceeds of any such Insurance as is referred to in clause 3 1 3(e), and to execute and deliver any such transfers, charges and other documents as are referred to in this Deed and generally on its behalf and in its name to exercise all or any of the powers, authorities and discretions conferred by or pursuant to this Deed or by any legislation on the Security Trustee or any such Appointee and (without prejudice to the generality of the foregoing) to execute, seal and deliver and otherwise perfect any deed, assurance, agreement, instrument or act which it or he may deem proper in or for the purpose of exercising any of such powers authorities and discretions
- 10 2 Each Chargor hereby ratifies and confirms and agrees to ratify and confirm whatever any such attorney as is mentioned in this clause 10 shall lawfully do or purport to do in the exercise or purported exercise of all or any of the powers, authorities and discretions referred to in this clause 10
- 10 3 Each Chargor (other than Direct Consumer Retail Limited) hereby appoints Direct Consumer Retail Limited as its attorney for the purpose of executing and delivering on its behalf any Deed of Accession

11 PROTECTION FOR THIRD PARTY PURCHASERS

- 11 1 No person dealing with the Security Trustee or with any Appointee or with any administrator of any Chargor appointed by virtue of the floating charge comprised in clause 3 1 4 shall be concerned to enquire whether any event has happened upon which any of the powers, authorities and discretions conferred by or pursuant to this Deed in relation to the Charged Assets are or may be exercisable by the Security Trustee or by any such Appointee or otherwise as to the propriety or regularity of acts purporting or intended to be in exercise of any such powers and all the protection to purchasers contained in sections 104 and 107 of the Law of Property Act 1925 shall apply to any person purchasing from or dealing with the Security Trustee or any such Appointee in like manner as if the statutory powers of sale and of appointing a Receiver in relation to the Charged Assets had not been varied or extended by the terms of this Deed
- 11 2 In addition to all other protection afforded by law any person dealing with the Security Trustee or any Appointee shall be entitled and bound to assume without enquiry that some monies are owing on the security hereof and have become payable

12 CONTINUING SECURITY

- 12 1 The security created by or pursuant to this Deed shall be
- 12 1 1 a continuing security for the Secured Liabilities and shall not be considered as satisfied or discharged by any intermediate payment or settlement of the whole or any part of the Secured Liabilities or any other matter or thing whatsoever, and
- 12 1 2 in addition to and independent of and shall not operate so as to prejudice or affect or merge in any other security which the Security Trustee and/or any of the Beneficiaries may hold at any time for the Secured Liabilities or any other obligations whatsoever and shall not be affected by any release, reassignment or discharge of such other security
- 12 2 Any release or discharge of the security created by or pursuant to this Deed or of any of the Secured Liabilities shall not release or discharge any Chargor from any liability to the Security Trustee or any of the Beneficiaries for the same or any other monies which may exist independently of this Deed
- 12 3 Neither the security created by or pursuant to this Deed nor any remedy of the Security Trustee or the Beneficiaries in respect thereof shall be prejudiced by

- 12 3 1 any unenforceability or invalidity of any other agreement of document, or
- 12 3 2 any time or indulgence or any other act or thing granted to any Chargor or any other person or any other act or thing which but for this clause 12 3 would or might prejudice the security created by or pursuant to this Deed or the right of the Security Trustee or the Beneficiaries to any such remedy

13 WAIVER OF DEFENCES

- 13 1 The liability of the Chargors or any of them under this Deed will not be affected by any act, omission, circumstance, matter or thing which but for this provision would release or prejudice any of its obligations under this Deed or prejudice or diminish such obligations in whole or in part including without limitation and whether or not known to the Chargors or any of them or the Security Trustee or any of the Beneficiaries
 - 13 1 1 any time or waiver granted to or composition with any or all of the Chargors or any other person, or
 - 13 1 2 the taking, variation, compromise, exchange, renewal or release or refusal or neglect to perfect, take up or enforce any rights against or security over assets of the Chargors or any other person or any non-presentment or non-observance of any formality or other requirement in respect of any instruments or any failure to realise the full value of any other security, or
 - 13 1 3 any incapacity or lack of powers, authority or legal personality of or dissolution or change in the members or status of the Chargors or any of them or any other person, or
 - 13 1 4 any unenforceability, illegality or invalidity of any obligations of any person under this Deed to the intent that the obligations of each of the Chargors under this Deed shall remain in full force and this Deed be construed accordingly as if there were no unenforceability, illegality or invalidity
- 13 2 Neither the Security Trustee nor any of the Beneficiaries shall be concerned to see or investigate the powers or authorities of any of the Chargors or their officers or agents

14 AVOIDANCE OF PAYMENTS

Any settlement, discharge or release between the Chargors or any of them and the Security Trustee or any Receiver shall be (unless agreed in writing between the relevant Chargors and the

Security Trustee) conditional upon no security or payment to such parties by such Chargor or any other person on such Chargors' behalf being avoided or reduced by virtue of any provisions or enactments relating to bankruptcy, insolvency or liquidation for the time being in force and in the event of such security or payment being so avoided or reduced the Security Trustee or any of the Beneficiaries or any Receiver shall be entitled to recover the value or amount of such security or payment from such Chargor and from the security created by or pursuant to this Deed subsequently as if such settlement discharge or release had not occurred

15 IMMEDIATE RECOURSE

The Chargors hereby each irrevocably waive any right any of them may have of first requiring the Security Trustee or the Beneficiaries to proceed against or enforce any other rights or security or claim for payment from any other person before enforcing the security constituted hereby

16 RIGHTS OF TRUSTEE

Until all the Secured Liabilities have been unconditionally and irrevocably paid and discharged in full the Security Trustee shall be entitled at its discretion to

- 16 1 refrain from applying or enforcing any other guarantee, obligation, security, money or rights held by it in respect of the Secured Liabilities or enforce and apply the same in such manner and order as it sees fit (whether against the Secured Liabilities or otherwise) and the Chargors shall not be entitled to the benefit of the same, and
- 16 2 hold in an interest bearing suspense account any monies received from any Chargor or on account of such Chargors' liability in respect of the Secured Liabilities giving credit to such Chargor for any interest earned in respect of such suspense account

17 SUBSEQUENT CHARGES AND NEW ACCOUNTS

If the Security Trustee shall at any time receive or be deemed to have received notice of any Security, restriction, covenant, stipulation or other matter affecting the whole or any part of the Charged Assets or any assignment or transfer thereof which is prohibited by the terms of this Deed

- 17 1 the Security Trustee or any of the Beneficiaries may open a new account or accounts for the Chargors or any of them in its books, and
- 17 2 if neither the Security Trustee nor any of the Beneficiaries does in fact open any such new account then unless it gives express written notice to the Chargors to the contrary

the Security Trustee shall be treated as if it had in fact opened such account or accounts at the time when it received or was deemed to have received such notice and as from such time and unless such express written notice shall be given to the Chargors all payments by or on behalf of the Chargors to the Security Trustee or any of the Beneficiaries shall (in the absence of any express contrary appropriation by the Chargors) be credited or treated as having been credited to such new account or accounts and not as having been applied in reduction of the Secured Liabilities at such time

18 ASSIGNMENT

The Security Trustee and the Beneficiaries shall each have a full and unfettered right to assign the whole or any part of the benefit of this Deed to any person and the expressions the **Security Trustee** and the **Beneficiaries** wherever used shall be deemed to include such assignees and other successors whether immediate or derivative of the Security Trustee or such Beneficiary who shall be entitled to enforce and proceed upon this Deed in the same manner as if named herein and the Security Trustee and the Beneficiaries shall be entitled to impart any information concerning the Chargors and any of them to any such assignee or other successor or proposed assignee or successor

19 VARIATION

The Security Trustee may in its discretion grant time or other indulgence or make any other arrangement, variation or release with any person or persons (whether or not party hereto and whether or not such person or persons is or are jointly and/or severally liable with any Chargor) in respect of any of the monies and other amounts hereby secured or of any other security therefor without prejudice either to this security or to the liability of the Chargors for the Secured Liabilities

20 BENEFIT OF CHARGE

This Deed shall remain enforceable, valid and binding for all purposes notwithstanding any change in the name of the Security Trustee or any of the Beneficiaries or its absorption of or by or its amalgamation or consolidation with any other company or other body or any change in the constitution of any of them or of their successors or assigns or the company by which the business of the Security Trustee or any of the Beneficiaries may from time to time be carried on and shall be available to such successors, assigns or company carrying on that business for the time being

21 DECLARATION OF TRUST AND TRUSTEE'S POWERS

- 21 1 The Security Trustee hereby declares itself trustee of the security and other rights (including but not limited to the benefit of the covenants contained herein) titles and interests constituted by this Deed as amended and supplemented from time to time and of all monies, property and assets paid to the Security Trustee or to its order or held by the Security Trustee or its nominee or received or recovered by the Security Trustee or its nominee pursuant to or in connection with this Deed with effect from the date hereof to hold the same on trust for itself and each of the Beneficiaries absolutely The Security Trustee shall not have nor be deemed to have assumed any obligation to, or trust or fiduciary relationship with, any party to this Deed other than those for which specific provision has been made in this Deed
- 21 2 All monies received by the Security Trustee in its capacity as such or any Receiver appointed by it under or pursuant to this Deed shall be held by it or such Receiver subject to clause 21 4 and as otherwise provided in this Deed and where the Security Trustee is receiving monies for its own account upon trust for itself and the Beneficiaries according to their respective interests to apply the same as specified in clause 7
- 21 3 The trusts herein shall remain in force until whichever is the earlier of -
- 21 3 1 the expiration of a period of 125 years from the date hereof, and
- 21 3 2 the receipt by the Security Trustee of confirmation in writing from each of the Beneficiaries that there are no longer outstanding any monies, obligations and liabilities secured hereby
- 21 4 Without prejudice to any right to indemnify by law given to trustees generally the Security Trustee and every Appointee and any manager, agent, officer or employee for whose liability, act or omission any of them may be answerable shall be entitled to be indemnified and kept indemnified out of the property hereby expressed to be secured in all respect of all liabilities, costs, charges, losses and expenses incurred or suffered by them or any of them in the execution or purported execution of the trusts created by this Deed or of any powers, authorities or discretions vested in them or any of them pursuant to this Deed (unless and to the extent that such liability, cost, charge, loss or expense arises as a result of the gross negligence or wilful default of the Security Trustee or Receiver) and against all actions, proceedings, claims and demands in respect of any matter or thing done or omitted or in any way relating to the property

expressed to be charged hereby or thereby or the provisions of this Deed or occasioned by any breach by any Chargor of any of its covenants or other obligations to the Security Trustee or any Beneficiary under this Deed and all sums necessary to effect and maintain such indemnity shall be an additional charge on the property expressed to be hereby secured and shall be satisfied before any payment is made there out to any Beneficiary

- 21 5 The Security Trustee shall save as agreed between the Beneficiaries and the Security Trustee in writing from time to time (with which no purchaser or other third party dealing with the Security Trustee shall be concerned)

21 5 1 have all powers of an absolute owner of the security constituted by this Deed,

21 5 2 have the power of appointing new trustees, and

21 5 3 have all the powers and discretions conferred upon trustees by the Trustee Act 1925 (to the extent not inconsistent with this Deed) and upon the Security Trustee by this Deed and upon a Receiver appointed under this Deed (as though the Security Trustee were a Receiver under this Deed)

- 21 6 The provisions of Schedule 5 shall have effect as between the Security Trustee and the Beneficiaries provided that nothing in Schedule 5 shall entitle any Chargor to require the Security Trustee to act or refrain from acting or to exercise or refrain from exercising any of its rights discretions and powers in any particular way

22 LIABILITY OF TRUSTEE IN POSSESSION

- 22 1 If the Security Trustee or any Receiver or any such delegate (or sub-delegate) shall enter into possession of the Charged Assets or any of them the Security Trustee may from time to time at pleasure go out of such possession

- 22 2 The Security Trustee shall not in any circumstances either by reason of any entry by it into or taking by it of possession of the Charged Assets or for any other reason whatsoever and whether as mortgagee in possession or on any other basis whatsoever be liable to account to the Chargors for anything except the Security Trustee's own actual receipts or be liable to the Chargors for any loss or damage arising from any realisation by the Security Trustee of the Charged Assets or from any act default or omission of the Security Trustee in relation to the Charged Assets or from any exercise or non-exercise by the Security Trustee of any power, authority or discretion conferred upon it in relation to the Charged Assets by or pursuant to this Deed or by any

legislation unless such loss or damage shall be caused by the Security Trustee's own fraud, gross negligence or wilful default

22.3 If and insofar as the Security Trustee incurs any liability to any other person, firm, company or authority or suffers any loss damage, or any claim, action or proceeding is brought against the Security Trustee by any other person, firm, company or authority directly or indirectly as a result of exercising its right under or in respect of clause 22.1 (save for any acts of fraud, gross negligence or wilful default on the part of the Security Trustee) the Chargors shall jointly and severally indemnify the Security Trustee against any such liability or claim and the Chargors' obligations under or in respect of this clause 22.3 shall be included within the Secured Liabilities and form part thereof

22.4 All the provisions of clause 22.2 shall apply in respect of the liability of any Receiver of the Charged Assets and in respect of the liability of any such delegate (or sub-delegate) in all respects as though every reference in that clause to the Security Trustee were instead a reference to such Receiver or (as the case may be) to such delegate (or sub-delegate)

23 SET-OFF AND COMBINATION OF ACCOUNTS

Without prejudice to any rights the Security Trustee and the Beneficiaries may have in law or in equity, each Chargor authorises the Security Trustee at any time to apply any credit balance to which such Chargor is absolutely entitled on any account with the Security Trustee or any of the Beneficiaries in satisfaction of the Secured Liabilities due and payable at such time (and on or at any time after the Security Trustee or any of the Beneficiaries has demanded payment or discharge of all or any of the Secured Liabilities the Security Trustee may make such application notwithstanding any specified maturity of any such deposits standing to the credit of any account of the Chargor with the Security Trustee or any of the Beneficiaries) and for this purpose the Security Trustee is authorised to purchase with the monies standing to the credit of any such account such other currencies as may be necessary to effect such application. Neither the Security Trustee nor any of the Beneficiaries shall be obliged to exercise any right given to it by this clause

24 RETENTION OF SECURITY

24.1 Notwithstanding any other provision of this Deed or any release, settlement, discharge or arrangement given or made by the Security Trustee or any of the Beneficiaries pursuant to a discharge in full of the Secured Liabilities, the Security Trustee may (save upon a refinancing of all of the Secured Liabilities with the benefit of monies borrowed

or raised from a third party bank or banks or other financial institutions in circumstances in which the Chargors can demonstrate to the satisfaction of the Security Trustee that they are not unable to pay their debts as they fall due) retain the security created by or pursuant to this Deed for such period (not exceeding twenty five months) after such discharge as it may in its discretion determine Provided that if at any time during such period a petition shall be presented for an order for the winding up of any one or more of the Chargors or for the making of an administration order in respect of one or more of the Chargors or any one of the Chargors shall be commenced to be wound up, or other voluntary or any analogous proceedings shall be commenced in respect of the same, the Security Trustee may continue to retain the security in respect of such of the Chargors created by or pursuant to this Deed for such further period as the Security Trustee may determine and the security shall be deemed to have continued to have been held as security for the Secured Liabilities

24 2 Subject always to the provisions of clause 24 1, upon the Discharge Date having occurred, the Security Trustee (and each Beneficiary) shall at the request and cost of the Chargors, execute and do all such deeds, acts and things as may be necessary to release the Charged Assets from the security constituted hereby

25 COUNTERPARTS

This Deed may be executed in any number of counterparts and all of such counterparts shall together be deemed to constitute one and the same instrument

26 NOTICES

Any notice or demand by the Security Trustee shall be in writing, signed by any official of the Security Trustee and may be served by delivering the same to the relevant Chargor or by first class letter post addressed to the Chargor at the address last known to the Security Trustee or to the registered office of the Chargor or by facsimile transmission to the facsimile number last notified to the Security Trustee and a demand or notice so addressed and posted shall be deemed to have been served upon the addressee at 10 00 am the next succeeding day (or if such day be a Sunday or any other day upon which no delivery of letters is generally made at or before 10 00 am the next succeeding day upon which a delivery of post is so made) after it has been posted and shall be effective notwithstanding that it be returned undelivered Notice served by facsimile transmission shall be deemed to be served at the time of transmission

27 GOVERNING LAW AND INTERPRETATION

- 27 1 This Deed (and any dispute, controversy or proceedings or claim of whatever nature arising out of or in any way related to this Deed) shall be governed by and construed in accordance with English law
- 27 2 For the benefit of the Security Trustee (as agent and trustee for itself and the Beneficiaries), the Chargors hereby irrevocably agree that the High Courts of Justice in London, and all appellate courts therefrom have jurisdiction to settle any disputes which may arise out of or in connection with this Deed and that any suit, action or proceedings (together **Proceedings**) in connection with this Deed may be brought in the High Courts of Justice in London and all appellate courts therefrom and accordingly submits to the jurisdiction of the High Courts of Justice in London and all appellate courts therefrom
- 26 3 The Chargors hereby irrevocably and unconditionally agree that nothing in any of the Finance Documents shall affect the right to serve process in any manner permitted by law
- 26 4 Nothing in this clause 27 shall limit the right of the Security Trustee (as agent and trustee for itself and the Beneficiaries) to take Proceedings against any other party in any other court of competent jurisdiction, nor shall the taking of Proceedings in one or more jurisdiction preclude the taking of Proceedings in any other jurisdiction, whether concurrently or not as it, in its discretion, may determine

28 NOTIFICATION OF CHARGE

- 28 1 Each Chargor consents to the Security Trustee applying to the Land Registrar on form RX1 (or such other equivalent form as the Land Registry may require) for a restriction to be entered onto the Proprietorship Register of the Scheduled Property in the form of the restriction set out below

"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 a charged dated [date] in favour of [chargee] referred to in the charges register"

and each Chargor shall do whatever acts or things as may be required in order to procure the entry of such restriction onto the Proprietorship Register of the Scheduled Property

- 28.2 Each Chargor consents to the Security Trustee applying to the Land Registry on form RX1 (or such equivalent form as the Land Registry may require) for a restriction to be entered onto the Proprietorship Register of any freehold or leasehold property now or in the future vested in the Chargor and charged to the Security Trustee (including any estates or interest in any freehold or leasehold property) which does not form part of the Scheduled Property in the form of the restriction set out below

"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 a charge dated [date] in favour of [chargee] referred to in the charges register"

and each Chargor shall do whatever acts or things as may be required in order to procure the entry of such restriction onto the Proprietorship Register of the Scheduled Property

29 THIRD PARTY RIGHTS

A person who is not a party to this deed has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this deed but this does not affect any right or remedy of a third party which exists or is available apart from that act (including, without limitation, any right or remedy arising by virtue of an assignment of the benefit of this deed or any part of this deed which is permitted in accordance with its terms)

IN WITNESS whereof this Deed has been duly executed and delivered on the date written on page 1 of this Deed

SCHEDULE 1 - THE CHARGORS

Direct Consumer Retail Limited (registered number 08848038) of WGN Convention House, St Mary's Street, Leeds LS9 7DP

And each company which enters into a Deed of Accession

SCHEDULE 2 - THE GUARANTEE

1 Guarantee and indemnity

- 1.1 Each Chargor irrevocably and unconditionally jointly and severally
- 1.1.1 guarantees to each Beneficiary punctual performance by each Chargor of all that Chargor's obligations under the Finance Documents,
- 1.1.2 undertakes with each Beneficiary that whenever another Chargor does not pay any amount when due under or in connection with any Finance Document, it shall immediately on demand pay that amount as if it was the principal obligor, and
- 1.1.3 indemnifies each Beneficiary immediately on demand against any cost, loss or liability suffered by that Beneficiary if any obligation guaranteed by it is or becomes unenforceable, invalid or illegal. The amount of the cost, loss or liability shall be equal to the amount which that Beneficiary would otherwise have been entitled to recover

2 Continuing guarantee

The Guarantee is a continuing guarantee and will extend to the ultimate balance of sums payable by any Chargor under the Finance Documents, regardless of any intermediate payment or discharge in whole or in part

3 Reinstatement

If any payment by a Chargor or any discharge given by a Beneficiary (whether in respect of the obligations of any Chargor or any security for those obligations or otherwise) is avoided or reduced as a result of insolvency or any similar event

- 3.1 the liability of each Chargor shall continue as if the payment, discharge, avoidance or reduction had not occurred, and
- 3.2 each Beneficiary shall be entitled to recover the value or amount of that security or payment from each Chargor, as if the payment, discharge, avoidance or reduction had not occurred

4 Waiver of defences

The obligations of each Chargor under this paragraph 4 will not be affected by an act, omission, matter or thing which, but for this paragraph, would reduce, release or prejudice any of its obligations under this Guarantee (without limitation and whether or not known to it or any Beneficiary) including

- 4 1 any time, waiver or consent granted to, or composition with, any Chargor or other person,
- 4 2 the release of any other Chargor or any other person under the terms of any composition or arrangement with any creditor of any member of the Group,
- 4 3 the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any Chargor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security,
- 4 4 any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of an Chargor or any other person,
- 4 5 any amendment, novation, supplement, extension, restatement (however fundamental and whether or not more onerous) or replacement of any Finance Document or any other document or security including without limitation any change in the purpose of, any extension of or any increase in any facility or the addition of any new facility under any Finance Document or other document or security,
- 4 6 any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document or any other document or security, or
- 4 7 any insolvency or similar proceedings

5 Immediate recourse

Each Chargor waives any right it may have of first requiring the Security Trustee or any other Beneficiary to proceed against or enforce any other rights or security or claim payment from any person before claiming from that Chargor under this guarantee. This waiver applies irrespective of any law or any provision of a Finance Document to the contrary.

6 Appropriations

Until all amounts which may be or become payable by the Chargors under or in connection with the Finance Documents have been irrevocably paid in full, the Security Trustee and/or any Beneficiary may

- 6 1 refrain from applying or enforcing any other monies, security or rights held or received by it (or any trustee or agent on its behalf) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and no Chargor shall be entitled to the benefit of the same, and
- 6 2 hold in an interest-bearing suspense account any monies received from any Chargor or on account of any Chargor's liability under this Deed

7 Deferral of Chargors' rights

Until all amounts which may be or become payable by the Chargors under or in connection with the Finance Documents have been irrevocably paid in full and unless the Security Trustee otherwise directs, no Chargor will exercise any rights which it may have by reason of performance by it of its obligations under the Finance Documents

- 7 1 to be indemnified by any Chargor,
- 7 2 to claim any contribution from any other guarantor of any Chargor's obligations under the Finance Documents, and/or
- 7 3 to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Security Trustee or any Beneficiary under the Finance Documents or of any other guarantee or security taken pursuant to, or in connection with, the Finance Documents by any of them

8 Additional security

This guarantee is in addition to and is not in any way prejudiced by any other guarantee or security now or subsequently held by any Beneficiary

SCHEDULE 3 – THE SECURITY TRUSTEE AND THE BENEFICIARIES

- 1 The Beneficiaries shall not have any independent power to enforce this Deed or to exercise any rights, discretions or powers or to grant any consents or releases under or pursuant to this Deed or otherwise have any direct recourse to the security constituted by this Deed except through the Security Trustee
- 2 Subject to its being indemnified to its satisfaction, the Security Trustee shall take such action (including, without limitation, the exercise of all rights, discretions or powers and the granting of consent or releases) or, as the case may be, refrain from taking such action under or pursuant to this Deed as the Majority Lenders shall specifically direct the Security Trustee in writing (including by way of electronic mail) Unless and until the Security Trustee shall have received such directions, the Security Trustee shall not take any action under this Deed PROVIDED ALWAYS that where the terms of this Deed entitle the Security Trustee to take or refrain from taking, any action, the Security Trustee shall be entitled to take or, as the case may be, refrain from taking such action without reference to (and notwithstanding any contrary direction from) the Beneficiaries
- 3 Subject as expressly provided in this Deed, the Security Trustee shall have absolute and uncontrolled discretion as to the exercise or non-exercise of its rights, discretions and powers under this Deed and shall not be responsible to any Beneficiary for any loss or liability which any Beneficiary may suffer or incur as a consequence of such exercise or non-exercise of any such power, authority or discretion
- 4 The Security Trustee shall not be required to take any action or exercise any rights, remedies, powers or discretions under or in connection with this Deed beyond those which the Majority Lenders shall specifically instruct the Security Trustee in writing to take or exercise
- 5 The Security Trustee shall be entitled to assume that any instructions or certificates received by it under or pursuant to this Deed are given in accordance with the provisions of this Deed and the Security Trustee shall not be liable to any other person for any action taken or omitted under or in connection with this Deed in accordance with any such instructions or certificates unless caused by its gross negligence or wilful misconduct
- 6 The Security Trustee may concur with any Chargor in making any modification to this Deed which
 - 6.1 in the opinion of the Security Trustee is expedient to make and does not prejudice the interests of the Beneficiaries, or

6 2 is necessary to correct a manifest error

PROVIDED THAT for the purposes of this paragraph 6 the release from the security constituted by this Deed of any property which may be so released shall be deemed not to constitute a modification

- 7 Any proceeds of any realisations by the Security Trustee of the Charged Assets falling to be applied in accordance with the provisions of Clause 7.1.3 of this Deed shall be applied (unless the beneficiaries otherwise together agree and direct to the Security Trustee at any time) in payment to (i) the Security Trustee for application in or towards the discharge of the remaining indebtedness (actual or contingent) of the Chargors or any of them under or in respect of the Loans on a pro rata pari passu basis without priority amongst themselves to the Lenders
- 8 For the purposes of this Schedule 3, the expression **Majority Lenders** shall mean Lenders whose participations in the Loans then outstanding at any time together amount to 66⅔% of the aggregate of all such Loans
- 9 The Security Trustee may act on the advice or opinion of or any information obtained from any lawyer, valuer, accountant, surveyor or other expert appointed by it as trustee for the Beneficiaries and shall not be responsible to any Beneficiary for any loss, damage, cost, claim, demand, expense, judgment, action, proceeding or other liability whatsoever including, without limitation, in respect of taxes, duties, levies, imposts and other charges occasioned by so acting
- 10 The Security Trustee shall not be responsible to any Beneficiary for the execution, delivery, legality, effectiveness, adequacy, genuineness, validity, performance, enforceability or admissibility in evidence of this Deed or any other document relating to or expressed to be supplemental to this Deed and shall not be liable for the failure to obtain any licence, consent or other authority for the execution, delivery, legality, effectiveness, adequacy, genuineness, validity, performance, enforceability or admissibility in evidence of this Deed or any document relating or expressed to be supplemental to it nor for any failure to register particulars of this Deed with any relevant governmental or other registry or agency
- 11 The Security Trustee shall not, by reason of its or his fiduciary position be in any way precluded from
 - 11.1 entering into or being interested in any contract or financial or other transaction or arrangement with any Chargor or any person or body corporate associated with any Chargor, or

11 2 accepting or holding the trusteeship of any other trust deed constituting or securing any other securities issued by or relating to any Chargor or any body corporate associated with any Chargor or any office of profit under any Chargor or any body corporate so associated,

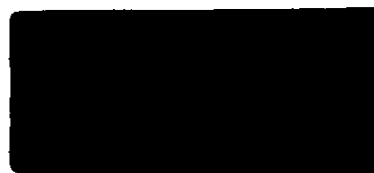
and shall be entitled to exercise and enforce its rights, comply with its obligations and perform its duties under or in relation to any such contract, transaction or arrangement as is referred to in paragraph 11 1 or, as the case may be, such trusteeship or office of profit as referred to in paragraph 11 2 above without regard to the interests of the Beneficiaries and notwithstanding that the same may be contrary or prejudicial to the interests of the Beneficiaries and shall not be responsible for any loss, damage, cost, charge, claim, demand, expense, judgment, action, proceeding or other liability whatsoever (including, in respect of taxes, duties, levies, imposts and other charges) occasioned to the Beneficiaries thereby and shall be entitled to retain and shall not be in any way liable to account for any profit made or other amount or benefit received by the Security Trustee under any such contract, transaction or arrangement

SIGNED and DELIVERED as a DEED)

By DIRECT CONSUMER RETAIL)

LIMITED acting by one of its directors)

in the presence of)



(Director)



(Signature of witness)

HELEN ROBERTS

(Printed name of witness)

CONVENTON HOUSE

(Address of witness)

ST MARYS ST

LEEDS

LS9 7DP

(Address of witness contd)

ACCOUNTANT

(Occupation of witness)

SIGNED by MICHAEL ZIFF AND)

HARVEY JACOBSON as Security Trustee)



-- (M Ziff)



(H Jacobson)