



Registration of a Charge

Company Name: **BAVARIAN SKY UK-D LIMITED**

Company Number: **12616726**



XBDNIXBV

Received for filing in Electronic Format on the: **30/09/2022**

Details of Charge

Date of creation: **20/09/2022**

Charge code: **1261 6726 0004**

Persons entitled: **WILMINGTON TRUST (LONDON) LIMITED, THIRD FLOOR, 1 KING'S ARMS YARD, LONDON, EC2R 7AF, AS TRUSTEE (AS TRUSTEE FOR EACH OF THE SECURED PARTIES)**

Brief description:

Contains fixed charge(s).

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

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

Certification statement: **I CERTIFY THAT 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 CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by:

CLIFFORD CHANCE LLP



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 12616726

Charge code: 1261 6726 0004

The Registrar of Companies for England and Wales hereby certifies that a charge dated 20th September 2022 and created by BAVARIAN SKY UK-D LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 30th September 2022 .

Given at Companies House, Cardiff on 4th October 2022

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 20 SEPTEMBER 2022

BAVARIAN SKY UK-D LIMITED
AS ISSUER

IN FAVOUR OF
BMW FINANCIAL SERVICES (GB) LIMITED
AS SELLER, SERVICER AND SUBORDINATED LENDER

ROYAL BANK OF CANADA
AS CLASS A SWAP COUNTERPARTY

ELAVON FINANCIAL SERVICES DAC, UK BRANCH
AS ACCOUNT BANK, PRINCIPAL PAYING AGENT AND REGISTRAR

WILMINGTON TRUST SP SERVICES (LONDON) LIMITED
AS CORPORATE SERVICES PROVIDER

WILMINGTON TRUST (LONDON) LIMITED
AS TRUSTEE

AND

U.S. BANK TRUSTEES LIMITED
AS DATA TRUSTEE

FIRST SUPPLEMENTAL DEED OF CHARGE
IN RELATION TO
BAVARIAN SKY UK-D LIMITED
£500,000,000 CLASS A ASSET BACKED FLOATING
RATE NOTES DUE AUGUST 2030
£159,600,000 CLASS B ASSET BACKED FIXED
RATE NOTES DUE AUGUST 2030

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THIS FIRST SUPPLEMENTAL DEED OF CHARGE is made by way of deed on 20 September 2022

BY:

- (1) **BAVARIAN SKY UK-D LIMITED** a company incorporated in England and Wales with limited liability (registered number 12616726) whose registered office is at Third Floor, 1 King's Arms Yard, London, EC2R 7AF (the "**Issuer**");

In favour of:

- (2) **BMW FINANCIAL SERVICES (GB) LIMITED** (registered number 01288537), a private limited company incorporated under the laws of England and Wales, with its registered office at Summit One, Summit Avenue, Farnborough, Hants, GU14 0FB as the seller (the "**Seller**"), the servicer (the "**Servicer**") and the subordinated loan provider (the "**Subordinated Lender**");
- (3) **ROYAL BANK OF CANADA**, acting out of its London branch at 100 Bishopsgate, London EC2N 4AA and registered under number BR000548 (the "**Class A Swap Counterparty**");
- (4) **ELAVON FINANCIAL SERVICES D.A.C., UK BRANCH** a Designated Activity Company registered in Ireland with the Companies Registration Office, registered number 418442, with its registered office at Block F1, Cherrywood Business Park, Cherrywood, Dublin 18, Ireland, D18 W2X7, acting through its UK Branch (registered number BR009373) from its offices at 125 Old Broad Street, London EC2N 1AR under the trade name U.S. Bank Global Corporate Trust Services (the "**Account Bank**", "**Principal Paying Agent**" and the "**Registrar**");
- (5) **WILMINGTON TRUST SP SERVICES (LONDON) LIMITED** (registered number 2548079), whose registered office is at Third Floor, 1 King's Arms Yard, London, EC2R 7AF (the "**Corporate Services Provider**");
- (6) **WILMINGTON TRUST (LONDON) LIMITED** (registered number 05650152), whose registered office is at Third Floor, 1 King's Arms Yard, London, EC2R 7AF, (in its capacity as the "**Trustee**", which expression shall include such company and all other persons or companies for the time being acting as Trustee pursuant to the terms of the Trust Deed);
- (7) **U.S. BANK TRUSTEES LIMITED** (registered number 02379632), a private limited company incorporated under the laws of England and Wales with its principal office at 125 Old Broad Street, Fifth Floor, London, EC2N 1AR (in its capacity as the "**Data Trustee**", which expression shall include such company and all other persons or companies for the time being acting as Data Trustee pursuant to the terms of this Agreement).

RECITALS:

- (A) The Noteholders have agreed to subscribe for Notes issued by the Issuer pursuant to the Class A Note Purchase Agreement dated on or about the date hereof.
- (B) Pursuant to the Original Deed of Charge (as defined below) the Issuer created security over the whole of its undertaking and all its property, assets and rights in favour of the

Trustee as continuing security for the payment and discharge of all the Secured Obligations (as defined in the Original Deed of Charge).

- (C) The Transaction Parties have agreed to amend certain of the Transaction Documents as set out in the Global Amendment and Restatement Deed (each as defined below).
- (D) The Issuer wishes to confirm the existing security created pursuant to the Original Deed of Charge and grant security over the Charged Assets in respect of its obligations to the Secured Parties as amended by the Global Amendment and Restatement Deed and the Class A Note Purchase Agreement.
- (E) This First Supplemental Deed of Charge is supplemental to each of the Trust Deed and the Original Deed of Charge.

IT IS AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

1.1.1 Unless otherwise defined in this First Supplemental Deed of Charge or the context requires otherwise, words and expressions used in this First Supplemental Deed of Charge have the meanings and constructions ascribed to them in the Original Deed of Charge and schedule 1 (*Master Definitions Schedule*) to the Incorporated Terms Memorandum originally dated 3 August 2020 (as most recently amended and restated on the Second Amendment Date, and as the same may be further amended and restated from time to time) and signed, *inter alios*, by the parties to this First Supplemental Deed of Charge and others (as the same may be amended, varied and/or supplemented from time to time with the consent of the parties to this First Supplemental Deed of Charge, the "Incorporated Terms Memorandum"). This First Supplemental Deed of Charge shall be construed in accordance with the principles of construction and interpretation set out in such Incorporated Terms Memorandum.

1.1.2 In this First Supplemental Deed of Charge:

"Amended and Restated Deed of Charge" means the Original Deed of Charge as amended and restated on the Second Amendment Date pursuant to this Deed and as set out in Schedule 1 (*Amended and Restated Deed of Charge*).

"Amended Secured Obligations" means the Secured Obligations (as defined in the Original Deed of Charge) and including, for the avoidance of doubt, such obligations arising under the Transaction Documents on and after the Second Amendment Date.

"Global Amendment and Restatement Deed" means the amendment and restatement deed dated on or about the Second Amendment Date between, the Issuer, the Seller, the Servicer, the Subordinated Lender, the Class B Note Purchaser, Redeeming Class B Noteholder, the Trustee, the Principal Paying Agent, the Registrar, the Account Bank, the Corporate Services Provider, the Class A1 Note Purchaser, Redeeming Class A1 Noteholder, Class A2 Note Purchaser, the Class A Swap Counterparty and the Data Trustee.

"Fixed Security" means any mortgage, fixed charge or assignment expressed to be created by or pursuant to Clause 4 (*Supplemental Fixed Security*).

"Original Deed of Charge" means the deed of charge originally dated 3 August 2020 between, *among others*, the Seller, the Subordinated Lender, the Account Bank, the Principal Paying Agent, the Registrar, the Corporate Services Provider, the Trustee, as amended, restated and supplemented from time to time and as in force immediately prior to the Second Amendment Date.

"Original Security" means the Security created by or pursuant to the Original Deed of Charge.

1.2 Common Terms

1.2.1 Incorporation of Common Terms

The common terms set out in schedule 2 (*Common Terms*) to the Incorporated Terms Memorandum (the "Common Terms") apply to this First Supplemental Deed of Charge and shall be binding on the parties to this First Supplemental Deed of Charge as if set out in full in this First Supplemental Deed of Charge.

1.2.2 Conflict with Common Terms

If there is any conflict between the provisions of the Common Terms and the provisions of this First Supplemental Deed of Charge, the provisions of this First Supplemental Deed of Charge shall prevail, save for where any provisions of this First Supplemental Deed of Charge relates to VAT, in which case the provisions of the Common Terms shall prevail.

1.2.3 Governing Law and Jurisdiction

This First Supplemental Deed of Charge and all non-contractual obligations arising out of or in connection with it shall be governed by English law and/or governed by and construed in accordance with Scots law (as applicable) in accordance with Paragraph 1 (*Governing Law*) of Part 3 (*Governing Law Provisions*) of the Common Terms. Paragraph 2 (*Jurisdiction*) of Part 3 (*Governing Law Provisions*) of the Common Terms apply to this First Supplemental Deed of Charge as if set out in full in this First Supplemental Deed of Charge.

1.3 Present and future assets

A reference in this First Supplemental Deed of Charge to any Charged Asset or other asset includes, unless the contrary intention appears, present and future Charged Assets and other assets.

1.4 Separate Security

Clauses 4.1.1 to 4.1.9 (inclusive) shall be construed as creating a separate and distinct fixed charge or assignment over each relevant asset within any particular class of assets defined in this First Supplemental Deed of Charge and the failure to create an effective fixed charge or assignment (whether arising out of this First Supplemental Deed of

Charge or any act or omission by any party) over any one asset shall not affect the nature or validity of the charge or assignment imposed on any other asset whether within that same class of assets or not.

1.5 Trustee assumes no obligation

The Trustee shall not be under any obligation in relation to the Charged Assets as a consequence of this First Supplemental Deed of Charge and the Issuer shall at all times remain liable to perform all obligations in respect of the Charged Assets.

2. CONFIRMATION OF EXISTING SECURITY

For the avoidance of doubt, the Issuer confirms for the benefit of the Secured Parties that with effect from the Third Issue Date, the Original Security shall (a) remain in full force and effect notwithstanding the amendments made to certain of the Transaction Documents through the entry into the Global Amendment and Restatement Deed and (b) continue to secure its Amended Secured Obligations under the Transaction Documents (including, but not limited to, under the Class A Note Purchase Agreement).

3. COMMON PROVISIONS

3.1 Supplemental Security

All the Security created by or pursuant to Clauses 4 (*Supplemental Fixed Security*) and 5 (*Supplemental Floating Charge*) is created in addition and without prejudice to the security confirmation contained in Clause 2 (*Confirmation of Existing Security*) and without prejudice but subject only to the provisions of the Trust Deed and the Original Security.

3.2 Consent for Fixed Security

The Issuer creates each Fixed Security subject to obtaining any necessary consent to such Fixed Security from any relevant third party.

4. SUPPLEMENTAL FIXED SECURITY

As continuing security for the payment or discharge of the Amended Secured Obligations the Issuer with full title guarantee (or, in relation to any rights or assets situated in Scotland or otherwise governed by Scots law, with absolute warrandice and, in relation to the Scottish Trust Property, as holder of the beneficial interest therein), in favour of the Trustee for the Trustee itself and on trust for the Secured Parties, hereby:

4.1 The Fixed Security

- 4.1.1 assigns absolutely the Benefit of all Purchased Receivables and any Related Collateral and all rights, claims and interests relating thereto;
- 4.1.2 assigns absolutely the Benefit of all rights, claims and interests which the Issuer is now or may hereafter become entitled to from or in relation to the Seller or the Servicer and/or any other party pursuant to or in respect of the Receivables Purchase Agreement or the Servicing Agreement, including all rights of the Issuer relating to any additional security;

- 4.1.3 assigns absolutely the Benefit of all present and future rights, claims and interests which the Issuer is now or may hereafter become entitled to from or in relation to the Subordinated Lender and/or any other party pursuant to or in respect of the Subordinated Loan Agreement;
- 4.1.4 assigns absolutely the Benefit of all present and future rights, claims and interests which the Issuer is now or may hereafter become entitled to from or in relation to any Swap Counterparty pursuant to or in respect of the Swap Agreements;
- 4.1.5 assigns absolutely the Benefit of all present and future rights, claims and interests which the Issuer is now or may hereafter become entitled to from or in respect of the Collection Accounts Declarations of Trust;
- 4.1.6 assigns absolutely the Benefit of all present and future rights, claims and interests which the Issuer is now or may hereafter become entitled to from or in relation to the Account Bank and/or any other party pursuant to or in respect of the Bank Account Agreement;
- 4.1.7 assigns absolutely the Benefit of all present and future rights, claims and interests which the Issuer is now or may hereafter become entitled to from or in relation to the Paying Agent and/or the Registrar pursuant to the Agency Agreement;
- 4.1.8 assigns absolutely the Benefit of all present and future rights, claims and interests which the Issuer is now or may hereafter become entitled to from or in relation to the Corporate Services Provider pursuant to the Corporate Services Agreement; and
- 4.1.9 charges by way of first fixed charge the Benefit of all present and future rights, claims and interests in or in relation to any amounts standing to the credit of the Charged Accounts.

4.2 Scottish Supplemental Security

The Issuer undertakes to execute and (on the date of this First Supplemental Deed of Charge) deliver to the Trustee a Scottish Reversionary Interest Supplemental Charge substantially in the form set out in Schedule 2 (*Form of Scottish Reversionary Interest Supplemental Charge*) to this Deed, and the Seller undertakes to, by way of acknowledgement, execute and (on the date of this First Supplemental Deed of Charge) deliver a counterpart copy of such Scottish Reversionary Interest Supplemental Charge.

5. SUPPLEMENTAL FLOATING CHARGE

5.1 Floating charge

- 5.1.1 Without prejudice to Clause 5.1.2 below, as continuing security for the payment or discharge of the Amended Secured Obligations, the Issuer with full title guarantee and with absolute warrandice in respect of assets situated in Scotland or otherwise governed by Scots law hereby charges, in favour of the Trustee for the Trustee itself and on trust for the Secured Parties, by way of first floating

charge the whole of its undertaking and all its property, assets and rights whatsoever and wheresoever present and future including,

- (a) its uncalled capital;
- (b) the Benefit of each Permitted Investment; and
- (c) for the avoidance of doubt, all its property, assets and rights situated in Scotland or otherwise subject to Scots law.

5.1.2 The Issuer's paid-up share capital and annual profit shall be excluded from the first floating charge created by Clause 5.1.1 above.

5.2 Paragraph 14, Schedule B1, Insolvency Act

Paragraph 14 of Schedule B1 to the Insolvency Act 1986, as amended, applies to the floating charge created pursuant to this Clause 5 (*Supplemental Floating Charge*).

5.3 Floating Charge postponed

The floating charge created by Clause 5.1 (*Floating Charge*) shall be postponed to any valid fixed charges created by or pursuant to this First Supplemental Deed of Charge which remain outstanding from time to time and any rights of the Issuer to deal with the assets subject to the floating charge, shall be expressly subject to any restrictions placed on dealing with those assets contained in any fixed charge over the same.

5.4 Conversion to Fixed Charge

The floating charge created by this Clause 5 (*Supplemental Floating Charge*) (so far as permitted by applicable law) will automatically convert into a fixed charge as regards:

- 5.4.1 all of the Issuer's assets subject to the floating charge, upon the service of an Enforcement Notice or a Security Protection Notice (to the extent not withdrawn); and
- 5.4.2 any assets of the Issuer subject to the floating charge if those assets (contrary to the covenants and undertakings contained in the Transaction Documents) are or become subject to any Encumbrance in favour of any person other than the Trustee immediately prior to that Encumbrance arising or that sale, transfer or other disposition being made.

5.5 No conversion into Fixed Charge

The floating charge created by this Clause may not be converted into a fixed charge solely by reason of:

- 5.5.1 the obtaining of a moratorium; or
 - 5.5.2 anything done with a view to obtaining a moratorium,
- under section 1A of the Insolvency Act 1986, as amended.

6. MISCELLANEOUS

6.1 Incorporation of provisions from Original Deed of Charge

The provisions of clauses 3 (*Issuer's undertaking to pay*), 7 (*Warranty by the Issuer*) to 16 (*Application of Payments*) (inclusive), 18 (*Appointment and Removal of Administrators and Receivers*) to 24 (*Application to Court*) (inclusive) and 26 (*Further Assurances*) of the Original Deed of Charge are incorporated into this First Supplemental Deed of Charge as if set out in full in this First Supplemental Deed of Charge, but so that references in those clauses to:

6.1.1 the "Secured Obligations" are references to the "Amended Secured Obligations"; and

6.1.2 "this Deed" are references to this First Supplemental Deed of Charge.

6.2 Original Deed of Charge

Except insofar as supplemented by this First Supplemental Deed of Charge, the Original Deed of Charge shall remain in full force and effect.

6.3 No merger

For the avoidance of doubt, any mortgage, charge or assignment (whether at law or in equity) created by the Original Deed of Charge shall continue in full force and effect notwithstanding this First Supplemental Deed of Charge and shall not merge in any security constituted by this First Supplemental Deed of Charge or be released, extinguished or affected in any way by the security constituted by this First Supplemental Deed of Charge.

6.4 Extension and Variation of the LPA

6.4.1 Extension of powers

From the date of this First Supplemental Deed of Charge but subject to Clause 6.4.2 (*Powers Exercised on enforceability of Security*), the provisions of the LPA, relating to the power of sale and the other powers conferred by Sections 101(1) and (2) of the LPA, are extended to authorise the Trustee upon such terms as the Trustee may think fit:

- (a) to sell, exchange, licence or otherwise dispose of or otherwise deal with the Charged Assets or any interest in the same, and to do so for shares, debentures or any other securities whatsoever, or in consideration of an agreement to pay all or part of the purchase price at a later date or dates, or an agreement to make periodical payments, whether or not the agreement is secured by an Encumbrance or a guarantee, or for such other consideration (if any) and upon such terms whatsoever as the Trustee may think fit, and also to grant any option to purchase;
- (b) with a view to, or in connection with, the management or disposal of the Charged Assets to carry out any transaction, scheme or arrangement which the Trustee may in its absolute discretion consider appropriate;

- (c) to take possession of, get in and collect the Charged Assets;
- (d) to carry on and/or manage and/or concur in managing the business of the Issuer as it thinks fit and to demand, sue for and collect and get in all monies due to the Issuer as it thinks fit;
- (e) to appoint and engage managers, agents and advisers upon such terms as to remuneration and otherwise and for such periods as it may determine, and to dismiss them;
- (f) to bring, defend, submit to arbitration, negotiate, compromise, abandon and settle any claims and proceedings concerning the Charged Assets;
- (g) to transfer all or any of the Charged Assets and/or any of the liabilities of the Issuer to any other company or body corporate whether or not formed or acquired for the purpose and whether or not an affiliate of the Trustee, the Issuer or the Servicer;
- (h) to call up all or any portion of the uncalled capital (if any) of the Issuer;
- (i) generally to carry out, or cause or authorise to be carried out, any transaction, scheme or arrangement whatsoever, whether or not similar to any of the foregoing, in relation to the Charged Assets which it may consider expedient as effectually as if it were the absolute, sole legal and beneficial owner of the Charged Assets, subject to any restrictions in the Transaction Documents;
- (j) to pay and discharge, out of the profits and income of the Charged Assets and the monies to be made by it in carrying on the business of the Issuer, the expenses incurred in and about the carrying on and management of such business or in the exercise of any of the powers conferred by this Clause 6.4.1 (*Extension of powers*) or otherwise in respect of the Charged Assets and all outgoings which it shall think fit to pay and apply the residue of such profits and income in accordance with the Post-Enforcement Priority of Payments;
- (k) to exercise any of the powers and perform any of the duties conferred on the Issuer by or pursuant to any of the Transaction Documents or any statute, deed or contract;
- (l) to exercise, or permit any other person to exercise, any rights, powers or privileges of the Issuer in respect of the Charged Assets;
- (m) to disclaim, discharge, abandon, disregard, alter or amend on behalf of the Issuer all or any outstanding contracts of the Issuer except where such amendment is proscribed by the terms of any Transaction Document and allow time for payment of any monies either with or without security;
- (n) to sanction or confirm anything suffered by the Issuer and concur with the Issuer in any dealing not specifically mentioned above;

- (o) in connection with the exercise of any of its powers, to execute or do, or cause or authorise to be executed or done, on behalf of or in the name of the Issuer or otherwise, as it may think fit, all documents, acts or things which it may consider appropriate or incidental or conducive to the exercise of any of the powers referred to above; and
- (p) to use the name of the Issuer for all or any of the foregoing purposes.

The powers set out in this Clause 6.4.1 (*Extension of powers*) shall be exercisable at the Trustee's absolute discretion and the Trustee shall not be obliged to exercise them or incur any liability for failing to do so.

6.4.2 Powers Exercised on enforceability of Security

The statutory powers of sale and of appointing a receiver which are conferred upon the Trustee, as varied and extended by this First Supplemental Deed of Charge, and all other powers shall, in favour of any purchaser, be deemed to arise and be exercisable immediately after the execution of this First Supplemental Deed of Charge but shall only be exercised (without notice to the Issuer) once the Security has become enforceable.

6.4.3 Restrictions

The restrictions contained in Section 93 and Section 103 of the LPA shall not apply to this First Supplemental Deed of Charge or to the exercise by the Trustee of its right to consolidate all or any of the Security with any other security in existence at any time or to its power of sale, which powers may be exercised by the Trustee without notice to the Issuer at the time, or at any time after, the Security has become enforceable.

6.4.4 Borrowing Powers

The Trustee may raise and borrow money on the security of the Charged Assets or any part of the Charged Assets for the purpose of defraying any monies, costs, charges, losses and expenses paid or incurred by it in relation to this First Supplemental Deed of Charge (including the costs of realisation of any or all of the Charged Assets and the remuneration of the Trustee). The Trustee may raise and borrow such money at such rate of interest and generally on such terms and conditions as it shall think fit and may secure the repayment of the money so raised or borrowed with interest on the same by mortgaging or otherwise charging the Charged Assets or any of them and either in priority to the Security or otherwise and generally in such manner as the Trustee shall think fit and for such purposes may execute and do all such assurances and things as it shall think fit.

6.4.5 Powers Additional to the LPA and Insolvency Act Powers

The powers in relation to the Security conferred by this First Supplemental Deed of Charge of the Trustee or on any Receiver of the Charged Assets or any part of the Charged Assets shall be in addition to and not in substitution for the powers conferred on mortgagees or receivers under the LPA, the Insolvency

Act and, where there is any ambiguity or conflict between the powers contained in any of such Acts and those conferred by this First Supplemental Deed of Charge, the terms of this First Supplemental Deed of Charge shall prevail.

6.4.6 Right of appropriation

To the extent that the provisions of the Financial Collateral Arrangements (No. 2) Regulations 2003, as amended, (the "Regulations") apply to any of the Charged Assets, the Trustee shall have the right to appropriate all or any part of such Charged Assets in or towards the payment or discharge of the Amended Secured Obligations and may exercise such right to appropriate upon giving written notice to the Issuer. For this purpose, the parties agree that the value of those Charged Assets shall be, in the case of cash, the amount standing to the credit of each of the Issuer Account, together with any accrued but unposted interest, at the time of appropriation.

The parties agree that the method of valuation provided for in this First Supplemental Deed of Charge shall constitute a commercially reasonable method of valuation for the purposes of the Regulations.

7. POWER OF ATTORNEY

7.1 Appointment of Attorneys and Purposes of Appointment

The Issuer appoints the Trustee and any Receiver jointly and severally to be its attorneys (each, an "Attorney" and together, the "Attorneys") for the following purposes in the Issuer's name, on its behalf and as its act and deed:

- 7.1.1 to exercise the Issuer's rights, powers and discretions under and in respect of the Transaction Documents, the Purchased Receivables and the Related Collateral including the right to fix the interest rate in respect of any Purchased Receivables and to carry out any obligation imposed on the Issuer under this First Supplemental Deed of Charge or any other Transaction Document;
- 7.1.2 to demand, sue for and receive all monies due or payable under or in respect of the Transaction Documents, the Purchased Receivables and the Related Collateral;
- 7.1.3 upon payment of such monies or any part thereof to give good receipt and discharge for the same and to execute such receipts, releases, surrenders, instruments and deeds as may be requisite or advisable; and
- 7.1.4 to execute, deliver and perfect all documents, deeds, charges, assignments, security documents and transfers and do all things that the Attorneys may consider to be necessary for:
 - (a) carrying out any obligations imposed on the Issuer under this First Supplemental Deed of Charge; or
 - (b) exercising any of the rights, powers and discretions conferred on the Attorneys by this First Supplemental Deed of Charge or any other Transaction Document or by law (including, after the security

constituted by this First Supplemental Deed of Charge has become enforceable, the exercise of any right of a legal or a beneficial owner of the Charged Assets).

7.2 Substitution

Each of the Attorneys may appoint one or more persons to act as substitute or substitutes in its place for all or any of the purposes referred to in Clause 7.1 (*Appointment of Attorneys and Purposes of Appointment*) and may revoke any such appointment at any time.

7.3 Delegation

Each of the Attorneys may delegate to one or more person all or any of the powers referred to in Clause 7.1 (*Appointment of Attorneys and Purposes of Appointment*) on such terms as it thinks fit and may revoke any such delegation at any time. The Trustee shall not be liable for the actions of any such delegate provided that it has exercised due care in its selection.

7.4 Ratification

The Issuer undertakes to ratify whatever act, matter or deed the Attorneys or either of them may lawfully do or cause to be done under the authority or purported authority of this Clause 7 (*Power of Attorney*) to the extent that such act, matter or deed is within the power of the Issuer.

7.5 Security

The power of attorney contained in this Clause 7 (*Power of Attorney*) is given by way of security to secure the proprietary interests of, and the performance of the obligations of the Issuer to, the Attorneys under this First Supplemental Deed of Charge.

7.6 Revocation

The power of attorney contained in this Clause 7 (*Power of Attorney*) is irrevocable and accordingly, for so long as the obligations referred to in Clause 7.5 (*Security*) remain undischarged, the power of attorney contained in this Clause 7 (*Power of Attorney*) shall not be revoked:

7.6.1 by the Issuer without the consent of each of the Attorneys; or

7.6.2 on the occurrence of an Insolvency Event in respect of the Issuer.

8. EXECUTION

8.1 Execution

The parties have executed this First Supplemental Deed of Charge as a deed and intend to deliver and do deliver, this First Supplemental Deed of Charge on the date stated at the beginning of this First Supplemental Deed of Charge.


8.2 Effect

This First Supplemental Deed of Charge shall take effect as a deed.

EXECUTION PAGES TO FIRST SUPPLEMENTAL DEED OF CHARGE

ISSUER

EXECUTED and DELIVERED)
as a **DEED** by)
)
BAVARIAN SKY UK-D LIMITED)
acting by its authorised signatory)

 Ioannis Kyriakopoulos
Director

Authorised Signatory

In the presence of: _____  _____

Name: Natalia Yanshina _____

Occupation: Client Services Officer _____

Address: 3rd Floor, 1 King's Arms Yard
London, EC2R 7AF _____

SELLER, SERVICER AND SUBORDINATED LENDER

EXECUTED and DELIVERED)
as a DEED by)
BMW FINANCIAL SERVICES (GB))
LIMITED)
by a director and an)
authorised signatory)
)

 Chantal Gorman, Chief Risk Officer


Director

 Natasha Foley
Treasury Manager

Authorised Signatory

CLASS A SWAP COUNTERPARTY

EXECUTED and DELIVERED)
as a DEED by)
by ROYAL BANK OF CANADA)
acting by:)


Name: **Shouvick Saha**

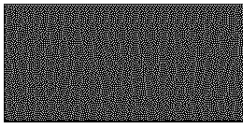
Title: **Authorised Signatory**


Name: **Mike Sharp**

Title: **Authorised Signatory**

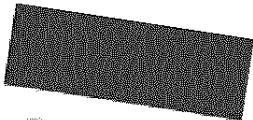
ACCOUNT BANK, PRINCIPAL PAYING AGENT AND REGISTRAR

SIGNED and DELIVERED)
as a **DEED** by)
ELAVON FINANCIAL SERVICES)
DAC, UK BRANCH)
acting by its duly authorised signatories)



Francesco Cesarano
Authorised Signatory

Authorised Signatory



Authorised Signatory

Chris Yates
Authorised Signatory

CORPORATE SERVICES PROVIDER

EXECUTED and DELIVERED
as a **DEED** by
WILMINGTON TRUST SP
SERVICES (LONDON) LIMITED
acting by its authorised signatory

)
)
)
)
)

Ioannis Kyriakopoulos
Authorised Signatory for Wilmington Trust SP Services (London) Limited

Authorised Signatory

In the presence of:

Name:

Natalia Yanshina

Occupation:

Client Services Officer

Address:

3rd Floor, 1 King's Arms Yard
London, EC2R 7AF

TRUSTEE

EXECUTED and **DELIVERED**
as a **DEED** by
WILMINGTON TRUST (LONDON)
LIMITED
acting by its authorised signatory

)
)
)
)
)



Authorised Signatory

In the presence of:

Name:

WENDY OGILVIE

Occupation:

EDITOR

Address:



DATA TRUSTEE

EXECUTED and DELIVERED)
as a DEED by)
U.S. BANK TRUSTEES LIMITED)
acting by its authorised signatory)



Francesco Cesarano
Authorised Signatory

Authorised Signatory



Authorised Signatory

Chris Yates
Authorised Signatory

In the presence of:

Name:

Occupation:

Address:

SCHEDULE 1
AMENDED AND RESTATED DEED OF CHARGE

EXECUTION VERSION

ORIGINALLY DATED 3 AUGUST 2020
AS AMENDED AND RESTATED ON 20 AUGUST 2021
AND AS FURTHER AMENDED AND RESTATED ON _____ 2022

BAVARIAN SKY UK-D LIMITED
AS ISSUER

BMW FINANCIAL SERVICES (GB) LIMITED
AS SELLER, SERVICER AND SUBORDINATED LENDER

ROYAL BANK OF CANADA
AS CLASS A SWAP COUNTERPARTY

ELAVON FINANCIAL SERVICES DAC, UK BRANCH
AS ACCOUNT BANK, PRINCIPAL PAYING AGENT AND REGISTRAR

WILMINGTON TRUST SP SERVICES (LONDON) LIMITED
AS CORPORATE SERVICES PROVIDER

WILMINGTON TRUST (LONDON) LIMITED
AS TRUSTEE

AND

U.S. BANK TRUSTEES LIMITED
AS DATA TRUSTEE

AMENDED AND RESTATED
DEED OF CHARGE
IN RELATION TO
BAVARIAN SKY UK-D LIMITED
£500,000,000 CLASS A ASSET BACKED FLOATING
RATE NOTES DUE AUGUST 2030
£159,600,000 CLASS B ASSET BACKED FIXED
RATE NOTES
DUE AUGUST 2030

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THIS DEED OF CHARGE was made on 3 August 2020, amended and restated on 20 August 2021 and is further amended and restated on _____ 2022

BETWEEN:

- (1) **BAVARIAN SKY UK-D LIMITED** a company incorporated in England and Wales with limited liability (registered number 12616726) whose registered office is at Third Floor, 1 King's Arms Yard, London, EC2R 7AF (the "**Issuer**");
- (2) **BMW FINANCIAL SERVICES (GB) LIMITED** (registered number 01288537), a private limited company incorporated under the laws of England and Wales, with its registered office at Summit One, Summit Avenue, Farnborough, Hants, GU14 0FB as the seller (the "**Seller**"), the servicer (the "**Servicer**") and the subordinated loan provider (the "**Subordinated Lender**");
- (3) **ROYAL BANK OF CANADA**, acting out of its London branch at 100 Bishopsgate, London EC2N 4AA and registered under number BR000548 (the "**Class A Swap Counterparty**");
- (4) **ELAVON FINANCIAL SERVICES DAC, UK BRANCH** a Designated Activity Company registered in Ireland with the Companies Registration Office, registered number 418442, with its registered office at Block F1, Cherrywood Business Park, Cherrywood, Dublin 18, Ireland, D18 W2X7, acting through its UK Branch (registered number BR009373) from its offices at 125 Old Broad Street, London EC2N 1AR under the trade name U.S. Bank Global Corporate Trust Services (the "**Account Bank**", "**Principal Paying Agent**" and the "**Registrar**");
- (5) **WILMINGTON TRUST SP SERVICES (LONDON) LIMITED** (registered number 2548079), whose registered office is at Third Floor, 1 King's Arms Yard, London, EC2R 7AF (the "**Corporate Services Provider**");
- (6) **WILMINGTON TRUST (LONDON) LIMITED** (registered number 05650152), whose registered office is at Third Floor, 1 King's Arms Yard, London, EC2R 7AF, in its capacity as the "**Trustee**" and (which expression shall include such company and all other persons or companies for the time being acting as Trustee pursuant to the terms of the Trust Deed); and
- (7) **U.S. BANK TRUSTEES LIMITED** (registered number 02379632), a private limited company incorporated under the laws of England and Wales with its principal office at 125 Old Broad Street, Fifth Floor, London, EC2N 1AR (in its capacity as the "**Data Trustee**", which expression shall include such company and all other persons or companies for the time being acting as Data Trustee pursuant to the terms of this Agreement).

INTRODUCTION:

This Deed is supplemental to the Trust Deed originally dated 3 August 2020 and as most recently amended, restated and supplemented on the Second Amendment Date, and as the same may be further amended, restated and supplemented from time to time and made between the Issuer and the Trustee relating to the issue of the Notes.

THIS DEED WITNESSES AS FOLLOWS:

1. INTERPRETATION

- 1.1 Unless otherwise defined in this Deed or the context requires otherwise, words and expressions used in this Deed have the meanings and constructions ascribed to them in schedule 1 (*Master Definitions Schedule*) to the Incorporated Terms Memorandum originally dated 3 August 2020 and as most recently amended and restated on the Second Amendment Date, and as the same may be further amended and restated from time to time signed, *inter alios*, by the parties to this Deed and others (as the same may be amended, varied and/or supplemented from time to time with the consent of the parties to this Deed, the "**Incorporated Terms Memorandum**"). This Deed shall be construed in accordance with the principles of construction and interpretation set out in such Incorporated Terms Memorandum.
- 1.2 References to "**this Deed**" means this Deed and the Schedules and any deed of charge supplemental hereto and the Schedules (if any) thereto.

2. COMMON TERMS

2.1 Incorporation of Common Terms

The common terms set out in schedule 2 (*Common Terms*) to the Incorporated Terms Memorandum (the "**Common Terms**") apply to this Deed and shall be binding on the parties to this Deed as if set out in full in this Deed.

2.2 Conflict with Common Terms

If there is any conflict between the provisions of the Common Terms and the provisions of this Deed, the provisions of this Deed shall prevail, save for where any provisions of this Deed relates to VAT, in which case the provisions of the Common Terms shall prevail.

2.3 Governing Law and Jurisdiction

This Deed and all non-contractual obligations arising out of or in connection with it shall be governed by English law and/or governed by and construed in accordance with Scots law (as applicable) in accordance with Paragraph 1 (*Governing Law*) of Part 3 (*Governing Law Provisions*) of the Common Terms. Paragraph 2 (*Jurisdiction*) of Part 3 (*Governing Law Provisions*) of the Common Terms apply to this Deed as if set out in full in this Deed.

3. ISSUER'S UNDERTAKING TO PAY

The Issuer undertakes to the Trustee (for its own account and as trustee for the other Secured Parties) that it shall duly, unconditionally and punctually pay and discharge to each of the Secured Parties when due all monies and liabilities whatsoever constituting the Secured Obligations.

4. REPRESENTATIONS AND COVENANTS BY THE ISSUER

4.1 Representations and Warranties

The Issuer gives certain representations and warranties to the Trustee (acting for itself and on behalf of the Secured Parties) on the terms set out in the Issuer Warranties.

4.2 Times for making representations and warranties

4.2.1 The Issuer Warranties are made on the date of this Deed.

4.2.2 Unless a representation and warranty is expressed to be given at a specific date, each of the Issuer Warranties is deemed to be repeated by the Issuer on each date until the Final Discharge Date.

4.2.3 When a representation and warranty is repeated, it is applied to the circumstances existing at the time of repetition.

5. CREATION OF FIXED SECURITY

As continuing security for the payment or discharge of the Secured Obligations the Issuer with full title guarantee (or, in relation to any rights or assets situated in Scotland or otherwise governed by Scots law, with absolute warrandice and, in relation to the Scottish Trust Property, as holder of the beneficial interest therein), in favour of the Trustee for the Trustee itself and on trust for the Secured Parties, hereby:

5.1 The Fixed Security

5.1.1 assigns absolutely the Benefit of all Purchased Receivables and any Related Collateral and all rights, claims and interests relating thereto;

5.1.2 assigns absolutely the Benefit of all rights, claims and interests which the Issuer is now or may hereafter become entitled to from or in relation to the Seller or the Servicer and/or any other party pursuant to or in respect of the Receivables Purchase Agreement or the Servicing Agreement, including all rights of the Issuer relating to any additional security;

5.1.3 assigns absolutely the Benefit of all present and future rights, claims and interests which the Issuer is now or may hereafter become entitled to from or in relation to the Subordinated Lender and/or any other party pursuant to or in respect of the Subordinated Loan Agreement;

5.1.4 assigns absolutely the Benefit of all present and future rights, claims and interests which the Issuer is now or may hereafter become entitled to from or in

relation to any Swap Counterparty pursuant to or in respect of the Swap Agreements;

- 5.1.5 assigns absolutely the Benefit of all present and future rights, claims and interests which the Issuer is now or may hereafter become entitled to from or in respect of the Collection Accounts Declarations of Trust;
- 5.1.6 assigns absolutely the Benefit of all present and future rights, claims and interests which the Issuer is now or may hereafter become entitled to from or in relation to the Account Bank and/or any other party pursuant to or in respect of the Bank Account Agreement;
- 5.1.7 assigns absolutely the Benefit of all present and future rights, claims and interests which the Issuer is now or may hereafter become entitled to from or in relation to the Paying Agent and/or the Registrar pursuant to the Agency Agreement;
- 5.1.8 assigns absolutely the Benefit of all present and future rights, claims and interests which the Issuer is now or may hereafter become entitled to from or in relation to the Corporate Services Provider pursuant to the Corporate Services Agreement; and
- 5.1.9 charges by way of first fixed charge the Benefit of all present and future rights, claims and interests in or in relation to any amounts standing to the credit of the Charged Accounts.

5.2 Scottish Trust and Scottish Vehicle Sales Proceeds Floating Charge Security

- 5.2.1 The Issuer undertakes immediately following the execution and intimation and delivery to it of any Scottish Declaration of Trust and the Scottish Vehicle Sales Proceeds Floating Charge pursuant to clauses 2 (*Sale of Initial Portfolio*), 3.1 (*Sale of Additional Portfolios*) or 4.10 (*Purchase, Assignment, Completion and Perfection*) of the Receivables Purchase Agreement, to execute and deliver to the Trustee a Scottish Supplemental Charge relative thereto substantially in the form set out in Schedule 5 (*Form of Scottish Supplemental Charge*) to this Deed. The Issuer further undertakes that immediately following execution and delivery to the Trustee of the Scottish Supplemental Charge in terms hereof it shall intimate and give notice to the Seller of the Scottish Supplemental Charge and the assignation in security made thereunder by delivery to the Seller of a copy of the Scottish Supplemental Charge duly executed by it or otherwise.
- 5.2.2 The Issuer undertakes to the Trustee at the time of delivery of the Scottish Supplemental Charge in terms of Clause 5.2.1 above simultaneously to deliver to the Trustee the Scottish Declaration of Trust and (as applicable) the Scottish Vehicle Sales Proceeds Floating Charge specified therein.

6. CREATION OF FLOATING CHARGE

6.1 The Floating Charge

- 6.1.1 Without prejudice to Clause 6.1.2 below, as continuing security for the payment or discharge of the Secured Obligations, the Issuer with full title guarantee and

with absolute warrantice in respect of assets situated in Scotland or otherwise governed by Scots law hereby charges, in favour of the Trustee for the Trustee itself and on trust for the Secured Parties, by way of first floating charge the whole of its undertaking and all its property, assets and rights whatsoever and wheresoever present and future including,

- (a) its uncalled capital;
- (b) the Benefit of each Permitted Investment; and
- (c) for the avoidance of doubt, all its property, assets and rights situated in Scotland or otherwise subject to Scots law.

6.1.2 The Issuer's paid-up share capital and annual profit shall be excluded from the first floating charge created by Clause 6.1.1 above.

6.2 Paragraph 14, Schedule B1, Insolvency Act

Paragraph 14 of Schedule B1 to the Insolvency Act 1986 applies to the floating charge created pursuant to this Clause 6.

6.3 Floating Charge postponed

The floating charge created by Clause 6.1 (*The Floating Charge*) shall be postponed to any valid fixed charges created by or pursuant to this Deed which remain outstanding from time to time and any rights of the Issuer to deal with the assets subject to the floating charge, shall be expressly subject to any restrictions placed on dealing with those assets contained in any fixed charge over the same.

6.4 Conversion to Fixed Charge

The floating charge created by this Clause 6 will (so far as permitted by applicable law) automatically convert into a fixed charge as regards:

- 6.4.1 all of the Issuer's assets subject to the floating charge, upon the service of an Enforcement Notice or a Security Protection Notice (to the extent not withdrawn); and
- 6.4.2 any assets of the Issuer subject to the floating charge if those assets (contrary to the covenants and undertakings contained in the Transaction Documents) are or become subject to any Encumbrance in favour of any person other than the Trustee immediately prior to that Encumbrance arising or that sale, transfer or other disposition being made.

7. WARRANTY BY THE ISSUER

The Issuer warrants to the Trustee that:

- 7.1.1 it has taken all necessary steps to enable it to create the Security in respect of the Charged Assets in accordance with this Deed and has taken no action or steps which will or may prejudice its right, title and interest in, to and under the Charged Assets; and

- 7.1.2 this Deed creates the Security it purports to create and such Security is not liable to be avoided or otherwise set aside upon an occurrence of or in relation to an Insolvency Event in respect of the Issuer.

8. NOTICE OF SECURITY

8.1 Issuer's Notices

The Issuer shall, immediately after the Initial Issue Date or any date on which (i) any additional account is opened in the name of the Issuer in accordance with clause 8 (*Additional Accounts*) of the Bank Account Agreement, (ii) a new Collection Account is opened or (iii) the date a new Transaction Party enters into the Transaction, give notice of the Security to all relevant parties, including the following notices (as applicable):

- 8.1.1 to the Account Bank, a Notice of Charge and Assignment to Account Bank in the form set out in Part I (*Form of Notice of Charge and Assignment*) of Schedule 1 (*Form of Notice of Charge and Assignment to Account Bank*);
- 8.1.2 to the Collection Account Bank, a Notice of Assignment to Collection Account Bank in the form set out in Part I (*Form of Notice of Assignment*) of Schedule 2 (*Form of Notice of Assignment to Collection Account Bank*); and
- 8.1.3 to each of the other parties to the Transaction Documents, a Notice of Assignment to Transaction Parties in the form set out in Part I (*Form of Notice of Assignment*) of Schedule 3 (*Form of Notice of Assignment to Transaction Parties*).

8.2 Acknowledgements of Notices

The Issuer shall procure that the Account Bank and each Transaction Party which receives a Notice of Assignment to Transaction Parties acknowledges receipt of the notice sent to it pursuant to Clause 8.1 (*Issuer's Notices*) in the form required by such notice.

9. REDEMPTION AND RELEASE

9.1 Release on payment or discharge

Upon proof being given to the satisfaction of the Trustee as to the irrevocable and unconditional payment or discharge of the Secured Obligations, the Trustee will, at the request and cost of the Issuer, release, discharge, retrocess or reassign the Charged Assets without recourse, representation or warranty to the Issuer or to any other person entitled to the Charged Assets of whom the Trustee has notice.

9.2 No avoidance

No assurance, security or payment which is avoided under any enactment relating to bankruptcy or under Sections 238 to 245 or Section 423 of the Insolvency Act or any equivalent provision of common law and no release, settlement or discharge given or made by the Trustee in reliance on any such assurance, security or payment shall prejudice or affect the right of the Trustee to enforce the Security. The Issuer agrees

that, notwithstanding any such avoidance, release, settlement or discharge, the Security shall be deemed always to have been and to have remained held by the Trustee as and by way of security for the payment to or to the order of the Trustee of the Secured Obligations.

9.3 Release pursuant to the Receivables Purchase Agreement

The Trustee agrees that if it receives notice from the Issuer stating that the Issuer is required to reassign or retransfer any Purchased Receivables or Related Collateral to the Seller pursuant to the provisions of the Receivables Purchase Agreement relating to repurchase or release, then the Trustee will execute a deed of release and take such other steps as may be necessary in order to release the relevant Purchased Receivables and Related Collateral from the Security in accordance with the Receivables Purchase Agreement.

9.4 Form of release

Subject to the provisions of Clause 9.3 (*Release pursuant to the Receivables Purchase Agreement*) the Security shall be released only upon the execution by or on behalf of the Trustee of either an absolute and unconditional release by way of deed or a receipt, in each case relating to all (and not part only) of the Secured Obligations.

10. CONTINUANCE OF SECURITY

The Security and the covenants, undertakings and provisions contained in this Deed shall remain in force as a continuing security to the Trustee, notwithstanding any intermediate payment or satisfaction of any part of the Secured Obligations or any settlement of account or any other act, event or matter whatsoever, and shall secure the ultimate balance of the Secured Obligations.

11. PAYMENTS PRIOR TO ENFORCEMENT

11.1 Notwithstanding the Security, the Trustee acknowledges that, until delivery of a Security Protection Notice (to the extent not withdrawn), the delivery of an Enforcement Notice or the Security otherwise becoming enforceable:

- 11.1.1 payments becoming due to the Issuer under any of the Transaction Documents, together with all other monies payable to the Issuer pursuant to any other documents or arrangements to which it is a party, may be made to the Issuer in accordance with the provisions of the relevant Transaction Documents or (as the case may be) the documents or arrangements concerned;
- 11.1.2 the Issuer may, subject to Clause 11.1.3 below, exercise its rights, powers and discretions and perform its obligations in relation to the Charged Assets and under the Transaction Documents and any other documents or arrangements to which it is a party in accordance with the provisions of the Transaction Documents or (as the case may be) such other documents or arrangements; and
- 11.1.3 amounts standing to the credit of the Charged Accounts from time to time may be withdrawn therefrom by the Issuer but only in accordance with the provisions of the Bank Account Agreement, the Swap Agreements and the Servicing Agreement.

12. SECURITY PROTECTION NOTICE

12.1 Delivery of Security Protection Notice

Subject to the provisions of Clause 15 (*Enforcement*) if, at any time while any of the Secured Obligations remain outstanding:

12.1.1 an Issuer Event of Default or Potential Issuer Event of Default in relation to the Notes occurs; or

12.1.2 the Trustee believes that the Charged Assets or any part thereof is in danger of being seized or sold under any form of distress, diligence or execution levied, executed or threatened or to be otherwise in jeopardy,

then the Trustee may, in its absolute discretion, deliver to the Issuer a Security Protection Notice in, or substantially in, the form set out in Schedule 4 (*Form of Security Protection Notice*).

12.2 Consequences of delivery of a Security Protection Notice

Upon delivery of a Security Protection Notice:

12.2.1 the Floating Charge shall crystallise into a fixed charge or fixed charges as regards any assets specified in the Security Protection Notice; and

12.2.2 by way of further assurance of such fixed charge or fixed charges the Issuer shall promptly execute over such assets a fixed charge or fixed charges or other Encumbrance in favour of the Trustee in such form as the Trustee shall require.

12.3 Withdrawal of a Security Protection Notice

The Trustee may at any time, unless an Enforcement Notice has been delivered, by notice in writing to the Issuer withdraw a Security Protection Notice.

12.4 No withdrawals from the Charged Accounts

From and including the date on which the Trustee delivers a Security Protection Notice to the Issuer and unless and until it is withdrawn (unless at such time an Enforcement Notice has been served), no amount may be withdrawn from the Charged Accounts without the prior written consent of the Trustee, **provided that**, unless an Enforcement Notice has been delivered, the Trustee shall not act under this Clause 12.4 in such a way as to require any payment other than in accordance with the relevant Priority of Payment.

13. ENFORCEMENT NOTICE

The parties hereto acknowledge and agree that the circumstances in which the Trustee may or shall deliver an Enforcement Notice and the conditions applicable to delivery of an Enforcement Notice are set out in (while any Notes remain outstanding) Conditions 11 (*Events of Default*) and 12 (*Enforcement*) respectively.

14. SECURITY ENFORCEABLE

The whole of the Security shall become enforceable:

- 14.1.1 upon the delivery of an Enforcement Notice; or
- 14.1.2 if (a) any proceeding is initiated against the Issuer under any applicable liquidation, insolvency, composition, reorganisation or other similar laws; (b) an application is made (or documents filed with the court) for the appointment of an administrator of the Issuer; or (c) any person who is entitled to do so gives notice of intention to appoint an administrator of the Issuer or files such notice with the court, and in any such case (other than the appointment of an administrator or an administrative receiver appointed following presentation of a petition for an administration order), unless initiated by the Issuer, is not discharged within 30 days.

15. ENFORCEMENT

15.1 Consequences of enforceable Security

From the date on which the Security becomes enforceable:

- 15.1.1 if it has not already crystallised, the Floating Charge (so far as permitted by applicable law) shall crystallise;
- 15.1.2 subject to the provisions of the Conditions (while any Notes remain outstanding) and the Trust Deed, the Trustee may institute such proceedings against the Issuer and any other Transaction Party and take such action as it may think fit to enforce all or any part of the Security;
- 15.1.3 amounts may be withdrawn from the Charged Accounts only by the Trustee and shall be applied only in accordance with the Post-Enforcement Priority of Payments and as specified in the provisos to Schedule 1 (*Form of Notice of Charge and Assignment to Account Bank*), Schedule 2 (*Form of Notice of Assignment to Collection Account Bank*) and Schedule 3 (*Form of Notice of Assignment to Transaction Parties*) (as applicable);
- 15.1.4 the Trustee may appoint a Receiver or an administrator in accordance with Clause 18 (*Appointment and Removal of Administrators and Receivers*);
- 15.1.5 whether or not it has appointed a Receiver, the Trustee may exercise all or any of the powers, authorities and discretions:
 - (a) conferred by the Security Documents and the Trust Deed on any Receiver; or
 - (b) conferred by the LPA (as varied or extended by the Security Documents and the Trust Deed) on mortgagees; or
 - (c) otherwise conferred by law on mortgagees and receivers.

15.2 Provisions applicable to enforcement

The parties to this Deed acknowledge and agree that if the Security becomes enforceable in accordance with Clause 14 (*Security Enforceable*) the provisions of Condition 15 (*Enforcement*) apply in relation, *inter alia*, to the proceedings of the Trustee, directions to the Trustee and the disposal of the Charged Assets as well as other relevant provisions of the Transaction Documents.

15.3 Trustee rights upon enforcement

In addition to any other rights expressly provided in this Deed, for the period commencing upon the service of an Enforcement Notice and terminating upon the notification to the Secured Parties by the Trustee that all Secured Obligations have been satisfied in full, save as otherwise expressly provided in this Deed or as required by the Trustee, all payments under or arising from this Deed and all amounts payable to the Issuer by any party to this Deed under any Transaction Document shall be paid to the Trustee or to its order to be applied in accordance with the Post-Enforcement Priority of Payments.

15.4 Enforcement when not all monies are enforceable

If the Security is enforced at a time when no amount is due in respect of the Secured Obligations or any of the Secured Obligations are contingent or future, the Trustee or any Receiver shall pay the proceeds of any recoveries effected by it into any interest-bearing account to be held by it as security and may, pending application of such proceeds in accordance with the terms of the Trust Deed, invest such proceeds in accordance with the provisions of the Trust Deed.

15.5 Moratorium under Part A1 of the Insolvency Act 1986

Notwithstanding anything to the contrary in this Deed and except to the extent that a floating charge created pursuant to Clause 6 (*Creating of Floating Charge*) is of a type referred to in section A52(4) of Part A1 of the Insolvency Act 1986, neither the obtaining of a moratorium by the Issuer under Part A1 of the Insolvency Act 1986 nor the doing of anything by the Issuer with a view to obtaining such a moratorium (including any preliminary decision or investigation) shall be, or be construed as:

- (a) an event under this Deed which causes the floating charge created by Clause 6 (*Creation of Floating Charge*) to be converted into a fixed charge;
- (b) an event under this Deed which causes any restriction which would not otherwise apply to be imposed on the disposal of any property of the Issuer; or
- (c) a ground under this Deed for the appointment of a receiver.

16. APPLICATION OF PAYMENTS

16.1 Pre-Enforcement Priority of Payments

Each of the Secured Parties acknowledges and agrees that prior to the service of an Enforcement Notice, all moneys of the Issuer shall be applied in accordance with the Pre-Enforcement Priority of Payments.

16.2 Post-Enforcement Priority of Payments

After the Security has become enforceable in accordance with Clause 14 (*Security Enforceable*), all Available Post-Enforcement Funds (after deduction of all costs and expenses incurred by or on behalf of the Trustee in obtaining receipt or recovery of the Available Post-Enforcement Funds) shall be held by the Trustee upon trust to be applied in payment, in the amounts required, each in accordance with the Post-Enforcement Priority of Payments.

16.3 Monies not required for the Secured Obligations

Any monies held by the Receiver or the Trustee after application of monies received or recovered after the Security has become enforceable in accordance with Clause 14 (*Security Enforceable*) and not required for application in discharge of the Secured Obligations in accordance with the Post-Enforcement Priority of Payments (except for amounts set out in the proviso in Schedule 7 (*Post-Enforcement Priority of Payments*)) shall be paid by the Receiver or the Trustee to the Issuer for application in or towards meeting the obligations of the Issuer, which do not constitute Secured Obligations, as such obligations fall due.

16.4 Application of monies standing to the credit of the Issuer Account

Each of the Secured Parties and the Issuer hereby agrees and authorises, that from the date upon which the Trustee serves an Enforcement Notice on the Issuer the Issuer may not make any withdrawal from the Issuer Account.

17. EXTENSION AND VARIATION OF THE LPA

17.1 Extension of powers

From the date of this Deed but subject to Clause 17.2 (*Powers Exercised on enforceability of Security*), the provisions of the LPA, relating to the power of sale and the other powers conferred by Sections 101(1) and (2) of the LPA, are extended to authorise the Trustee upon such terms as the Trustee may think fit:

- 17.1.1 to sell, exchange, licence or otherwise dispose of or otherwise deal with the Charged Assets or any interest in the same, and to do so for shares, debentures or any other securities whatsoever, or in consideration of an agreement to pay all or part of the purchase price at a later date or dates, or an agreement to make periodical payments, whether or not the agreement is secured by an Encumbrance or a guarantee, or for such other consideration (if any) and upon such terms whatsoever as the Trustee may think fit, and also to grant any option to purchase;
- 17.1.2 with a view to, or in connection with, the management or disposal of the Charged Assets to carry out any transaction, scheme or arrangement which the Trustee may in its absolute discretion consider appropriate;
- 17.1.3 to take possession of, get in and collect the Charged Assets;

- 17.1.4 to carry on and/or manage and/or concur in managing the business of the Issuer as it thinks fit and to demand, sue for and collect and get in all monies due to the Issuer as it thinks fit;
- 17.1.5 to appoint and engage managers, agents and advisers upon such terms as to remuneration and otherwise and for such periods as it may determine, and to dismiss them;
- 17.1.6 to bring, defend, submit to arbitration, negotiate, compromise, abandon and settle any claims and proceedings concerning the Charged Assets;
- 17.1.7 to transfer all or any of the Charged Assets and/or any of the liabilities of the Issuer to any other company or body corporate whether or not formed or acquired for the purpose and whether or not an affiliate of the Trustee, the Issuer or the Servicer;
- 17.1.8 to call up all or any portion of the uncalled capital (if any) of the Issuer;
- 17.1.9 generally to carry out, or cause or authorise to be carried out, any transaction, scheme or arrangement whatsoever, whether or not similar to any of the foregoing, in relation to the Charged Assets which it may consider expedient as effectually as if it were the absolute, sole legal and beneficial owner of the Charged Assets, subject to any restrictions in the Transaction Documents;
- 17.1.10 to pay and discharge, out of the profits and income of the Charged Assets and the monies to be made by it in carrying on the business of the Issuer, the expenses incurred in and about the carrying on and management of such business or in the exercise of any of the powers conferred by this Clause 17.1 or otherwise in respect of the Charged Assets and all outgoings which it shall think fit to pay and apply the residue of such profits and income in accordance with the Post-Enforcement Priority of Payments;
- 17.1.11 to exercise any of the powers and perform any of the duties conferred on the Issuer by or pursuant to any of the Transaction Documents or any statute, deed or contract;
- 17.1.12 to exercise, or permit any other person to exercise, any rights, powers or privileges of the Issuer in respect of the Charged Assets;
- 17.1.13 to disclaim, discharge, abandon, disregard, alter or amend on behalf of the Issuer all or any outstanding contracts of the Issuer except where such amendment is proscribed by the terms of any Transaction Document and allow time for payment of any monies either with or without security;
- 17.1.14 to sanction or confirm anything suffered by the Issuer and concur with the Issuer in any dealing not specifically mentioned above;
- 17.1.15 in connection with the exercise of any of its powers, to execute or do, or cause or authorise to be executed or done, on behalf of or in the name of the Issuer or otherwise, as it may think fit, all documents, acts or things which it may consider appropriate or incidental or conducive to the exercise of any of the powers referred to above; and

17.1.16 to use the name of the Issuer for all or any of the foregoing purposes.

The powers set out in this Clause 17.1 shall be exercisable at the Trustee's absolute discretion and the Trustee shall not be obliged to exercise them or incur any liability for failing to do so.

17.2 Powers Exercised on enforceability of Security

The statutory powers of sale and of appointing a receiver which are conferred upon the Trustee, as varied and extended by this Deed, and all other powers shall, in favour of any purchaser, be deemed to arise and be exercisable immediately after the execution of this Deed but shall only be exercised (without notice to the Issuer) once the Security has become enforceable.

17.3 Restrictions

The restrictions contained in Section 93 and Section 103 of the LPA shall not apply to this Deed or to the exercise by the Trustee of its right to consolidate all or any of the Security with any other security in existence at any time or to its power of sale, which powers may be exercised by the Trustee without notice to the Issuer at the time, or at any time after, the Security has become enforceable.

17.4 Borrowing Powers

The Trustee may raise and borrow money on the security of the Charged Assets or any part of the Charged Assets for the purpose of defraying any monies, costs, charges, losses and expenses paid or incurred by it in relation to this Deed (including the costs of realisation of any or all of the Charged Assets and the remuneration of the Trustee). The Trustee may raise and borrow such money at such rate of interest and generally on such terms and conditions as it shall think fit and may secure the repayment of the money so raised or borrowed with interest on the same by mortgaging or otherwise charging the Charged Assets or any of them and either in priority to the Security or otherwise and generally in such manner as the Trustee shall think fit and for such purposes may execute and do all such assurances and things as it shall think fit.

17.5 Powers Additional to the LPA and Insolvency Act Powers

The powers in relation to the Security conferred by this Deed of the Trustee or on any Receiver of the Charged Assets or any part of the Charged Assets shall be in addition to and not in substitution for the powers conferred on mortgagees or receivers under the LPA, the Insolvency Act and, where there is any ambiguity or conflict between the powers contained in any of such Acts and those conferred by this Deed, the terms of this Deed shall prevail.

17.6 Right of appropriation

To the extent that the provisions of the Financial Collateral Arrangements (No. 2) Regulations 2003, as amended, (the "Regulations") apply to any of the Charged Assets, the Trustee shall have the right to appropriate all or any part of such Charged Assets in or towards the payment or discharge of the Secured Obligations and may exercise such right to appropriate upon giving written notice to the Issuer. For this purpose, the parties agree that the value of those Charged Assets shall be, in the case of cash, the amount

standing to the credit of each of the Issuer Account, together with any accrued but unposted interest, at the time of appropriation.

The parties agree that the method of valuation provided for in this Deed shall constitute a commercially reasonable method of valuation for the purposes of the Regulations.

18. APPOINTMENT AND REMOVAL OF ADMINISTRATORS AND RECEIVERS

18.1 Appointment of an Administrator

18.1.1 At any time after the delivery of an Enforcement Notice or if any person who is entitled to do so presents an application for the appointment of an administrator of the Issuer, gives notice of intention to appoint an administrator of the Issuer, or files such a notice with the court, the Trustee may appoint one or more persons to be an administrator of the Issuer.

18.1.2 The Trustee is not liable for any failure to appoint an administrator or Receiver in respect of the Issuer and, for the avoidance of doubt:

- (a) nothing in this Clause 18 shall be construed so as to impose on the Trustee any obligation to indemnify any administrative receiver appointed by it pursuant to this Clause 18 except to the extent of (and from) the cash and assets comprising the Security held by the Trustee at such time; and
- (b) the Trustee shall have no liability if, having used its reasonable endeavours, it is unable to find a person who is willing to be appointed as an administrative receiver on the terms as to indemnification referred to in paragraph (a) above.

18.1.3 The Issuer waives any claims against the Trustee in respect of any appointment not made pursuant to this Clause.

18.2 Appointment of a Receiver

At any time after the delivery of an Enforcement Notice or if any person who is entitled to do so presents an application for the appointment of an administrator of the Issuer, gives notice of intention to appoint an administrator of the Issuer, or files such a notice with the court, the Trustee may appoint such person or persons (including an officer or officers of the Trustee) as it thinks fit to be a Receiver or Receivers of the Charged Assets or any part thereof to act jointly or jointly and severally as receiver, manager, receiver or manager, administrative receiver, compulsory or interim manager or other similar officer as the Trustee shall determine, **provided that** the Trustee shall have been indemnified and/or prefunded and/or secured to its satisfaction against all Liabilities to which it may thereby become liable or which it may incur by so doing.

18.3 Waiver no prejudice to Future Appointment

No delay or waiver of the right to exercise the power to appoint a Receiver shall prejudice the future exercise of such power.

18.4 Insolvency Act Requirements

The Trustee shall comply with any requirement under the Insolvency Act that the person appointed to be a Receiver be a licensed insolvency practitioner.

18.5 Removal of Receiver

The Trustee may (subject to Section 45 of the Insolvency Act) remove any Receiver whether or not appointing another in his place and the Trustee may also appoint another receiver if the Receiver resigns.

18.6 Exclusion of part of Charged Assets

The exclusion of any part of the Charged Assets from the appointment of any Receiver shall not preclude the Trustee from subsequently extending his appointment (or that of the Receiver replacing him) to that part.

18.7 Statutory Powers of Appointment

The power of appointing a Receiver shall be in addition to all statutory and other powers of appointment of the Trustee under the LPA (as extended by this Deed) or otherwise and such powers shall remain exercisable from time to time by the Trustee in respect of any of the Charged Assets.

19. PROVISIONS RELATING TO A RECEIVER

19.1 Receiver Agent of Issuer

Any Receiver shall, so far as the law permits, be the agent of the Issuer and (subject to applicable law) the Issuer shall be solely responsible for any Receiver's acts and defaults and liable on any contracts or engagements made or entered into by any Receiver; and in no circumstances shall the Trustee or the Secured Parties be in any way responsible for any Breach of Duty by any Receiver.

19.2 Remuneration of Receiver

The remuneration of any Receiver may be fixed by the Trustee (and may be or include a commission calculated by reference to the gross amount of all money received or otherwise) but such remuneration shall be payable by the Issuer alone and the amount of such remuneration shall form part of the Secured Obligations, shall be secured on the Charged Assets under the Security and paid in accordance with the Post-Enforcement Priority of Payments.

19.3 Receiver and Trustee's Directions

Each Receiver shall in the exercise of his powers, authorities and discretions conform to the regulations and directions from time to time made and given by the Trustee.

19.4 Security from Receiver

The Trustee may from time to time and at any time require any Receiver to give security for the due performance of his duties as Receiver and may fix the nature and amount of

the security to be so given but the Trustee shall not be bound in any case to require any such security.

19.5 Monies Payable to Trustee

Except as otherwise directed by the Trustee or as otherwise required by law, all monies from time to time received by any Receiver shall be paid over to the Trustee to be applied by it in accordance with the Post-Enforcement Priority of Payments.

19.6 Payments by Trustee to Receiver

The Trustee may pay over to any Receiver any monies constituting part of the Charged Assets so that such monies may be applied for the purposes of this Deed by such Receiver and the Trustee may from time to time determine what funds any Receiver shall be at liberty to keep in hand with a view to the performance of his duties as Receiver.

19.7 Sections 109(6) and (8) of the LPA

Sections 109(6) and (8) of the LPA (relating to the application of monies received by a receiver) shall not apply in relation to any Receiver.

19.8 LPA Restrictions Inapplicable

None of the restrictions imposed by the LPA in relation to the appointment of receivers or as to the giving of notice or otherwise shall apply to this Deed of Charge.

20. POWERS OF A RECEIVER

20.1 Powers of a Receiver

Every Receiver shall (subject to any restrictions in the instrument appointing him) have and be entitled to exercise in relation to the Charged Assets in respect of which he is appointed, and as varied and extended by the provisions of this Deed (in the name of or on behalf of the Issuer or in his own name and, in each case, at the cost of the Issuer):

- 20.1.1 all the powers conferred by the LPA on mortgagees and on mortgagees in possession and on receivers as extended by Clause 17 (*Extension and Variation of the LPA*);
- 20.1.2 all powers of an administrative receiver set out in Schedule 1 of the Insolvency Act (whether or not the Receiver is an administrative receiver);
- 20.1.3 all powers and rights of an absolute owner and power to do or omit to do anything which the Issuer itself could do or omit to do; and
- 20.1.4 the power to do all things (including bringing or defending proceedings in the name or on behalf of the Issuer) which seem to the Receiver to be incidental or conducive to:
 - (a) any of the functions, powers, authorities or discretions conferred on or vested in him;

- (b) the exercise of any or all of his rights under this Deed; or
- (c) bringing into his hands any assets of the Issuer forming part of, or which when got in would be, Charged Assets.

20.2 Receiver and Transaction Documents

No Receiver shall have any power to take any action in relation to the Charged Assets which the Trustee is prohibited from taking by the terms of any Transaction Document.

21. PROTECTION OF THIRD PARTIES

21.1 Purchaser Defined

For the purposes of Clause 21.2 (*Protection of third parties*) and Clause 21.3 (*Receipt absolute discharge*) below, "**purchaser**" includes any person acquiring in good faith, for money or money's worth, the benefit of any Encumbrance over, or any other interest or right whatsoever in relation to, the Charged Assets.

21.2 Protection of third parties

No purchaser from, or other person dealing with, the Trustee and/or any Receiver shall be concerned to enquire:

- 21.2.1 whether any of the powers which they have exercised or purported to exercise has arisen or become exercisable; or
- 21.2.2 whether the Secured Obligations remain outstanding; or
- 21.2.3 whether any event has occurred to authorise the Trustee and/or any Receiver to act; or
- 21.2.4 as to the propriety or validity of the exercise or purported exercise of any such powers,

and the title of such a purchaser and the position of such other person shall not be impeachable by reference to any of those matters.

21.3 Receipt absolute discharge

The receipt of the Trustee or the Receiver shall be an absolute and conclusive discharge to a purchaser or other such person as is referred to in this Clause 21 and shall relieve such purchaser or other person of any obligation to see to the application of any monies paid to or by the direction of the Trustee or the Receiver.

22. PROTECTION OF THE TRUSTEE AND ANY RECEIVER

22.1 Protection of the Trustee and any Receiver

The Trustee shall not nor shall any Receiver, attorney or agent of the Trustee by reason of taking possession of the Charged Assets or any part thereof or for any other reason whatsoever and whether as mortgagee in possession or on any other basis whatsoever:

22.1.1 be liable to account to the Issuer or any other person whatsoever for anything except actual receipts in respect of the Charged Assets; or

22.1.2 be liable to the Issuer or any other person whatsoever for any loss or damage arising from realisation of the Charged Assets or any part thereof or from any act, default or omission in relation to the Security or any part thereof or from any exercise or non-exercise by it of any power, authority or discretion conferred upon it in relation to the Security or any part thereof or otherwise,

unless such loss or damage shall be caused by its own negligence, wilful default or fraud.

22.2 Protection of the Trustee

The Trustee will exercise its powers and authority under this Deed in the manner provided for in this Deed and in the Trust Deed and, in so acting, the Trustee shall have the protection, immunities, rights, powers, authorisations, indemnities and benefits conferred on it under and by the Trust Deed and the other Transaction Documents.

22.3 Entry into possession

Without prejudice to the generality of Clause 22.1 (*Protection of the Trustee and any Receiver*), entry into possession of the Charged Assets or any part thereof shall not render the Trustee or the Receiver liable to account as mortgagee or heritable creditor in possession or liable for any loss on realisation or for any default or omission for which a mortgagee or heritable creditor in possession might be liable.

22.4 Going out of possession

If and whenever the Trustee or the Receiver enters into possession of the Charged Assets, it shall be entitled at any time at its discretion to go out of such possession.

23. OTHER SECURITY

The Security is in addition to, and shall neither be merged in, nor in any way exclude or prejudice or be affected by, any other Encumbrance, right or recourse or other right whatsoever which the Trustee may now or at any time after the date of this Deed hold or have (or would apart from the provisions of this Deed hold or have) as regards the Issuer or any other person in respect of the Secured Obligations.

24. APPLICATION TO COURT

The Trustee may at any time apply to any court of competent jurisdiction for an order that the terms of this Deed or any document entered into pursuant hereto be carried into execution under the direction of the court and for the appointment of a Receiver of the Charged Assets and for any other order in relation to the administration of the terms of this Deed or any document entered into pursuant hereto as the Trustee shall deem fit and the Trustee may assent to or approve any application made to the court by the Secured Parties and shall be indemnified by the Issuer against all costs, charges and expenses incurred by it in relation to any such application or proceedings.

25. POWER OF ATTORNEY

25.1 Appointment of Attorneys and Purposes of Appointment

The Issuer appoints the Trustee and any Receiver jointly and severally to be its attorneys (each, an "Attorney" and together, the "Attorneys") for the following purposes in the Issuer's name, on its behalf and as its act and deed:

- 25.1.1 to exercise the Issuer's rights, powers and discretions under and in respect of the Transaction Documents, the Purchased Receivables and the Related Collateral including the right to fix the interest rate in respect of any Purchased Receivables and to carry out any obligation imposed on the Issuer under this Deed or any other Transaction Document;
- 25.1.2 to demand, sue for and receive all monies due or payable under or in respect of the Transaction Documents, the Purchased Receivables and the Related Collateral;
- 25.1.3 upon payment of such monies or any part thereof to give good receipt and discharge for the same and to execute such receipts, releases, surrenders, instruments and deeds as may be requisite or advisable; and
- 25.1.4 to execute, deliver and perfect all documents, deeds, charges, assignments, security documents and transfers and do all things that the Attorneys may consider to be necessary for:
 - (a) carrying out any obligations imposed on the Issuer under this Deed; or
 - (b) exercising any of the rights, powers and discretions conferred on the Attorneys by this Deed or any other Transaction Document or by law (including, after the security constituted by this Deed has become enforceable, the exercise of any right of a legal or a beneficial owner of the Charged Assets).

25.2 Substitution

Each of the Attorneys may appoint one or more persons to act as substitute or substitutes in its place for all or any of the purposes referred to in Clause 25.1 (*Appointment of Attorneys and Purposes of Appointment*) and may revoke any such appointment at any time.

25.3 Delegation

Each of the Attorneys may delegate to one or more person all or any of the powers referred to in Clause 25.1 (*Appointment of Attorneys and Purposes of Appointment*) on such terms as it thinks fit and may revoke any such delegation at any time. The Trustee shall not be liable for the actions of any such delegate **provided that** it has exercised due care in its selection.

25.4 Ratification

The Issuer undertakes to ratify whatever act, matter or deed the Attorneys or either of them may lawfully do or cause to be done under the authority or purported authority of this Clause 25 to the extent that such act, matter or deed is within the power of the Issuer.

25.5 Security

The power of attorney contained in this Clause 25 is given by way of security to secure the proprietary interests of, and the performance of the obligations of the Issuer to, the Attorneys under this Deed.

25.6 Revocation

The power of attorney contained in this Clause 25 is irrevocable and accordingly, for so long as the obligations referred to in Clause 25.5 (*Security*) remain undischarged, the power of attorney contained in this Clause 25 shall not be revoked:

25.6.1 by the Issuer without the consent of each of the Attorneys; or

25.6.2 on the occurrence of an Insolvency Event in respect of the Issuer.

26. FURTHER ASSURANCES

26.1 Scottish Trust Property

Where the Charged Assets include Scottish Trust Property, the Issuer and the Seller hereby covenant and agree with and undertake to the Trustee that, if at any time after the Security shall have become enforceable the Trustee or any Receiver shall so require, they will join together in directing the Servicer or the Seller to sell or dispose of all or any part of the Scottish Trust Property on terms previously approved by the Trustee and/or in causing the Scottish Trust to be wound up or performed and they will take all such actions and execute all such documents as may be necessary to effect such sale or disposal or winding up or performance and the distribution or transfer of the Scottish Trust Property or any part thereof in accordance with the terms of the relevant Scottish Declaration of Trust and this Deed. The Seller and the Issuer hereby acknowledge and consent to the foregoing as trustee and beneficiary respectively in terms of the relevant Scottish Declaration of Trust.

27. ACCESSION OF NEW SECURED PARTIES

The parties hereto agree and acknowledge that an entity may become a Secured Party and accede to the terms of this Deed by execution of a Deed of Charge Accession Undertaking with the Issuer and the Trustee, in the form scheduled to Schedule 8 (*Deed of Charge Accession Undertaking*) to this Deed.

28. EXECUTION

28.1 Execution

The parties have executed this Deed as a deed and intend to deliver and do deliver, this Deed on the date stated at the beginning of this Deed.

28.2 Effect

This Deed shall take effect as a deed.

ISSUER

EXECUTED and DELIVERED)
as a DEED by)
BAVARIAN SKY UK-D LIMITED)
acting by its authorised signatory)

Authorised Signatory

In the presence of: _____
Name: _____
Occupation: _____
Address: _____

SELLER, SERVICER AND SUBORDINATED LENDER

EXECUTED and DELIVERED)
as a **DEED** by)
BMW FINANCIAL SERVICES (GB))
LIMITED)
by a director and an)
authorised signatory)
)

Director

Authorised Signatory

CLASS A SWAP COUNTERPARTY

EXECUTED and DELIVERED)
as a DEED by)
by ROYAL BANK OF CANADA)
acting by:)

Name: _____

Title: _____

Name: _____

Title: _____

ACCOUNT BANK, PRINCIPAL PAYING AGENT AND REGISTAR

SIGNED and DELIVERED)
as a **DEED** by)
ELAVON FINANCIAL SERVICES)
DAC, UK BRANCH)
acting by its duly authorised signatories)

Authorised Signatory

Authorised Signatory

CORPORATE SERVICES PROVIDER

EXECUTED and DELIVERED)
as a DEED by)
WILMINGTON TRUST SP)
SERVICES (LONDON) LIMITED)
acting by its authorised signatory)

Authorised Signatory

In the presence of: _____
Name: _____
Occupation: _____
Address: _____

TRUSTEE

EXECUTED and DELIVERED)
as a DEED by)
WILMINGTON TRUST (LONDON))
LIMITED)
acting by its authorised signatory)

Authorised Signatory

In the presence of: _____
Name: _____
Occupation: _____
Address: _____

DATA TRUSTEE

EXECUTED and DELIVERED)
as a DEED by)
U.S. BANK TRUSTEES LIMITED)
acting by its authorised signatory)

Authorised Signatory

Authorised Signatory

In the presence of: _____
Name: _____
Occupation: _____
Address: _____

SCHEDULE 1
FORM OF NOTICE OF CHARGE AND ASSIGNMENT TO ACCOUNT BANK

PART I
FORM OF NOTICE OF CHARGE AND ASSIGNMENT

Date: [•]

From: **BAVARIAN SKY UK-D LIMITED as Issuer**
Third Floor, 1 King's Arms Yard
London, EC2R 7AF

To: **ELAVON FINANCIAL SERVICES DAC, UK BRANCH as Account Bank**
Block F1, Cherrywood Business Park, Cherrywood, Dublin 18, Ireland, D18
W2X7 For the attention of [•]

Copy to: **WILMINGTON TRUST (LONDON) LIMITED as Trustee**
Third Floor, 1 King's Arms Yard
London, EC2R 7AF

For the attention of [•]

Dear Sirs,

Notice of Charge and Assignment
[Bavarian Sky UK-D Limited – Account No [•], Sort Code [•] (the "Issuer Account") /
[details of an additional account]]

1. We give you notice that, by a Deed of Charge originally dated 3 August 2020 and as most recently amended, restated and supplemented on the Second Amendment Date, and as the same may be further amended, restated and supplemented from time to time by, among others, Bavarian Sky UK-D Limited (the "Issuer") and Wilmington Trust (London) Limited (the "Trustee"), a copy of which is attached hereto (the "Deed of Charge") we:
 - (a) charged by way of first fixed charge the benefit of the Charged Accounts maintained with yourselves as the Account Bank and (to the extent of its interest) any sums standing to the credit thereof, including all interest accruing thereon from time to time; and
 - (b) assigned to the Trustee, the Benefit of the Account Bank Agreement of even date herewith between ourselves as Issuer, yourselves as Account Bank, the Trustee and BMW Financial Services (GB) Limited as Servicer (the "Account Bank Agreement").
2. Words and expressions used in this notice shall have the meanings and constructions ascribed to them in schedule 1 (*Master Definitions Schedule*) to the Incorporated Terms Memorandum originally dated 3 August 2020 and as most recently amended and restated on the Second Amendment Date, and as the same may be further amended and restated from time to time, and signed, *inter alios*, by each of the parties to the Deed of Charge and others.

3. We authorise and instruct you, until receipt by you of further written instructions from the Trustee (after which time you will comply with the directions of the Trustee) to permit the [Issuer Account] [, *name of an additional account*] and any additional accounts established in accordance with the Account Bank Agreement to be operated by BMW Financial Services (GB) Limited (the "**Servicer**"), in accordance with the terms of:
 - (a) the Account Bank Agreement; and
 - (b) the Deed of Charge.
4. You are not authorised to recognise any action on the part of the Issuer or the [Servicer] to close the [Issuer Account] or [or [*name of an additional account*]] to vary or terminate the Account Bank Agreement unless the prior written consent of the Trustee has been obtained.
5. Please note that the foregoing authorisations and instructions may not be revoked or varied without the prior written consent of the Trustee.
6. You are entitled to rely without enquiry on any certificate, notice or other communication which is, or appears to be, given by the Trustee in accordance with the Deed of Charge and you shall not be under any duty to verify the accuracy of the statements therein. You shall not be deemed to be a trustee of the Issuer or the Trustee in respect of the [Issuer Account] [or [*name of an additional account*]].
7. Please acknowledge receipt of this notice and your acceptance of the instructions herein contained by signing two copies of the attached form of acknowledgement and returning one copy to ourselves and sending the other directly to the Trustee at [•].
8. This notice of charge and assignment and any non-contractual obligations arising out of it or in connection with it are governed by the laws of England.

Yours faithfully,

For and on behalf of
BAVARIAN SKY UK-D LIMITED
as Issuer
acting by [•], as director

PART II
FORM OF ACKNOWLEDGEMENT OF CHARGE AND ASSIGNMENT

[Letterhead of Account Bank]

[•]

To: **BAVARIAN SKY UK-D LIMITED as Issuer**
Third Floor, 1 King's Arms Yard
London, EC2R 7AF

For the attention of [•]

And to: **WILMINGTON TRUST (LONDON) LIMITED as Trustee**
Third Floor, 1 King's Arms Yard
London, EC2R 7AF

For the attention of [•]

Dear Sirs,

Acknowledgement of Charge and Assignment
[Bavarian Sky UK-D Limited – Account No [•], Sort Code [•] (the "Issuer Account") /
[details of an additional account]

1. We acknowledge receipt of the Notice of Charge and Assignment dated on or about [•], a copy of which is attached.
2. Words and expressions used in this Acknowledgement of Charge and Assignment shall have the meanings and constructions ascribed to them in the Notice of Charge and Assignment.
3. We confirm that as at the date of this Acknowledgement of Charge and Assignment we have not received from any other person any notice of any assignment or charge of, or of any interest in, the Charged Accounts, the Account Bank Agreement or any other matter the subject of the Notice of Charge and Assignment.
4. In consideration of your agreeing to maintain or establish each of the [[Issuer Account] [and *[name of an additional account]*]] with us, we agree, and confirm to the Trustee, that we accept and will comply with the authorisations and instructions contained in the Notice of Charge and Assignment and will not accept or act on any instructions contrary thereto unless the same shall be in writing signed by the Trustee.
5. This acknowledgment and any non-contractual obligations arising out of it or in connection with it are governed by the laws of England.

Yours faithfully,

Authorised Signatory

For and on behalf of

ELAVON FINANCIAL SERVICES DAC, UK BRANCH

as Account Bank

SCHEDULE 2
FORM OF NOTICE OF ASSIGNMENT TO COLLECTION ACCOUNT BANK

PART I
FORM OF NOTICE OF ASSIGNMENT

Date: [•]

From: **BAVARIAN SKY UK-D LIMITED as Issuer**
Third Floor, 1 King's Arms Yard
London, EC2R 7AF

To: **HSBC BANK PLC as Collection Account Bank**
62-76 Park Street, London SE1 9DZ, England

For the attention of [•]

Copy to: **WILMINGTON TRUST (LONDON) LIMITED as Trustee**
Third Floor, 1 King's Arms Yard
London, EC2R 7AF

For the attention of [•]

Dear Sirs,

Notice of Assignment

Bavarian Sky UK-D Limited – Account No [•], Sort Code [•] (the "Collection Account")

1. We give you notice that, by a Deed of Charge originally dated 3 August 2020 and as most recently amended, restated and supplemented on the Second Amendment Date, and as the same may be further amended, restated and supplemented from time to time by, among others, Bavarian Sky UK-D Limited (the "Issuer") and Wilmington Trust (London) Limited (the "Trustee"), a copy of which is attached hereto (the "Deed of Charge") we assigned absolutely the benefit of all present and future rights, claims and interests which we are now or may hereafter become entitled to from or in respect of the Collection Account Declaration of Trust.
2. Words and expressions used in this notice shall have the meanings and constructions ascribed to them in schedule 1 (*Master Definitions Schedule*) to the Incorporated Terms Memorandum originally dated 3 August 2020 and as most recently amended and restated on the Second Amendment Date, and as the same may be further amended and restated from time to time and signed, *inter alios*, by each of the parties to the Deed of Charge and others.
3. Please acknowledge receipt of this notice and your acceptance of the instructions herein contained by signing two copies of the attached form of acknowledgement and returning one copy to ourselves and sending the other directly to the Trustee.
4. This notice of charge and assignment and any non-contractual obligations arising out of it or in connection with it are governed by the laws of England.

Yours faithfully

For and on behalf of
BAVARIAN SKY UK-D LIMITED
as Issuer
acting by [•], as director

PART II
FORM OF ACKNOWLEDGEMENT OF ASSIGNMENT

[Letterhead of [Collection Account Bank]]

[•]

To: **BAVARIAN SKY UK-D LIMITED as Issuer**
Third Floor, 1 King's Arms Yard
London, EC2R 7AF

For the attention of [•]

And to: **WILMINGTON TRUST (LONDON) LIMITED as Trustee**
Third Floor, 1 King's Arms Yard
London, EC2R 7AF

For the attention of [•]

Dear Sirs,

Acknowledgement of Assignment

Bavarian Sky UK-D Limited – Account No [•], Sort Code [•] (the "Collection Account")

1. We acknowledge receipt of the Notice of Assignment dated on or about [•], a copy of which is attached.
2. Words and expressions used in this Acknowledgement of Assignment shall have the meanings and constructions ascribed to them in the Notice of Assignment.
3. We confirm that as at the date of this Acknowledgement of Assignment we have not received from any other person any notice of any assignment or charge of, or of any interest in, the Collection Account (other than the beneficiaries of the Collection Account Declaration of Trust) or any other matter the subject of the Notice of Assignment.
4. This acknowledgment and any non-contractual obligations arising out of it or in connection with it are governed by the laws of England.

Yours faithfully,

Authorised Signatory
For and on behalf of
[•]
as Collection Account Bank

SCHEDULE 3
FORM OF NOTICE OF ASSIGNMENT TO TRANSACTION PARTIES

PART I
FORM OF NOTICE OF ASSIGNMENT

[•]

From: **BAVARIAN SKY UK-D LIMITED as Issuer**
Third Floor, 1 King's Arms Yard
London, EC2R 7AF

To: *[Name of each party to a Transaction Document other than the Issuer, the Account Bank and the Trustee]*

Copy to: **WILMINGTON TRUST (LONDON) LIMITED as Trustee**
Third Floor, 1 King's Arms Yard
London, EC2R 7AF
For the attention of [•]

Dear Sirs,

Notice of Assignment

£200,000,000 Class A1 Asset Backed Floating Rate Notes due August 2030
£300,000,000 Class A2 Asset Backed Floating Rate Notes due August 2030
£159,600,000 Class B Asset Backed Fixed Rate Notes due August 2030
(the "Notes")

1. We give you notice that, by a Deed of Charge originally dated 3 August 2020 and as most recently amended, restated and supplemented on the Second Amendment Date, and as the same may be further amended, restated and supplemented from time to time by, among others, Bavarian Sky UK-D Limited (the "Issuer") and Wilmington Trust (London) Limited (the "Trustee"), the Issuer assigned to the Trustee the Benefit of the Transaction Documents (other than the Deed of Charge and the Trust Deed) (the "Transaction Documents").
2. Words and expressions used in this notice shall have the meanings and constructions ascribed to them in schedule 1 (*Master Definitions Schedule*) to the Incorporated Terms Memorandum originally dated 3 August 2020 and as most recently amended and restated on the Second Amendment Date, and as the same may be further amended and restated from time to time and signed for the purpose of identification by each of the addressees of this Notice.
3. We authorise and instruct you until receipt by you of further written instructions from the Trustee (after which time you will comply with the directions of the Trustee) to deal with the Issuer in relation to such Transaction Documents as if the assignment referred to in the first paragraph of this notice had not taken place, save that you are not authorised to recognise the exercise by the Issuer of any right to vary or terminate the Transaction Documents unless the prior written consent of the Trustee to such exercise has been obtained.
4. The authority arising under this notice is irrevocable.

5. Please acknowledge receipt of this notice and your acceptance of the instructions contained herein by signing two copies of the attached form of acknowledgement, returning one copy to us and sending the other copy direct to the Trustee.
6. This acknowledgement and any non-contractual obligations arising out of it or in connection with it are governed by the laws of England.

Yours faithfully,

For and on behalf of
BAVARIAN SKY UK-D LIMITED
as Issuer
acting by [•], as director

For and on behalf of
WILMINGTON TRUST (LONDON) LIMITED
as Trustee

PART II
FORM OF ACKNOWLEDGEMENT OF ASSIGNMENT

[•]

To: **BAVARIAN SKY UK-D LIMITED as Issuer**
Third Floor, 1 King's Arms Yard
London, EC2R 7AF

For the attention of [•]

And to: **WILMINGTON TRUST (LONDON) LIMITED as Trustee**
Third Floor, 1 King's Arms Yard
London, EC2R 7AF

For the attention of [•]

Dear Sirs,

Acknowledgement of Assignment
£200,000,000 Class A1 Asset Backed Floating Rate Notes due August 2030
£300,000,000 Class A2 Asset Backed Floating Rate Notes due August 2030
£159,600,000 Class B Asset Backed Fixed Rate Notes due August 2030
(the "Notes")

1. We acknowledge receipt of the Notice of Assignment dated on or about the date hereof, a copy of which is attached. We further acknowledge that the assignment is effective to confer on the Trustee the Benefit of the Issuer in and to the Transaction Documents (as defined in the Notice of Assignment).
2. Words and expressions used in this acknowledgement shall have the meanings and constructions assigned to them in the Notice of Assignment.
3. We confirm that as at the date of this Acknowledgement of Assignment we have not received from any other person any notice of assignment or charge of, or of any interest in, any of the Transaction Documents.
4. We agree not to recognise the exercise by the Issuer of any right to vary or terminate any of the Transaction Documents without the Trustee's prior written consent and to give the Trustee notice forthwith of any attempt by the Issuer to do so. We further agree not to amend or modify any of the Transaction Documents without the Trustee's prior written approval.
5. This acknowledgment and any non-contractual obligations arising out of it or in connection with it are governed by the laws of England.

Yours faithfully,

For and on behalf of

[Name of relevant parties to relevant Transaction Document]

SCHEDULE 4
FORM OF SECURITY PROTECTION NOTICE

From: WILMINGTON TRUST (LONDON) LIMITED as Trustee
Third Floor, 1 King's Arms Yard
London, EC2R 7AF

[Date]

To: BAVARIAN SKY UK-D LIMITED as Issuer
Third Floor, 1 King's Arms Yard
London, EC2R 7AF

For the attention of [•]

Dear Sirs

Deed of Charge originally dated 3 August 2020 and as most recently amended, restated and supplemented on the Second Amendment Date, and as the same may be further amended, restated and supplemented from time to time by, among others, Bavarian Sky UK-D Limited (the "Issuer") and Wilmington Trust (London) Limited (the "Trustee") (the "Deed of Charge")

We wish to notify you of the conversion with immediate effect of the floating charge created by Clause 6 (*Creation of Floating Charge*) of the Deed of Charge (the "**Floating Charge**") into a fixed charge over all the assets of the Issuer which were the subject of the floating charge.

Yours faithfully,

For and on behalf of
WILMINGTON TRUST (LONDON) LIMITED
as Trustee

SCHEDULE 5
FORM OF SCOTTISH SUPPLEMENTAL CHARGE

ASSIGNATION IN SECURITY

by

- (1) **BAVARIAN SKY UK-D LIMITED** a company incorporated in England and Wales with limited liability (registered number 12616726) whose registered office is at Third Floor, 1 King's Arms Yard, London, EC2R 7AF (the "**Issuer**");

In favour of

- (2) **WILMINGTON TRUST (LONDON) LIMITED** (registered number 11630397), whose registered office is at Third Floor, 1 King's Arms Yard, London, EC2R 7AF (in its capacity as the "**Trustee**", which expression shall include such company and all other persons or companies for the time being acting as Trustee pursuant to the terms of the Trust Deed).

WHEREAS

- (A) This deed is supplemental to a deed of charge originally dated 3 August 2020 and as most recently amended and restated on the Second Amendment Date, and as the same may be amended and restated from time to time entered into by, among others, the Issuer, BMW Financial Services (GB) Limited, a private limited company incorporated in England and Wales and having its registered office at Summit One, Summit Avenue, Farnborough, Hants, England GU14 0FB (the "**Seller**") and the Trustee (the "**Deed of Charge**").
- (B) Pursuant to the Receivables Purchase Agreement, the Seller has sold, transferred and assigned to the Issuer all beneficial rights to certain Purchased Receivables. Some of such Receivables are Scottish (the "**relevant Scottish Purchased Receivables**").
- (C) Legal title to the relevant Scottish Purchased Receivables is and will continue to be held by and vested in the Seller.
- (D) Pursuant to clause [2.1]/[3.1] of the Receivables Purchase Agreement, a declaration of trust forming part of a Transfer Notice dated [•] (the "**Scottish Declaration of Trust**") has been granted by the Seller in favour of the Issuer and delivered, in terms of which the relevant Scottish Purchased Receivables and other related Ancillary Rights as more fully specified therein (the "**Scottish Trust Property**") are held in trust by the Seller for the Issuer.
- (E) The Seller has confirmed that it holds the beneficial interest in the Scottish Trust Property for the Issuer.
- (F) [Pursuant to clause 4.10 of the Receivables Purchase Agreement, a Scots law governed floating charge dated [•] (the "**Scottish Vehicle Sales Proceeds Floating Charge**") has

been granted by the Seller in favour of the Issuer in terms of which Scottish Vehicle Sales Proceeds are charged by the Seller in favour of the Issuer.]¹

- (G) [Pursuant to Clause 5.2 (*Scottish Trust and Scottish Vehicle Sales Proceeds Floating Charge Security*) of the Deed of Charge, the Issuer now proposes to assign by way of security to the Trustee its rights under the Scottish Declaration of Trust [and the Scottish Vehicle Sales Proceeds Floating Charge]]².

WITNESSES

1. Schedule 1 (*Master Definitions Schedule*) of the incorporated terms memorandum signed by, amongst others, the Issuer, the Seller and the Trustee and originally dated 3 August 2020 and as most recently amended and restated on the Second Amendment Date, and as the same may be further amended and restated from time to time (the "**Master Definitions Schedule**") is expressly and specifically incorporated into this deed and, accordingly, the expressions defined in the Master Definitions Schedule shall, except where the context otherwise requires and save where otherwise defined herein, have the same meanings in this deed, including the recitals hereto and this deed shall be construed in accordance with the interpretation provisions set out in the Master Definitions Schedule.
2. This deed is the Scottish Supplemental Charge referred to in the Master Definitions Schedule.
3. The Issuer, as holder of the beneficial interest or (as applicable) the security holder's interest therein, with absolute warrandice and subject to Clause 9 (*Redemption and Release*) of the Deed of Charge, (to the extent not already assigned pursuant to the Deed of Charge) hereby assigns to and in favour of the Trustee by way of first fixed security for the payment or discharge of the Secured Obligations:
 - (a) all its right, title, interest and benefit, present and future, in, under and pursuant to the Scottish Declaration of Trust; [and]
 - (b) all its right, title, interest and benefit, present and future, in and to the Scottish Trust Property including the benefit of all covenants, undertakings, representations, warranties and indemnities in respect thereof, all powers and remedies of enforcement and/or protection thereunder, all rights to receive payment of all amounts assured or payable (or to become payable) thereunder, all rights to serve notices and/or to make demands and all rights to take such steps as are required to cause payment to become due and payable thereunder and all causes and rights of action in respect of any breach and all rights to receive damages or obtain other relief in respect thereof; [and]³

¹ Drafting Note – this wording only needed for the initial Scottish Supplemental Charge.

² Drafting Note – this wording only needed for the initial Scottish Supplemental Charge.

³ Drafting Note – this wording only needed for the initial Scottish Supplemental Charge.

- (c) [all its right, title, interest and benefit, present and future, in, under and pursuant to the Scottish Vehicle Sales Proceeds Floating Charge,]⁴

surrogating and substituting the Trustee in its full right and place therein and thereto.

4. The Issuer hereby confirms that all the obligations, undertakings, covenants, rights and powers specified and contained in the Deed of Charge which relate to the property referred to in and the security and other rights and powers created under and pursuant to the Deed of Charge shall be deemed to be repeated herein and shall apply *mutatis mutandis* to the property referred to in Clause 3 hereof and the security and other rights and powers created under and pursuant hereto and that the whole remaining terms of the Deed of Charge shall, except in so far as inconsistent herewith apply *mutatis mutandis* hereto **provided always that** this deed shall be without prejudice to the Deed of Charge and all of the rights, powers obligations and immunities comprised therein and arising pursuant thereto, which shall remain in full force and effect notwithstanding this deed.
5. The Trustee will exercise its powers and authority under this Deed in the manner provided for in the Deed of Charge and in the Trust Deed and, in so acting, the Trustee shall have the protection, immunities, rights, powers, authorisations, indemnities and benefits conferred on it under and by the Trust Deed and the other Transaction Documents.
6. This deed shall be deemed delivered to the Trustee on receipt by the Trustee of a copy (duly executed by the Issuer) of this deed (whether by fax, e-mail or otherwise) and whether or not the principal of this deed is also physically delivered.
7. Notice of this deed and the assignation in security constituted hereby shall be deemed to be given to the Seller on receipt by the Seller of a copy (duly executed by the Issuer) of this deed (whether by fax, e-mail or otherwise) whether or not acknowledged thereon.
8. This deed will be governed and construed in accordance with the laws of Scotland.

IN WITNESS WHEREOF this deed is executed as follows:

SUBSCRIBED for and on behalf of the said
BAVARIAN SKY UK-D LIMITED

acting by two directors

per pro [•]

per pro [•]

⁴ Drafting Note – this wording only needed for the initial Scottish Supplemental Charge.

at:

on:

We, **BMW FINANCIAL SERVICES (GB) LIMITED** as Seller hereby acknowledge receipt of a copy of the foregoing Scottish Supplemental Charge and the assignation in security constituted thereby.

Acknowledged for and on behalf of

**BMW FINANCIAL SERVICES (GB)
LIMITED**

by

(Director)

Date:

in the presence of:

Witness signature

Witness name

Witness address

SCHEDULE 6
PRE-ENFORCEMENT PRIORITY OF PAYMENTS

On each Payment Date prior to the service of an Enforcement Notice by the Trustee to the Issuer, the Available Distribution Amount as of the Cut-Off Date immediately preceding such Payment Date shall be allocated in the following manner and priority:

- (a) *first*, amounts payable by the Issuer in respect of taxes under any applicable law (if any) other than corporation tax on amounts standing to the credit of the Retained Profit Ledger;
- (b) *second*, all fees (including legal fees), costs, expenses, other remuneration, indemnity payments and other amounts payable by the Issuer to the Trustee (and any Appointee) under the Security Documents and the Trust Deed and to any Receiver appointed under the Deed of Charge;
- (c) *third*, on a *pari passu* basis, amounts payable by the Issuer to (i) the Data Trustee under the Data Trust Agreement, (ii) the Servicer under the Servicing Agreement, (iii) the Corporate Services Provider under the Corporate Services Agreement, (iv) the Registrar and the Paying Agent under the Agency Agreement, (v) the Account Bank under the Bank Account Agreement, (vi) auditor fees, (vii) any fees reasonably required (in the opinion of the Corporate Services Provider) and properly incurred for the filing of annual tax returns; (viii) any rating agency fee (if any); and (ix) any other general costs and expenses of the Issuer;
- (d) *fourth*, to pay any Insolvency Official of the Seller the Administrator Incentive Recovery Fee;
- (e) *fifth*, to credit the Issuer Profit Amount on each Payment Date to the Retained Profit Ledger;
- (f) *sixth*, the sum of (i) the Swap Net Cashflow payable by the Issuer to any Swap Counterparty (if any) and (ii) any swap termination payments due to a Swap Counterparty under any Swap Agreement except in circumstances where a Swap Counterparty is the defaulting party (as defined in the relevant Swap Agreement);
- (g) *seventh*, on a *pari passu* basis, accrued and unpaid interest (including any Interest Shortfall) payable by the Issuer to the Class A Noteholders;
- (h) *eighth*, on a *pari passu* basis, accrued and unpaid interest (including any Interest Shortfall) payable by the Issuer to the Class B Noteholders;
- (i) *ninth*, to the Cash Reserve Ledger, until the amount credited to the Cash Reserve Ledger is equal to the Required Cash Reserve Amount;
- (j) *tenth*, prior to the expiration of the Revolving Period, (i) to pay any Additional Portfolio Purchase Price and thereafter (ii) to credit any Excess Collection Amount to the Replenishment Ledger;
- (k) *eleventh*, after the end of the Revolving Period, on a *pari passu* basis, to the Class A Noteholders in respect of principal until the Class A Notes are redeemed in full;

- (l) *twelfth*, after the end of the Revolving Period, on a *pari passu* basis, to the Class B Noteholders in respect of principal until the Class B Notes are redeemed in full;
- (m) *thirteenth*, any amount due by the Issuer to any Swap Counterparty under a Swap Agreement upon the termination of the relevant Swap Agreement in circumstances where the Swap Counterparty is the defaulting party (as defined in the Swap Agreement) and any other amount payable to any Swap Counterparty under a Swap Agreement;
- (n) *fourteenth*, accrued and unpaid interest payable by the Issuer to the Subordinated Lender under the Subordinated Loan Agreement;
- (o) *fifteenth*, as from the date on which all Notes have been redeemed in full, principal payable by the Issuer to the Subordinated Lender under the Subordinated Loan Agreement until the Subordinated Loan has been redeemed in full; and
- (p) *sixteenth*, all remaining amounts to the Seller as Deferred Purchase Price,

provided that any payment to be made by the Issuer under item first (with respect to taxes) shall be made on the Business Day on which such payment is then due and payable using any amounts then credited to the Issuer Account and, if applicable, the Cash Reserve Ledger, and **provided further that** outside such order of priority, any Replacement Swap Premium due to be transferred or paid by the Issuer to a Swap Counterparty or the replacement swap counterparty (as applicable) pursuant to the terms and conditions of the relevant Swap Agreement shall be transferred or paid (as applicable) by the Issuer to the relevant Swap Counterparty or the replacement swap counterparty (as applicable) if and to the extent that such Replacement Swap Premium has been received by the Issuer, and **provided further that** any Commingling Reserve Excess Amount and any interest to be paid to the Servicer in accordance with clause 16.5(1) of the Servicing Agreement shall be paid directly to the Servicer pursuant to the terms of the Servicing Agreement.

SCHEDULE 7
POST-ENFORCEMENT PRIORITY OF PAYMENTS

After the service of an Enforcement Notice by the Trustee to the Issuer, the Trustee shall distribute the Available Post-Enforcement Funds in the following manner and priority:

- (a) *first*, all fees (including legal fees), costs, expenses, other remuneration, indemnity payments and other amounts payable by the Issuer to the Trustee (and any Appointee) under the Security Documents and the Trust Deed and to any Receiver appointed under the Deed of Charge;
- (b) *second*, on a *pari passu* basis, amounts payable by the Issuer to (i) the Data Trustee under the Data Trust Agreement, (ii) the Servicer under the Servicing Agreement, (iii) the Corporate Services Provider under the Corporate Services Agreement, (iv) the Registrar and the Paying Agent under the Agency Agreement, (v) the Account Bank under the Bank Account Agreement, (vi) auditor fees; (vii) any fees reasonably required (in the opinion of the Corporate Services Provider) and properly incurred for the filing of annual tax returns; (viii) any rating agency fee (if any); and (ix) any other general costs and expenses of the Issuer;
- (c) *third*, to pay to any Insolvency Official of the Seller the Administrator Incentive Recovery Fee;
- (d) *fourth*, to credit the Issuer Profit Amount on each Payment Date to the Retained Profit Ledger;
- (e) *fifth*, the sum of (i) the Swap Net Cashflow payable by the Issuer to any Swap Counterparty and (ii) any swap termination payments due to any Swap Counterparty under a Swap Agreement except in circumstances where a Swap Counterparty is the defaulting party (as defined in the relevant Swap Agreement);
- (f) *sixth*, on a *pari passu* basis, accrued and unpaid interest (including any Interest Shortfall) payable by the Issuer to the Class A Noteholders;
- (g) *seventh*, on a *pari passu* basis, any amount payable by the Issuer to the Class A Noteholders in respect of principal until the Class A Notes are redeemed in full;
- (h) *eighth*, on a *pari passu* basis, accrued and unpaid interest (including any Interest Shortfall) payable by the Issuer to the Class B Noteholders;
- (i) *ninth*, on a *pari passu* basis, any amount payable by the Issuer to the Class B Noteholders in respect of principal until the Class B Notes are redeemed in full;
- (j) *tenth*, any amount due by the Issuer to the Swap Counterparty under any Swap Agreement upon the termination of the relevant Swap Agreement in circumstances where a Swap Counterparty is the defaulting party (as defined in the Swap Agreement) and any other amount payable to a Swap Counterparty under any Swap Agreement;
- (k) *eleventh*, accrued and unpaid interest payable by the Issuer to the Subordinated Lender under the Subordinated Loan Agreement;

- (l) *twelfth*, as from the date on which all Notes have been redeemed in full, any amount payable by the Issuer to the Subordinated Lender in respect of principal under the Subordinated Loan Agreement;
- (m) *thirteenth, pari passu and pro rata* according to the respective amounts thereof in or towards payment to (i) HMRC of an amount equal to the Issuer's liability to account to HMRC for VAT or corporation tax; and (ii) any relevant authority for any other Tax including financial transaction tax (which cannot be met out of amounts previously retained by the Issuer as profit under item (l) above);
- (n) *fourteenth*, any amount standing to the credit of the Commingling Reserve Ledger (not required to cover any Servicer Shortfall) to the Servicer; and
- (o) *fifteenth*, all remaining amounts to the Seller as Deferred Purchase Price,

provided that outside of such order of priority, any Replacement Swap Premium due to be transferred or paid by the Issuer to any Swap Counterparty or the replacement swap counterparty (as applicable) pursuant to the terms and conditions of the relevant Swap Agreement shall be transferred or paid (as applicable) by the Issuer to the relevant Swap Counterparty or the replacement swap counterparty (as applicable) if and to the extent that such Replacement Swap Premium has been received by the Issuer, and **provided further that** any interest to be paid to the Servicer in accordance with clause 16.5(l) of the Servicing Agreement shall be paid directly to the Servicer pursuant to the terms of the Servicing Agreement.

SCHEDULE 8
FORM OF DEED OF CHARGE ACCESSION UNDERTAKING

THIS DEED is made on [•]

BETWEEN:

- (1) **BAVARIAN SKY UK-D LIMITED** a company incorporated in England and Wales with limited liability (registered number 12616726) whose registered office is at Third Floor, 1 King's Arms Yard, London, EC2R 7AF (the "**Issuer**");
- (2) **WILMINGTON TRUST (LONDON) LIMITED** (registered number 5650152), whose registered office is at Third Floor, 1 King's Arms Yard, London, EC2R 7AF, in its capacity as the "**Trustee**" (which expressions shall include such company and all other persons or companies for the time being acting as Trustee pursuant to the terms of the Trust Deed); and
- (3) [•] incorporated and registered in [•] with company number [•] whose registered office address is at [•] (in its capacity as the [•], the "**New Secured Party**").

WHEREAS:

- (A) Pursuant to the terms of a [*describe agreement*] (the "**Agreement**") dated [*date*] made between, *inter alios*, the Issuer and the New Secured Party, the Issuer has agreed [*describe nature of the obligations of the Issuer under the Agreement*].
- (B) The Issuer has agreed to provide the Trustee with the benefit of any security described in the Deed of Charge to secure the Issuer's obligations to the Secured Parties.
- (C) The New Secured Party has agreed to enter into this Deed to accede to the provisions of the Deed of Charge.

IT IS HEREBY AGREED as follows:

1. INTERPRETATION

Unless otherwise defined in this Deed or the context requires otherwise, words and expressions used in this Deed have the meanings and constructions ascribed to them in schedule 1 (*Master Definitions Schedule*) to the Incorporated Terms Memorandum dated on or about the date of this Deed and signed, *inter alios*, by the parties to this Deed and others (as the same may be amended, varied and/or supplemented from time to time with the consent of the parties to this Deed, the "**Incorporated Terms Memorandum**"). This Deed shall be construed in accordance with the principles of construction and interpretation set out in such Incorporated Terms Memorandum.

2. COMMON TERMS

The common terms set out in schedule 2 (*Common Terms*) to the Incorporated Terms Memorandum (the "**Common Terms**") apply to this Deed and shall be binding on the parties to this Deed as if set out in full in this Deed.

3. **REPRESENTATIONS AND WARRANTIES**

The New Secured Party hereby represents and warrants to the Trustee and each of the Secured Parties in respect of itself that as of the date of this Deed:

- (a) pursuant to the terms of the Agreement, the Issuer has [*describe in relation to the Agreement*]; and
- (b) the Agreement expressly provides that all amounts due from the Issuer thereunder are to be secured by the Deed of Charge.

4. **ACCESSION**

In consideration of the New Secured Party being accepted as a Secured Party for the purposes of the Deed of Charge by the parties thereto as from the date of this Deed, the New Secured Party:

- (a) confirms that as from [•], it intends to be a party to the Deed of Charge as a Secured Party;
- (b) undertakes to comply with and be bound by all of the provisions of the Incorporated Terms Memorandum and the Deed of Charge in its capacity as a Secured Party, as if it had been an original party thereto;
- (c) undertakes to perform and comply with and be bound by all of the provisions of the Deed of Charge in its capacity as a Secured Party, as if it had been an original party thereto; and
- (d) agrees that the Trustee shall be the Trustee for all Secured Parties upon and subject to the terms set out in the Deed of Charge.

5. **SCOPE OF THE DEED OF CHARGE**

The Issuer, the New Secured Party and the Trustee hereby agree that for relevant purposes under the Deed of Charge and the Master Definitions Schedule:

- (a) the Agreement shall be treated as a Transaction Document; and
- (b) the New Secured Party shall be treated as a Secured Party.

6. **APPLICATION**

Prior to and following enforcement of the Security all amounts at any time held by the Issuer or the Trustee in respect of the security created under or pursuant to this Deed shall be held and/or applied by such person subject to and in accordance with the relevant provisions of the Deed of Charge.

7. **NOTICES AND DEMANDS**

Any notice or communication under or in connection with this Deed shall be given in the manner and at the times set out in Paragraph 18 (*Notices*) of Part 1 (*General*

Common Terms) of the Common Terms or at such other address as the recipient may have notified to the other parties hereto and/or thereto in writing.

The address referred to in this Clause 7 for the New Secured Party is:

[•]

Address: [•]

For the attention of: [•]

Facsimile: [•]

or such other address and/or numbers as the New Secured Party may notify to the parties to the Deed of Charge in accordance with the provisions thereof.

THIS DEED has been executed as a deed by each of the parties hereto and delivered on the date stated at the beginning of this Deed.

SIGNATORIES TO THE DEED OF CHARGE ACCESSION UNDERTAKING

ISSUER

EXECUTED and DELIVERED)
as a **DEED** by)
BAVARIAN SKY UK-D LIMITED)
acting by its authorised signatory)

Authorised Signatory

In the presence of:

Name:

Occupation:

Address:

TRUSTEE

EXECUTED and DELIVERED)
as a **DEED** by)
WILMINGTON TRUST LIMITED)
(LONDON))
acting by its authorised signatory)

Authorised Signatory

In the presence of: _____
Name: _____
Occupation: _____
Address: _____

NEW SECURED PARTY

EXECUTED as a **DEED** by)
[•] acting by [•])
)

.....
[•]

.....
[•]

Appendix

Definitions and Construction

1. DEFINITIONS

The Transaction Parties agree that, except where expressly stated to the contrary or where the context otherwise requires, the definitions set out below shall apply to terms or expressions referred to but not otherwise defined in each Transaction Document.

"Account Bank" means Elavon Financial Services DAC, UK Branch or any successor thereof or any other Person appointed as replacement Account Bank from time to time in accordance with the Bank Account Agreement.

"Additional Closing Conditions Precedent" means:

- (a) delivery by the Seller to the Issuer of the following documents:
 - (i) a Seller solvency certificate signed by an Authorised Signatory of the Seller dated the relevant Payment Date;
 - (ii) a Seller closing certificate dated the relevant Payment Date and signed by an Authorised Signatory of the Seller to the effect that:
 - (A) the Seller representation and warranties set out in Part 1 of Schedule 3 (*Seller Representations and Warranties*) of the Incorporated Terms Memorandum are true and correct in all material respects on the relevant Payment Date;
 - (B) there has been no material breach of any of the undertakings of the Seller in the Transaction Documents;
- (b) delivery by the Issuer to the Trustee of:
 - (i) an Issuer solvency certificate signed by an Authorised Signatory of the Issuer dated the relevant Payment Date;
 - (ii) a certificate signed by an Authorised Signatory of the Issuer certifying that as at the relevant Payment Date, to the best of the Issuer's knowledge and belief having made due and careful enquiry, (A) no Early Amortisation Event has occurred and (B) no Issuer Event of Default has occurred under the Conditions;
 - (iii) a closing certificate of the Issuer dated the relevant Payment Date signed by an Authorised Signatory to the effect that:
 - (A) the Issuer Warranties are true and correct in all material respects on the relevant Payment Date;
 - (B) there has been no material breach of any of the undertakings of the Issuer in the Transaction Documents;

(c) No Enforcement Notice shall have been delivered by the Trustee to the Issuer.

"Additional Portfolio" means any Receivables and Related Collateral purchased (or to be purchased) by the Issuer from the Seller during the Revolving Period after the Issue Date.

"Additional Portfolio Purchase Price" means the amount, determined as at the Payment Date, as being an amount equal to the sum of the Discounted Receivables Balances of the Receivables comprised in any Additional Portfolio (as at the immediately preceding Cut-Off Date).

"Administrator Incentive Recovery Fee" means the fee (inclusive of VAT) payable to the Insolvency Official of the Seller following an Insolvency Event of the Seller in relation to the sale of the relevant Financed Vehicles in an amount equal to (i) the reasonable costs and expenses of such insolvency official (including any Irrecoverable VAT in respect thereof) incurred in relation to the sale of such Financed Vehicles plus (ii) 1 per cent. of the relevant vehicle realisation proceeds or such other percentage of the relevant vehicle realisation proceeds as may be agreed by the Servicer with the Insolvency Official of the Seller pursuant to the Servicing Agreement.

"Affiliate" means, in relation to any Person, any entity controlled, directly or indirectly by the Person, any entity that controls, directly or indirectly the Person or any entity directly or indirectly under common control with such Person (for this purpose, "control" of any entity of Person means ownership of a majority of the voting power of the entity or Person).

"Agency Agreement" means the agreement so named dated on or about the Initial Issue Date between the Issuer and the Trustee, the Principal Paying Agent and the Registrar (as amended or restated from time to time).

"Agents" means the Paying Agents and the Registrar and **"Agent"** means any one of them.

"Aggregate Defaulted Receivables Balance" means the sum of the Discounted Receivables Balances for all Defaulted Receivables.

"Aggregate Discounted Receivables Balance" means the sum of the Discounted Receivables Balances for all Purchased Receivables.

"Aggregate Outstanding Note Balance" means, as of any date, the aggregate amount of the Class A Outstanding Note Balance and the Class B Outstanding Note Balance, in each case, as of such date.

"Aggregate PCP Handback Receivables Balance" means the sum of the Discounted Receivables Balances for all PCP Handback Receivables.

"Aggregate PCP/VT Receivables Balance" means, as the relevant PCP/VT Indemnification Date, the sum of (a) the Aggregate PCP Handback Receivables Balance arising in such PCP/VT Calculation Period and (b) the Aggregate VT Receivables Balance arising in such PCP/VT Calculation Period.

"Aggregate VT Receivables Balance" means the sum of the Discounted Receivables Balances for all Voluntarily Terminated Receivables.

"Amendment Documents" means the Transaction Documents entered into on or about the Second Amendment Date, each an **"Amendment Document"**.

"Ancillary Rights" means, in relation to a Right, all ancillary rights, accretions and supplements to such Right, including any guarantees or indemnities in respect of such Benefit.

"Annual Percentage Rate" or "APR" means, with respect to a Receivable, the annual rate of finance charges stated in the relevant Underlying Agreement.

"Appointee" means any attorney, manager, agent, delegate, nominee, custodian, financial adviser or other professional adviser or other person properly appointed or employed by the Trustee under the Trust Deed or the Deed of Charge (as applicable) to discharge any of its functions.

"Arrears Management Procedures" means the arrears management procedures comprised within the Credit and Collection Policy of the Servicer as set out in Schedule 2 to the Servicing Agreement, as amended or supplemented from time to time in accordance with the Transaction Documents.

"Articles of Incorporation" means the articles of incorporation of Bavarian Sky UK-D Limited.

"Auditors" means PricewaterhouseCoopers, 7 More London Riverside, London, SE1 2RT.

"Authorised Signatory" means, in relation to any Transaction Party, any person who is duly authorised and in respect of whom a certificate has been provided signed by a director or another duly authorised person of such Transaction Party setting out the name and signature of such person and confirming such person's authority to act.

"Available Distribution Amount" means, with respect to any Cut-Off Date and the Monthly Period ending on such Cut-Off Date, the lower of (x) the funds available in the Issuer Account on the Payment Date immediately following such Cut-Off Date and (y) an amount calculated by the Servicer pursuant to the Servicing Agreement as of such Cut-Off Date and notified to the Issuer, the Account Bank, the Corporate Services Provider, the Trustee and the Paying Agent no later than on the Reporting Date preceding the Payment Date immediately following such Cut-Off Date, as the sum of:

- (a) the amount standing to the credit of the Cash Reserve Ledger as of such Cut-Off Date;
- (b) any Collections received by the Servicer during the Monthly Period ending on such Cut-Off Date;
- (c) any Non-Compliant Receivables Repurchase Price, CCA Compensation Payment, Receivables Indemnity Amount or PCP/VT Indemnification Amount received by the Issuer from the Seller during the Monthly Period ending on such Cut-Off Date;

- (d) any Swap Net Cashflow payable by a Swap Counterparty to the Issuer on the Payment Date immediately following such Cut-Off Date;
- (e) any interest earned (if any) on the amounts credited to the Issuer Account (other than the amounts standing to the credit of the Commingling Reserve Ledger) during such Monthly Period;
- (f) any amount received by the Issuer in respect of any Replacement Swap Premium to the extent that such amount exceeds the amount required to be applied directly to pay a termination payment due and payable by the Issuer to the relevant Swap Counterparty upon termination of a Swap Agreement;
- (g) any VAT Adjustment Amount determined by the Servicer in respect of the immediately preceding Monthly Period;
- (h) any sum standing to the credit of the Replenishment Ledger;
- (i) upon the occurrence of a Servicer Termination Event and while such Servicer Termination Event is continuing, such amount as is standing to the credit of the Commingling Reserve Ledger (if any) as is equal to any Servicer Shortfall caused on the part of BMW Financial Services (GB) Ltd. as Servicer;
- (j) the proceeds of the issuance of any Further Notes or sub-classes of Class A Notes and/or Class B Notes pursuant to the Trust Deed; and
- (k) any other amounts (other than covered by items (a) through (j) above (if any)) paid to the Issuer by any other party to any Transaction Document (or transferred to the Operating Ledger from any other ledger of the Issuer Account that is expressed to be applied as Available Distribution Amount) up to (and including) the Payment Date immediately following such Cut-Off Date, unless otherwise specified, which according to such Transaction Document is to be allocated to the Available Distribution Amount.

"Available Post-Enforcement Funds" means, from time to time, all moneys standing to the credit of the Issuer Account, including, without limitation, any enforcement proceeds in respect of the Security credited to the Issuer Account and/or to any account of the Trustee or receiver appointed by the Trustee upon the service of an Enforcement Notice by the Trustee on the Issuer and any balance credited to the Cash Reserve Ledger and the Commingling Reserve Ledger and including, without limitation, any balance credited to the extent such balance comprises of any amount received by the Issuer in respect of Replacement Swap Premium to the extent that such amount exceeds the amount required to be applied directly to pay a termination payment due and payable by the Issuer to the relevant Swap Counterparty upon termination of the relevant Swap Agreement, but excluding, for the avoidance of doubt, any amount credited to the account which will be returned directly to such Swap Counterparty, including, without limitation, any Replacement Swap Premium (only to the extent that it is applied directly to pay a termination payment due and payable by the Issuer to such Swap Counterparty).

"BACS" means the operator for the time being of the system for the manual or automated debiting of bank accounts by direct debit, being at the Issue Date, Bankers Automated Clearing Services Limited.

"Bank Account Agreement" means a bank account agreement between, *inter alios*, the Issuer, the Account Bank and the Trustee relating to the Issuer Account and any additional account in the name of the Issuer with the Account Bank and dated as of the Initial Issue Date (as amended and restated from time to time).

"Banking Day" means, any day on which commercial banks are open for business (including dealings in foreign exchange and foreign currency deposits) in London.

"Basic Terms Modification" means each of:

- (a) the modification of the date of maturity of Notes;
- (b) the modification of the date of payment of principal or interest in respect of the Notes, or, where applicable, of the method of calculating the date of payment of principal or interest in respect of the Notes;
- (c) the modification of the amount of principal or the Interest Rate payable in respect of the Notes, or, where applicable, of the method of calculating the amount payable of any principal or interest in respect of the Notes (including, in relation to any Class of Notes, if any such modification is proposed for any Class of Notes ranking senior to such Class of Notes in the Priority of Payments);
- (d) the alteration of the currency in which payments under the Notes is to be made;
- (e) the alteration of the quorum or majority required in relation to the Basic Terms Modification;
- (f) any scheme or proposal for the sale, conversion or cancellation of the Notes;
- (g) any change to the provisions of a Basic Terms Modification; or
- (h) any change to the definition of a Basic Terms Modification.

"Benefit" in respect of any asset, agreement, property or right (each a **"Right"** for the purpose of this definition) held, assigned, conveyed, transferred, charged, sold or disposed of by any person shall be construed so as to include:

- (a) all right, title, interest and benefit, present and future, actual and contingent (and interests arising in respect thereof) of such person in, to, under and in respect of such Right and all Ancillary Rights in respect of such Right;
- (b) all moneys and proceeds payable or to become payable under, in respect of, or pursuant to such Right or its Ancillary Rights and the right to receive payment of such moneys and proceeds and all payments made including, in respect of any bank account, all sums of money which may at any time be credited to such bank account to the extent of such person's interest in the same together with all interest accruing from time to time on such money and the debts represented by such bank account to the extent of such person's interest in the same;
- (c) the benefit of all covenants, undertakings, representations, warranties and indemnities in favour of such person contained in or relating to such Right or its Ancillary Rights;

- (d) the benefit of all powers of and remedies for enforcing or protecting such person's right, title, interest and benefit in, to, under and in respect of such Right or its Ancillary Rights, including the right to demand, sue for, recover, receive and give receipts for proceeds of and amounts due under or in respect of or relating to such Right or its Ancillary Rights; and
- (e) all items expressed to be held on trust for such person under or comprised in any such Right or its Ancillary Rights, all rights to deliver notices and/or take such steps as are required to cause payment to become due and payable in respect of such Right and its Ancillary Rights, all rights of action in respect of any breach of or in connection with any such Right and its Ancillary Rights and all rights to receive damages or obtain other relief in respect of such breach.

"Block Voting Instruction" means, in relation to any Meeting, a document in the English language issued by the Principal Paying Agent:

- (a) certifying that the Deposited Notes will not be released until the earlier of:
 - (i) the conclusion of the Meeting; and
 - (ii) the surrender to the Principal Paying Agent, not less than 48 hours before the time fixed for the Meeting (or, if the Meeting has been adjourned, the time fixed for its resumption), of the receipt for the deposited or blocked Notes and notification thereof by the Principal Paying Agent to the Issuer and the Trustee;
- (b) certifying that the depositor of such Deposited Notes or a duly authorised person on its behalf has instructed the Principal Paying Agent that the votes attributable to such Deposited Notes are to be cast in a particular way on each resolution to be put to the Meeting and that, during the period of 48 hours before the time fixed for the Meeting, such instructions may not be amended or revoked;
- (c) listing the total number and the certificate numbers of such Deposited Notes, distinguishing for each resolution between those in respect of which instructions have been given to vote for, or against, the resolution; and
- (d) authorising a named individual or individuals to vote in respect of the Deposited Notes in accordance with such instructions.

"BMW AG" means Bayerische Motoren Werke Aktiengesellschaft.

"BMW Group" means BMW AG together with its consolidated subsidiaries.

"Breach of Duty" means in relation to any person (other than the Trustee, the Agents or the Account Bank), a wilful default, fraud, illegal dealing, negligence or material breach of any agreement or breach of trust by such person.

"Business Day" means any day (other than a Saturday or Sunday) on which banks and foreign exchange markets are open for business in London, Munich, New York and Frankfurt am Main.

"Cash Reserve Ledger" means the ledger to the Issuer Account held by the Issuer with the Account Bank for the Required Cash Reserve Amount for the purposes of the Transaction.

"CCA" or "Consumer Credit Act" means the Consumer Credit Act 1974, as amended.

"CCA Compensation Amount" means the amount, calculated by the Servicer in accordance with the Servicing Agreement to compensate the Issuer for any loss caused as a result of a breach of the Receivables Warranties arising as a result of any Purchased Receivables, Related Collateral or Underlying Agreement (or part thereof) being determined illegal, invalid, non-binding or unenforceable under the CCA or the FSMA or subject to a right to cancel or a right to withdraw under the CCA.

"CCA Compensation Payment" means the payment made by the Seller to the Issuer to compensate the Issuer for any loss caused as a result of any Purchased Receivable or the Underlying Agreement (or part thereof) being determined illegal, invalid, non-binding or unenforceable under the CCA or the FSMA or subject to a right to cancel or a right to withdraw under the CCA as an amount equal to the CCA Compensation Amount.

"Charged Accounts" means the Issuer Account and any bank or other account in which the Issuer may at any time acquire a Benefit and over which the Issuer has created an Encumbrance in favour of the Trustee pursuant to the Deed of Charge.

"Charged Assets" means the property, assets, rights and undertakings for the time being comprised in or subject to: (i) the security contained in or granted pursuant to Clause 5 (*Creation of Fixed Security*) of the Deed of Charge; (ii) the floating charge created under Clause 6 (*Creation of Floating Charge*) of the Deed of Charge, (iii) the security contained in or granted pursuant to Clause 4 (*Supplemental Fixed Security*) of the First Supplemental Deed of Charge; and (iv) the floating charge created under Clause 5 (*Supplemental Floating Charge*) of the First Supplemental Deed of Charge and references to the Charged Assets shall include references to any part thereof.

"Class" means any of the Class A Notes and the Class B Notes.

"Class A Further Notes" means further Class A Notes issued by the Issuer on any Payment Date falling after the Third Issue Date (in respect of the Class A Notes) in accordance with clause 4.2 (*Further Notes*) and clause 5 (*Issue of Further Notes*) of the Trust Deed.

"Class A Maximum Issue Amount" means £500,000,000 or any other amount agreed between the Issuer, the Seller, the Class B Note Purchaser and the Class A Noteholders from time to time.

"Class A Note Purchase Agreement" means the note purchase agreement relating *inter alia* to the Class A Notes entered into, amongst others, the Issuer and the Seller dated on or about the Second Amendment Date.

"Class A Note Purchaser" means each of the Class A1 Note Purchaser and the Class A2 Note Purchaser.

"Class A Noteholder" means a holder of the Class A Notes and **"Class A Noteholders"** means all holders of the Class A Notes collectively.

"Class A Notes" means the Class A1 Notes, the Class A2 Notes and any Class A Further Notes.

"Class A Outstanding Note Balance" means, as of any date, the sum of the Outstanding Note Balance of all Class A Notes as of such date and if such date is a Payment Date, taking in account the principal redemption on such Payment Date.

"Class A Swap Agreement" means a swap agreement executed prior to the Third Issue Date between the Issuer and the Class A Swap Counterparty comprised of the 1992 ISDA Master Agreement and the Schedule thereto dated 20 August 2021, as amended and restated on or about the Third Issue Date and the confirmation in respect of the interest rate swap transaction entered into thereunder (such confirmation executed on or about the Third Issue Date with trade date 14 September 2022 and effective date 20 September 2022).

"Class A Swap Counterparty" means Royal Bank of Canada or its successor or any transferee appointed in accordance with the Class A Swap Agreement.

"Class A Swap Fixed Interest Rate" means fixed rate per annum payable by the Issuer to the Class A Swap Counterparty pursuant to the Class A Swap Agreement.

"Class A Swap Floating Interest Rate" means, with respect to each Payment Date, the Reference Rate determined by the Servicer (analogously to its determination of the Reference Rate for the purposes of the Class A Notes for such Payment Date).

"Class A Swap Incoming Cashflow" means on any Payment Date, the product of:

- (a) the Class A Swap Floating Interest Rate; and
- (b) the Class A Swap Notional Amount; and
- (c) the actual number of calendar days of the Interest Period ending on such Payment Date divided by 365,

plus any other amounts payable by the relevant Swap Counterparty to the Issuer under a Swap Agreement.

"Class A Swap Notional Amount" means, as of any date, an amount equal to the Outstanding Note Balance of the Class A Notes on the immediately preceding Payment Date.

"Class A Swap Outgoing Cashflow" means on any Payment Date, the product of:

- (a) the Class A Swap Fixed Interest Rate; and
- (b) the Class A Swap Notional Amount; and
- (c) the number of calendar days to be calculated on the basis of a year of 365 calendar days,

payable by the Issuer to the Class A Swap Counterparty under the Class A Swap Agreement.

"Class A1 Note Purchaser" means RBC Europe Limited acting through its registered office at 100 Bishopsgate, London EC2N 4AA.

"Class A1 Noteholder" means the holder of the Class A1 Notes.

"Class A1 Notes" means the £200,000,000 Class A1 Asset Backed Floating Rate Notes due August 2030 issued or due to be issued by the Issuer on the Third Issue Date.

"Class A2 Note Purchaser" means Irish Ring Receivables Purchaser DAC acting through its registered office at 1st Floor, 1-2 Victoria Buildings Haddington Road, Dublin 4 D04 XN32.

"Class A2 Noteholder" means the holder of the Class A2 Notes.

"Class A2 Notes" means the £300,000,000 Class A2 Asset Backed Floating Rate Notes due August 2030 issued or due to be issued by the Issuer on the Third Issue Date.

"Class B Further Notes" means further Class B Notes issued by the Issuer on any Payment Date falling after the Third Issue Date in accordance with clause 4.2 (*Further Notes*) and clause 5 (*Issue of Further Notes*) of the Trust Deed.

"Class B Maximum Issue Amount" means £159,600,000 or any other amount agreed between the Issuer, the Seller, the Class B Note Purchaser and the Class A Noteholders from time to time.

"Class B Note Purchaser" means BMW Financial Services (GB) Limited whose registered office is Summit One, Summit Avenue, Farnborough, Hants, England GU14 0FB.

"Class B Noteholder" means a holder of the Class B Notes and **"Class B Noteholders"** means all holders of the Class B Notes collectively.

"Class B Notes" means the £159,600,000 Class B Asset Backed Fixed Rate Notes due August 2030 issued or due to be issued by the Issuer on the Third Issue Date and any Class B Further Notes that may be issued by the Issuer from time to time.

"Class B Outstanding Note Balance" means, as of any date, the sum of the Outstanding Note Balance of all Class B Notes as of such date and if such date is a Payment Date, taking in account the principal redemption on such Payment Date.

"Class Outstanding Note Balance" means either of the Class A Outstanding Note Balance or the Class B Outstanding Note Balance, as applicable.

"Clean-Up Call Conditions" means:

- (a) the proceeds distributable as a result of the repurchase of all outstanding Purchased Receivables (together with any Related Collateral) (after the Seller has rightfully exercised the Clean-Up Call Option) shall, together with funds credited to the Cash Reserve Ledger, be at least equal to the sum of (x) the

Aggregate Outstanding Note Balance and the aggregate outstanding principal amount of the Subordinated Loan plus (y) accrued but unpaid interest thereon plus (z) all claims of any creditors of the Issuer ranking prior to the claims of the Noteholders according to the Pre-Enforcement Priority of Payments;

- (b) the Seller shall have notified the Issuer and the Trustee of its intention to exercise the Clean-Up Call Option at least ten (10) calendar days prior to the contemplated settlement date of the Clean-Up Call Option which shall be a Payment Date; and
- (c) the repurchase price to be paid by the Seller shall be an amount equal to the higher of: (i) the Aggregate Discounted Receivables Balance of the Purchased Receivables and (ii) (x) the Aggregate Outstanding Note Balance of the Notes and the aggregate outstanding principal amount of the Subordinated Loan plus (y) accrued but unpaid interest thereon plus (z) all claims of any creditors of the Issuer in respect of the Issuer ranking prior to the claims of the Noteholders according to the Pre-Enforcement Priority of Payments.

"Clean-Up Call Option" means the Seller's right to exercise a clean-up call more specifically described in Condition 8.3 (*Clean-Up Call*) of the Conditions.

"Clean-Up Call Settlement Date" means, **provided that** the Clean-Up Call Conditions are satisfied and the Seller exercises the Clean-Up Call Option at least ten (10) calendar days prior to the next following Payment Date, such next following Payment Date.

"Collection Account A" means the collection account in the name of BMW AG with sort code [REDACTED] and account number [REDACTED] and held with the Collection Account Bank.

"Collection Account A Declaration of Trust" means the collection account declaration of trust dated on or about 11 February 2021, whereby the Seller declares a trust over all amounts standing to the credit of the Collection Account A.

"Collection Account B" means the collection account in the name of BMW Financial Services (GB) Limited with sort code [REDACTED] and account number [REDACTED] and held with the Collection Account Bank.

"Collection Account B Declaration of Trust" means the collection account declaration of trust dated on or about 11 February 2021, whereby the Seller declares a trust over all amounts standing to the credit of the Collection Account B.

"Collection Account Bank" means HSBC Bank plc, 62-76 Park Street, London SE1 9DZ, England.

"Collection Account Beneficiary" means a further beneficiary that has acceded to the terms of a Collection Account Declaration of Trust where they have acquired a portfolio of loans from the Seller.

"Collection Account Beneficiary Share" means each Collection Account Beneficiary's share of the relevant Collection Account Declaration of Trust which shall be an amount equal to amounts from time to time standing to the credit of a Collection

Account to the extent that such amounts represent payments into such Collection Account derived from or resulting from the receivables purchased by such Collection Account Beneficiary (but excluding any interest arising in respect of amounts standing to the credit of such Collection Account).

"Collection Account C" means the collection account in the name of ALPHERA Financial Services with sort code [REDACTED] and account number [REDACTED] and held with the Collection Account Bank.

"Collection Account C Declaration of Trust" means the collection account declaration of trust dated on or about 11 February 2021, whereby the Seller declares a trust over all amounts standing to the credit of the Collection Account C.

"Collection Account Trust Property" means all amounts standing to the credit of each Collection Account that the Seller has agreed to declare a trust over and hold on trust pursuant to the relevant Collection Account Declaration of Trust.

"Collection Accounts" means Collection Account A, Collection Account B and Collection Account C and **"Collection Account"** shall be construed accordingly.

"Collection Accounts Declarations of Trust" means the Collection Account A Declaration of Trust, the Collection Account B Declaration of Trust and the Collection Account C Declaration of Trust and **"Collection Account Declaration of Trust"** shall be construed accordingly.

"Collections" means, with respect to any Purchased Receivables and Related Collateral during the relevant period, any amounts, proceeds, interest, late payment or similar charges and any other cash or financial benefits received on or in connection with such Purchased Receivables and Related Collateral including, without limitation:

- (a) all collections of the Instalments that have been paid by the Customers;
- (b) all full or partial settlement amounts paid by the Customers;
- (c) all proceeds of any Related Collateral, including, without limitation, any amounts received by the Seller from any Dealer in respect of an Underlying Agreement, insurance providers or other third parties and all Vehicle Sales Proceeds received on a sale of the Financed Vehicles; and
- (d) any proceeds from the sale of Defaulted Receivables (together with the Related Collateral) received by the Servicer on behalf of the Issuer from any third party and any amounts after realisation of the Related Collateral to which the Issuer is entitled under the relevant Underlying Agreements (for the avoidance of doubt, including Recoveries).

"Commingling Reserve" means the reserve of the Issuer of that name (which shall be held on the Issuer Account with the Account Bank and credited to the Commingling Reserve Ledger).

"Commingling Reserve Excess Amount" means, as of any Cut-Off Date, the amount by which the amount credited to the Commingling Reserve Ledger exceeds the Commingling Reserve Required Amount.

"Commingling Reserve Ledger" means the ledger so named to be opened and maintained on the books of the Issuer where any Commingling Reserve Required Amount shall be recorded.

"Commingling Reserve Reduction Amount" means, on any Payment Date which occurs on or following (i) the occurrence of a Commingling Reserve Trigger Event and while such Commingling Reserve Trigger Event is continuing; and (ii) the date on which the Servicer has elected to fund the Commingling Reserve Ledger in accordance with Clause 16.5(b)(ii) or (c) of the Servicing Agreement, the product of

- (a) the Aggregate Discounted Receivables Balance on the Cut-Off Date immediately preceding the relevant Payment Date; and
- (b) the amount, if positive, equal to (i) minus (ii) where:
 - (i) is the result of (A) Aggregate Discounted Receivables Balance on the Cut-Off Date immediately preceding the relevant Payment Date minus the Class A Outstanding Note Balance on such Payment Date plus the cash reserve amount standing to the credit of the Cash Reserve Ledger on such Payment Date, divided by (B) the Aggregate Discounted Receivables Balance on the Cut-Off Date immediately preceding the relevant Payment Date; and
 - (ii) is 25 per cent.

provided that if (i) is equal to or less than (ii), the Commingling Reserve Reduction Amount shall be zero.

"Commingling Reserve Required Amount" means (i) if no Commingling Reserve Trigger Event has occurred and is continuing or if and for as long as the Servicer has selected the option set out in clause 16.5(b)(i) of the Servicing Agreement, zero, and (ii) on the occurrence of a Commingling Reserve Trigger Event and while such Commingling Reserve Trigger Event is continuing and if and so long as the Servicer has elected to fund the Commingling Reserve Ledger in accordance with Clause 16.5(b)(ii) or (c) of the Servicing Agreement, an amount equal to the sum of the Collections expected to be received (as calculated by the Servicer and for the avoidance of doubt based on the scheduled Instalments under the relevant Underlying Agreements) during the Monthly Period to which the relevant Payment Date relates and the immediately following Monthly Period, reduced by the Commingling Reserve Reduction Amount **provided that** such amount shall at all times be a positive amount or otherwise zero, and **provided that**, after the occurrence of a Servicer Termination Event, such amount shall equal zero on the date on which the Issuer has determined that no Servicer Shortfall exists and no further Servicer Shortfalls are expected.

"Commingling Reserve Trigger Event" means, at any time that BMW Financial Services (GB) Limited remains the Servicer that:

- (a) the long-term unsecured, unguaranteed and unsubordinated debt obligations of BMW AG are rated lower than BBB (or its replacement) by S&P; or

- (b) BMW AG ceases to own, directly or indirectly, at least 90 per cent. of the share capital of the Seller,

provided that a Commingling Reserve Trigger Event shall cease if (A) all Customers have redirected their payments directly to the Issuer Account or (B) a substitute Servicer has been appointed.

"Common Terms" means the provisions set out in Schedule 2 (*Common Terms*) of the Incorporated Terms Memorandum.

"Companies Act" has the meaning given to it in Section 2 of the Companies Act 2006.

"Compounded Daily SONIA" has the meaning given to it in Condition 6 (*Interest*).

"Conditions" means the terms and conditions to be endorsed on the Notes in, or substantially in, the form set out in Schedule 3 (*Terms and Conditions of the Notes*) to the Trust Deed as any of the same may from time to time be modified in accordance with the Trust Deed and any reference to a particular numbered Condition shall be construed accordingly.

"Conditions Precedent" means the conditions precedent set out in Schedule 1 (*Conditions Precedent Relating to the Purchased Receivables*) of the Receivables Purchase Agreement.

"Corporate Services Agreement" means a corporate services agreement entered into by the Issuer and the Corporate Services Provider on the Initial Issue Date (as amended or restated from time to time) under which the Corporate Services Provider is responsible for the day to day administrative activities of the Issuer, including providing secretarial, clerical, administrative and related services to the Issuer and maintaining the books and records of the Issuer in accordance with applicable laws and regulations of England and Wales.

"Corporate Services Provider" means Wilmington Trust SP Services (London) Limited, any successor thereof or any other Person appointed as replacement corporate services provider from time to time in accordance with the Corporate Services Agreement.

"Covenant to Pay" means the covenants of the Issuer in respect of the Notes contained in Clause 6 (*Covenant to Repay Principal*) and Clause 7 (*Covenant to Pay Interest*) of the Trust Deed and, in respect of the Secured Obligations, contained in Clause 3 (*Issuer's Undertaking to Pay*) of the Deed of Charge and the corresponding covenants contained in any supplemental or further trust deeds, or any supplemental or further deed of charge executed in connection with the issue of any Notes and Further Notes.

"Credit and Collection Policy" means the working instructions created by the Servicer to standardise its credit and collection management as consistently applied by the Servicer from time to time and as modified from time to time in accordance with the Servicing Agreement.

"CTA" means the Corporation Tax Act 2009.

"Customer" means a customer of the Seller who has entered into one or more Related Underlying Agreements with the Seller.

"Cut-Off Date" means the last calendar day of each calendar month, and the Cut-Off Date with respect to each Payment Date is the Cut-Off Date immediately preceding such Payment Date, **provided that** the Cut-Off Date immediately preceding the Initial Issue Date is 30 June 2020.

"Data Protection Act" or "DPA" means the Data Protection Act 2018.

"Data Protection Legislation" means the DPA and any other applicable Requirement of Law from time to time relating to the processing of personal data and privacy including (where applicable):

- (a) the Privacy and Electronic Communications (EC Directive) Regulations 2003;
- (b) the General Data Protection Regulation (EU) 2016/679 as it forms part of domestic law of the United Kingdom by virtue of the European Union (Withdrawal) Act 2018 as amended by existing legislation and may be further amended from time to time ("UK GDPR"); and
- (c) guidance and codes of practice or conduct issued by a Data Protection Regulator which are either mandatory or which would, if not complied with, potentially result sanctions from a Data Protection Regulator.

"Data Protection Regulator" means the UK Information Commissioner or any supervisory authority (as defined in the UK GDPR) or other person having regulatory or supervisory authority over processing of personal data by the Transaction Parties.

"Data Trust Agreement" means a data trust agreement between the Seller, the Data Trustee, the Trustee and the Issuer dated as of the Initial Issue Date (as amended or restated from time to time).

"Data Trustee" means U.S. Bank Trustees Limited (in its capacity as the data trustee, pursuant to the terms of the Data Trust Agreement or any successor thereof or any other Person appointed as replacement data trustee from time to time in accordance with the Data Trust Agreement).

"Dealer" means any person from whom the Seller purchases a Financed Vehicle to form the subject matter of an Underlying Agreement.

"Deed of Charge" means the deed of charge entered into on or about the Initial Issue Date between, amongst others, the Issuer, the Seller, the Servicer, the Account Bank, the Registrar, the Principal Paying Agent, the Class A Swap Counterparty, the Subordinated Lender, the Corporate Services Provider and the Trustee (as most recently amended and restated on or about the Second Amendment Date, and as the same may be further amended, restated and supplemented from time to time).

"Defaulted Receivable" means, as of any date, any Purchased Receivable (other than a Voluntarily Terminated Receivable or PCP Handback Receivable) which (i) has been sold to a debt collection agency, (ii) is terminated in accordance with the Arrears

Management Procedures of the Credit and Collection Policy or (iii) has been written off in the system of the Seller.

"Deferred Purchase Price" means the consideration payable to the Seller in respect of the Receivables sold to the Issuer, which is due and payable under the terms of the Receivables Purchase Agreement in accordance with the relevant Priority of Payments in an amount equal to (prior to the service of an Enforcement Notice) Available Distribution Amount to be applied on each Payment Date less all amounts due in respect of items first to fifteenth of the Pre-Enforcement Priority of Payments and (following service of an Enforcement Notice) all amounts available to the Issuer to be applied in accordance with the Post-Enforcement Priority of Payments less all amounts due in respect of items first to fourteenth of the Post-Enforcement Priority of Payments, plus in each case the Permitted Withdrawals.

"Delinquency Percentage" means, as of any Cut-Off Date, the quotient, expressed as a percentage, of:

- (a) the sum of the Discounted Receivables Balances for all Delinquent Receivables; divided by,
- (b) the Aggregate Discounted Receivables Balance.

"Delinquent Receivable" means, as of any Cut-Off Date the Discounted Receivables Balance pertaining to a Purchased Receivable which is overdue by more than 30 days.

"Deposited Notes" means Notes that are certified by the Principal Paying Agent to have been deposited with the Principal Paying Agent (or to its order at a bank or other depository).

"Direct Debit" means a written instruction of a Customer authorising its bank to honour a request of the Seller to debit a sum of money on specified dates from the account of the Customer for deposit into an account of the Seller.

"Direct Debiting Arrangements" means the procedures adopted in accordance with the rules of the Association for Payment Clearing Services.

"Discount Rate" means, in respect of any Purchased Receivable, the higher of: (a) 5.00 per cent.; and (b) the APR in respect of such Purchased Receivable.

"Discounted Receivables Balance" means, in respect of each Purchased Receivable, its scheduled cashflow, discounted as of the relevant date at the Discount Rate.

"Dispute" means a dispute arising out of or in connection with any Transaction Document (including a dispute regarding the existence, validity or termination of any Transaction Document or any non-contractual obligation arising out of or in connection with such Transaction Document).

"Early Amortisation Event" means the occurrence of any of the following event during the Revolving Period:

- (a) as at any Payment Date, the 3 Month Rolling Net Loss Percentage exceeds 0.5 per cent.;
- (b) on two consecutive Payment Dates, the 3 Month Rolling Average Delinquency Percentage exceeds 1.50 per cent.;
- (c) if after application of the Available Distribution Amount in accordance with the Pre-Enforcement Priority of Payments, the Excess Collection Amount paid to the Replenishment Ledger under item (tenth) of the Pre-Enforcement Priority of Payments on any Payment Date (when aggregated with any Additional Portfolio Purchase Price paid on such Payment Date) would be lower than the Replenishment Available Amount;
- (d) on any Payment Date, if the quotient, expressed as a percentage, of:
 - (i) the sum of: (A) the Aggregate Discounted Receivables Balance of Performing Receivables as of the Cut-Off Date immediately preceding such Payment Date; and (B) the balance standing to the credit of the Issuer Account on such Payment Date; less (C) the Class A Outstanding Note Balance on such Payment Date, divided by,
 - (ii) the Aggregate Discounted Receivables Balance of Performing Receivables as of the Cut-Off Date immediately preceding such Payment Date,is less than 25 per cent.;
- (e) on two consecutive Cut-Off Dates, the amount standing to the credit of the Replenishment Ledger exceeds 10 per cent. of the Aggregate Discounted Receivables Balance on the Cut-Off Date immediately preceding the Initial Issue Date;
- (f) the occurrence of an Issuer Event of Default;
- (g) the occurrence of a Servicer Termination Event; or
- (h) an Insolvency Event has occurred with respect to the Servicer or the Seller.

"Eligibility Criteria" means the eligibility criteria set out in Part 4 (*Eligibility Criteria*) to Schedule 3 (*Seller Representations and Warranties*) of the Incorporated Terms Memorandum and being relevant on the Cut-Off Date immediately preceding the Initial Issue Date (in respect of the Initial Portfolio) or the relevant Payment Date (in respect of any Additional Portfolio).

"Eligible Receivable" means (a) in relation to the Initial Portfolio, any Receivable which satisfies the Eligibility Criteria on the Cut-Off Date immediately preceding the Initial Issue Date or (b) in relation to any Additional Portfolio, any Receivable that satisfies the Eligibility Criteria on the Cut-Off Date immediately preceding the relevant Payment Date.

"Encumbrance" means:

- (a) a mortgage, charge, pledge, lien, trust or other encumbrance securing any obligation of any person;
- (b) any arrangement under which money or claims to money, or the benefit of, a bank or other account may be applied, set off or made subject to a combination of accounts so as to effect discharge of any sum owed or payable to any person; or
- (c) any other type of preferential arrangement (including any title transfer and retention arrangement) having a similar effect.

"Enforcement Notice" shall have the meaning given to such term in Condition 11 (*Events of Default*).

"EU Insolvency Regulation" means Regulation (EU) No. 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings.

"Excess Collection Amount" means, on any Payment Date during the Revolving Period, the cash amount, as calculated on the immediately preceding Cut-Off Date, by which the lower of: (a) the Replenishment Available Amount; and (b) the Available Distribution Amount remaining after the payment of items first to ninth of the Pre-Enforcement Priority of Payments, exceeds any Additional Portfolio Purchase Price to be disbursed by the Issuer on such Payment Date.

"Excluded VAT Receivables Amount" means the amount (if any) by which the amount of VAT for which the Seller is required to account to HM Revenue & Customs in respect of any disposal of Financed Vehicles exceeds the reduction in the amount of VAT for which the Seller is required to account to HM Revenue & Customs pursuant to Regulation 38 of the Value Added Tax Regulations 1995 in respect of Financed Vehicles relating to Defaulted Receivables, Voluntarily Terminated Receivables or PCP Handback Receivables.

"Extraordinary Resolution" means, in respect of the holders of any of the Classes of Notes:

- (a) a resolution passed at a meeting of Noteholders duly convened and held in accordance with the Trust Deed and these Conditions by a majority consisting of not less than 75 per cent. of the votes cast at such meeting upon a show of hands or, if a poll is duly demanded, by a majority consisting of not less than 75 per cent. of the votes cast on such poll; or
- (b) a resolution in writing signed by or on behalf of the Noteholders of not less than 75 per cent. in aggregate Outstanding Note Balance of the relevant Class of Notes, which resolution may be contained in one document or in several documents in like form each signed by or on behalf of one or more of the Noteholders of the relevant Class of Notes.

"FATCA" means:

- (a) sections 1471 to 1474 of the US Internal Revenue Code of 1986 and any associated regulations;
- (b) any treaty, law or regulation of any other jurisdiction, or relating to an intergovernmental agreement between the US and any other jurisdiction, which (in either case) facilitates the implementation of any law or regulation referred to in paragraph (a) above; and
- (c) any agreement pursuant to the implementation of any treaty, law or regulation referred to in paragraph (a) or (b) above with the US Internal Revenue Service, the US government or any governmental or Tax Authority in any other jurisdiction.

"FATCA Compliant Entity" means a person payments to whom are not subject to FATCA withholding.

"FATCA Deduction" means a deduction or withholding from a payment under this Agreement, the Notes or a Transaction Document required by FATCA.

"FCA" means the Financial Conduct Authority.

"Final Discharge Date" means the date on which the Trustee notifies the Issuer and the Secured Parties that the Trustee is satisfied that all the Secured Obligations, actual or contingent, and/or all other moneys and other liabilities due or owing by the Issuer, actual or contingent, in relation to the Transaction have been paid or discharged in full.

"Financed Vehicle" means any passenger car, light commercial vehicle or motorcycle financed under an Underlying Agreement.

"First Amendment Date" means 20 August 2021.

"First Supplemental Deed of Charge" means the supplemental deed of charge dated on or about the Second Amendment Date.

"First Supplemental Trust Deed" means the supplemental trust deed dated on or about the First Amendment Date.

"Floating Charge" means the floating charge created by Clause 6 (*Creation of Floating Charge*) of the Deed of Charge.

"Force Majeure Event" means an event beyond the reasonable control of the person affected including strike, lock out, labour dispute, act of God, war, riot, civil commotion, epidemics, malicious damage, accident, breakdown of plant or machinery, computer software, hardware or system failure, electricity power-cut, fire or flood.

"Form of Proxy" means, in relation to a Proxy, a document in the form provided by the Registrar confirming that the Proxy has been appointed.

"FSMA" means the United Kingdom Financial Services and Markets Act 2000, as amended.

"Further Notes" means any Notes issued by the Issuer on any Payment Date, such notes being consolidated, and forming a single series, with the relevant existing Classes of Notes (or sub-class thereof).

"GBP", "Sterling" or "£" means the lawful currency of the United Kingdom.

"Global Deed of Amendment" means the global deed of amendment dated on or about the Second Amendment Date.

"Governmental Authority" means any nation or government, any state or other political subdivision thereof, any central bank (or similar monetary or regulatory authority) thereof, any body or entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to a government, including, without limitation, any court, any taxation authority and any Person owned or controlled, through stock or capital ownership or otherwise, by any of the foregoing.

"Incorporated Terms Memorandum" means the memorandum so named, dated on or about the Initial Issue Date and signed for the purpose of identification by each of the Transaction Parties (and as most recently amended and restated on or about the Second Amendment Date, and as may be further amended and restated from time to time).

"Indemnified Receivable" has the meaning given to it in clause 16 (*Seller Indemnification Obligation in respect of PCP Handback Receivables and Voluntarily Terminated Receivables*) of the Receivables Purchase Agreement.

"Initial Issue Date" means 3 August 2020.

"Initial Notes" means the notes issued by the Issuer on the Initial Issue Date.

"Initial Portfolio" means the portfolio consisting of Receivables and Related Collateral purchased by the Issuer from the Seller on the Initial Issue Date.

"Initial Portfolio Purchase Price" means the amount, determined as at the Initial Issue Date, as being an amount equal to the Aggregate Discounted Receivables Balance as at the immediately preceding Cut-Off Date.

"Insolvency Act" means the Insolvency Act 1986, as amended.

"Insolvency Event" means in respect of a relevant entity (each a **"Relevant Entity"**):

- (a) an order is made or an effective resolution passed for the winding up of the Relevant Entity, except a winding up for the purposes of or pursuant to an amalgamation or reconstruction, the terms of which have previously been approved by the Trustee; or
- (b) the Relevant Entity, otherwise than for the purposes of such amalgamation or reconstruction as is referred to in paragraph (a) above, ceases or through an authorised action of its board of directors, threatens to cease to carry on all or substantially all of its business or admits its inability to pay debts as they fall due or is unable to pay its debts within the meaning of Section 123(1) of the Insolvency Act (other than, except in the case of the Issuer, subsection 123(1)(a))

or 123(2) of the Insolvency Act or, where applicable, Section 222 to 224 of the Insolvency Act; or

- (c) proceedings, corporate action or other steps shall be initiated against the Relevant Entity under any applicable liquidation, insolvency, sequestration, diligence, bankruptcy, composition, reorganisation or other similar laws (including, but not limited to, presentation of a petition for an administration order, the filing of documents with the court for the appointment of an administrator, the service of a notice of intention to appoint an administrator or the taking of any steps to appoint an administrator) and (except in the case of presentation of a petition for an administration order, the filing of documents with the court for the appointment of an administrator, the service of a notice of intention to appoint an administrator or the taking of any steps to appoint an administrator) such proceedings are not, in the reasonable opinion of the Trustee, being disputed in good faith with a reasonable prospect of success or an administration order shall be granted or the appointment of an administrator takes effect or an administrative receiver or other receiver, liquidator, trustee in sequestration or other similar official shall be appointed in relation to the Relevant Entity or in relation to the whole or any substantial part of the undertaking or assets of the Relevant Entity, or an encumbrancer (other than the Issuer or the Trustee) shall take possession of the whole or any substantial part of the undertaking or assets of the Relevant Entity, or a distress, execution or diligence or other process shall be levied or enforced upon or sued out against the whole or any substantial part of the undertaking or assets of the Relevant Entity and such possession or process (as the case may be) shall not be discharged or otherwise ceases to apply within thirty days of its commencement, or the Relevant Entity (or its directors or shareholders) initiates or consents to judicial proceedings relating to itself under applicable liquidation, insolvency, bankruptcy, composition, reorganisation or other similar laws or makes a conveyance or assignment or assignation for the benefit of its creditors generally or takes steps with a view to obtaining a moratorium in respect of any indebtedness; or
- (d) any event occurs which, under English law or any applicable law, has an analogous effect to any of the events referred to in paragraph (a), (b) or (c) above.

"Insolvency Official" means, in respect of any company, a liquidator, provisional liquidator, administrator (whether appointed by the court or otherwise), bank administrator, bank liquidator, administrative receiver, receiver or manager, nominee, supervisor, trustee in bankruptcy, conservator, guardian or other similar official in respect of such company or in respect of all (or substantially all) of the company's assets or in respect of any arrangement or composition with creditors or any equivalent or analogous officer under the law of any jurisdiction.

"Instalment" means each monthly payment due from a Customer under the Underlying Agreement to which such Customer is a party (including, for the avoidance of doubt, the final balloon payment due from the Customer under the relevant Underlying Agreement).

"Insurance Agreement" means, in respect of the definition of Related Collateral, any insurance agreement entered into by the relevant Customer as insurance policy holder

in connection with the financing of the acquisition of a Financed Vehicle where the relevant Customer is the insured person.

"Interest Amount" means the amount of interest payable by the Issuer on a Note on a Payment Date accrued during the Interest Period relating to such Payment Date as further described in Condition 6.7 (*Determination of Interest Amounts*) of the Conditions.

"Interest Determination Date" means the date falling five Business Days prior to the end of each Interest Period.

"Interest Period" means, in respect of the first Payment Date, the period commencing on (and including) the relevant Issue Date and ending on (but excluding) the first Payment Date, and in respect of any subsequent Payment Date, the period commencing on (and including) the respective previous Payment Date and ending on (but excluding) the relevant Payment Date, **provided that** the last Interest Period shall end on (but exclude) the Legal Final Maturity Date or, if earlier, the date on which all Notes are redeemed in full.

"Interest Rate" means in respect of the Notes the applicable rate of interest as more specifically described in Condition 6.4 (*Interest Rate*) of the Conditions.

"Interest Shortfall" means, with respect to any Note, accrued interest not paid on any Payment Date related to the Interest Period in which it accrued, including but not limited to any accrued interest resulted from correction of any miscalculation of interest payable on a Note related to the last Interest Period immediately prior to the Payment Date.

"Investment Company Act" means Investment Company Act of 1940, as amended.

"Irrecoverable VAT" means any amount in respect of VAT incurred by a party to a Transaction Document (for the purposes of this definition, a **"Relevant Party"**) to the extent that the Relevant Party does not or will not receive and retain a credit or repayment of such VAT as input tax (as that expression is defined in Section 24(1) of VATA) for the prescribed accounting period (as that expression is used in Section 25(1) of VATA) to which such input tax relates.

"Issue Date" means:

- (a) prior to the First Amendment Date, the Initial Issue Date;
- (b) on or following the First Amendment Date, the Second Issue Date; and
- (c) on or following the Second Amendment Date, the Third Issue Date.

"Issuer" means Bavarian Sky UK-D Limited incorporated under the laws of England and Wales on 21 May 2020 (registered number 12616726) as a private limited company under the Companies Act 2006 (as amended) with its registered address at Third Floor, 1 King's Arm Yard, London EC2R 7AF.

"Issuer Account" means an account held with the Account Bank in the name of the Issuer.

"Issuer Covenants" means the covenants of the Issuer set out in Schedule 8 (*Issuer Covenants*) to the Incorporated Terms Memorandum.

"Issuer Event of Default" means any of the events specified in Condition 11 (*Events of Default*).

"Issuer Profit Amount" means £100 on each Payment Date.

"Issuer Share" means the Issuer share of each Collection Account Declaration of Trust, which shall be an amount equal to amounts from time to time standing to the credit of the relevant Collection Account to the extent that such amounts represent payments into such Collection Account derived from or resulting from the Purchased Receivables comprised in the Portfolio (but excluding any interest arising in respect of amounts standing to the credit of such Collection Account).

"Issuer Warranties" means the representations and warranties of the Issuer set out in Schedule 7 (*Issuer Representations and Warranties*) to the Incorporated Terms Memorandum and **"Issuer Warranty"** means any of them.

"Legal Final Maturity Date" means the Payment Date falling in August 2030.

"Legal Reservations" means any general principles of law, exceptions and qualifications limiting each Transaction Party's obligations which are specifically referred to in each legal opinion delivered pursuant to Clause 9 (*Conditions Precedent*) of the Note Purchase Agreement.

"Liabilities" means, in respect of any Person, any losses, damages, costs, charges, awards, claims, demands, expenses, judgments, actions, proceedings or other liabilities whatsoever, including (without limitation) reasonably incurred legal fees and any Taxes and any related interest and/or penalties incurred by that person, together with any VAT charged or chargeable in respect of any of the sums referred to in this definition.

"Loss" means, in respect of any Person, any loss, liability, damages, cost, expense, claim, action, suit, judgment, and out-of-pocket costs and expenses (including, without limitation, fees and expenses of any professional adviser to such Person) which such Person may have incurred or which may be made against such Person and any reasonable costs of investigation and defence.

"LPA" means the Law of Property Act 1925.

"Master Definitions Schedule" means Schedule 1 (*Master Definitions Schedule*) of the Incorporated Terms Memorandum.

"Material Adverse Effect" means in relation to any Person, any effect that results in, or could reasonably be expected to result in, the Insolvency Event of that Person or otherwise hinders or could reasonably be expected to hinder not only temporarily, the performance of that Person's obligations under any of the Transaction Documents as and when due.

"Meeting" means a meeting of Noteholders of any Class or Classes of Notes (whether originally convened or resumed following an adjournment).

"Member State" means, as the context may require, a member state of the European Union or of the European Economic Area.

"Minimum Denomination" means £100,000 and any amount in excess thereof in integral multiples of £1,000.

"Monthly Investor Report" means the report which contains information in respect of the Purchased Receivables, for instance defaults, delinquencies and performance, and which is prepared by the Servicer.

"Monthly Period" means, with respect to the first Monthly Period, the period commencing on (but excluding) the Cut-Off Date immediately preceding the Initial Issue Date and ending on (and including) 31 July 2020 and with respect to each following Monthly Period the period commencing on (but excluding) a Cut-Off Date and ending on (and including) the immediately following Cut-Off Date.

"Most Senior Class of Notes" means the Class A Notes or, if there are no Class A Notes then outstanding, the Class B Notes.

"Net Loss Percentage" means, as of any Cut-Off Date, the quotient, expressed as a percentage, of:

- (a) the sum of: (i) the Aggregate Defaulted Receivables Balance; and (ii) all Non-Defaulted Receivables Losses; minus (iii) an amount equal to all Recoveries, in each case as at such Cut-Off Date;

divided by,

- (b) the Aggregate Discounted Receivables Balance.

"New Vehicle" means any Financed Vehicle, in respect of which, at the time of the start date of the relevant Underlying Agreement, not more than two months have elapsed since the date of the first vehicle registration.

"Non-BMW Receivables" means any Purchased Receivables relating to a Financed Vehicle which is not of the brand "BMW" (including BMW Motorrad) or "MINI".

"Non-Compliant Receivable" means each Purchased Receivable in respect of which any Receivables Warranty proves to have been incorrect on the date on which the relevant Receivables Warranty is given and remains incorrect, or has never existed.

"Non-Compliant Receivables Repurchase Price" means in respect of a Non-Compliant Receivable, an amount, calculated by the Servicer, equal to the Discounted Receivables Balance of the applicable Non-Compliant Receivable as at the Cut-Off Date immediately preceding the date of repurchase.

"Non-Defaulted Receivables Losses" means the sum of all losses incurred in respect of any Purchased Receivable other than those losses incurred as a result of a Purchased Receivable being a Defaulted Receivable as determined pursuant to the Credit and Collection Policy, including (a) the Aggregate VT Receivables Balance; and (b) the Aggregate PCP Handback Receivables Balance.

"Non-Permitted Variation" means, in respect of any Underlying Agreement:

- (a) any Purchased Receivable, payable under such Underlying Agreement, is reduced or negatively affected due to any early termination of the relevant Underlying Agreement agreed upon by the parties thereto other than in accordance with the requirements of the CCA; or
- (b) the Purchased Receivable, payable under such Underlying Agreement, is materially reduced or materially affected due to any material modification and/or material reduction to the cash flow or payment plan of the relevant Underlying Agreement (other than: (i) any rescheduling of any Instalments which the Servicer is obligated to make pursuant to the CCA; or (ii) any modifications required in respect of any Non-Defaulted Receivables Losses incurred in respect of any Purchased Receivable; or (iii) any modifications made following an agreed change to the mileage limit applicable to the Underlying Agreement to the extent this does not result in a change to the balloon payment in relation to an Underlying Agreement); or
- (c) the entry by the Seller into a modifying agreement with a Customer on the refinancing of a balloon payment in relation to an Underlying Agreement,

but in the case of paragraphs (a) and (b) above, shall not, for the avoidance of doubt, include any action taken with respect to the Servicer's arrears management process in accordance with its Credit and Collection Policy.

"Non-Renewing Sub-Class" has the meaning given to it in Condition 8.6 (*Optional redemption for non-renewal of Scheduled Amortisation Date*).

"Noteholders" means collectively the Class A Noteholders and the Class B Noteholders and each holder of a Note a **"Noteholder"**.

"Note Certificate" means any note certificate representing any holding of any Class of Notes, in or substantially in the form set out in Schedule 1 (*Form of Note Certificate*) of the Trust Deed;

"Note Factor" means an amount obtained by dividing (i) the amount of the Outstanding Note Balance of a Note, by (ii) the aggregate Outstanding Note Balance of the relevant Class of Notes, where such fraction is expressed as a decimal to the sixth decimal point.

"Note Principal Payment" means the principal amount to be redeemed in respect of a Note on any Payment Date which shall be, prior to the service of an Enforcement Notice, Available Distribution Amount available for such purpose on such Payment Date in accordance with the relevant Priority of Payments, as calculated on the Cut-Off Date immediately preceding such Payment Date, multiplied by the relevant Note Factor and rounded down to the nearest penny.

"Note Purchase Agreement" means the Class A Note Purchase Agreement and any other note purchase agreement entered following the Third Issue Date between the Issuer and any Note Purchaser, and as such note purchase agreement may be further amended or amended and restated from time to time.

"Note Purchaser" means, as the context may require, the Class A1 Note Purchaser, the Class A2 Note Purchaser, the Class B Note Purchaser and any other note purchaser in respect of any sub-class of Class A Notes issued by the Issuer pursuant to clause 20.4 (*Additional Modification Rights*) of the Trust Deed.

"Notes" means collectively the Class A Notes and the Class B Notes.

"Notice Details" means:

- (a) in respect of a Transaction Party other than a Noteholder, the details specified in Schedule 9 (*Notice Details*) of the Incorporated Terms Memorandum; and
- (b) in respect of a Noteholder, the details specified in the relevant Register,
- (c) in each case as may be amended in accordance with the provisions of the relevant Transaction Document.

"Notices Condition" means Condition 17 (*Notice to Noteholders*).

"Operating Ledger" means a ledger to the Issuer Account held by the Issuer with the Account Bank for and into which the Servicer transfers all Collections received by it on behalf of the Issuer in accordance with the Servicing Agreement and for the purposes of the Transaction.

"Optional Repurchase Payment" means, in respect of an Indemnified Receivable, an amount equal to £1.

"Ordinary Resolution" means, in respect of the holders of any of the Classes of Notes:

- (a) a resolution passed at a meeting of Noteholders duly convened and held in accordance with the Trust Deed and the Conditions by a majority of not less than 50.1 per cent. of the votes cast thereat on a show of hands or, if a poll is duly demanded, by a majority of not less than 50.1 per cent. of the votes cast on such poll; or
- (b) a resolution in writing signed by or on behalf of the Noteholders of not less than a clear majority in aggregate Class Outstanding Note Balance of the relevant Class of Notes, which resolution may be contained in one document or in several documents in like form each signed by or on behalf of one or more of the Noteholders of the relevant Class.

"Outstanding Note Balance" means in respect of any Note as of any date the original principal amount of such Note as reduced by all amounts paid in accordance with the applicable Priority of Payments prior to such date on such Note in respect of principal.

"Outstanding Principal Balance" means as of any date the outstanding principal balance of a Purchased Receivable.

"Partial Takeout Receivables" has the meaning given to it in clause 14 (*Optional Redemption*) of the Receivables Purchase Agreement.

"Paying Agents" means the paying agents named in the Agency Agreement together with any successor or additional paying agents appointed from time to time in connection with the Notes under the Agency Agreement and **"Paying Agent"** means any of them.

"Payment Date" means (in respect of the first Payment Date falling after the Third Issue Date) 20 October 2022 and thereafter the twentieth (20th) of each calendar month, **provided that** if any such day is not a Business Day, the relevant Payment Date will fall on the next following Business Day unless such date would thereby fall into the next calendar month, in which case the Payment Date shall be the immediately preceding Business Day. Any reference to a Payment Date relating to a given Monthly Period shall be a reference to the Payment Date falling in the calendar month following such Monthly Period.

"PCP Agreement" means any agreement entered into by the Seller that is a personal contract plan agreement providing for the purchase of a Financed Vehicle under the terms of which the Customer has a contractual right either to (i) make a final balloon payment in order to acquire the legal title of the Financed Vehicle, or (ii) return the Financed Vehicle financed under such agreement in lieu of making such final balloon payment.

"PCP Handback Receivable" means any Purchased Receivable which ceases to be payable because the Customer opts to return the Financed Vehicle to the Seller in lieu of making a final payment and acquiring legal title to the Financed Vehicle in accordance with the related Underlying Agreement.

"PCP Residual Value" means, with respect to any Underlying Agreement, the Receivable representing the final payment under such Underlying Agreement (calculated by the Seller taking into account the residual value ascribed by the Seller to the Financed Vehicle financed pursuant to such PCP Agreement, as discounted as of the relevant date at the Discount Rate).

"PCP/VT Calculation Period" means the period from (but excluding) a PCP/VT Indemnification Date to (and including) the next PCP/VT Indemnification Date.

"PCP/VT Indemnification Amount" means, as at the relevant PCP/VT Indemnification Date, the amount (if any) by which the aggregate Recoveries received by the Servicer in accordance with the Credit and Collection Policy in respect of all Indemnified Receivables in the relevant PCP/VT Calculation Period is less than the Aggregate PCP/VT Receivables Balance of such Indemnified Receivables.

"PCP/VT Indemnification Date" has the meaning given to it in clause 16 (*Seller Indemnification Obligation in respect of PCP Handback Receivables and Voluntarily Terminated Receivables*) of the Receivables Purchase Agreement.

"PCP/VT Indemnification Trigger" means, on any Payment Date, the sum of: (a) the Aggregate Discounted Receivables Balance of Performing Receivables in the Portfolio (including any Additional Portfolio acquired by the Issuer on such Payment Date and as of the Cut-Off Date immediately preceding such Payment Date); and (b) the balance standing to the credit of the Replenishment Ledger of the Issuer Account (on such Payment Date) is less than Aggregate Outstanding Note Balance (following application

of the Available Distribution Amount on such Payment Date in accordance with the Pre-Enforcement Priority of Payments).

"Perfection Event" means the occurrence of any of the following events:

- (a) unless otherwise agreed in writing by the Trustee, a Servicer Termination Event;
- (b) it becoming necessary by law to perfect the Issuer's legal title to the Purchased Receivables, (or procure the perfection of the Issuer's legal title to the Purchased Receivables) in accordance with the terms of the Receivables Purchase Agreement;
- (c) the Seller calling for perfection or transfer of legal title by serving notice in writing to that effect on the Issuer and the Trustee; or
- (d) the occurrence of an Insolvency Event in respect of the Seller.

"Perfection Event Notice" means in respect of a Purchased Receivable a notice (substantially in the same form as the one set out in Schedule 3 (*Form of Perfection Event Notice*) to the Receivables Purchase Agreement) sent to the relevant Customer stating that such Purchased Receivable has been assigned by the Seller to the Issuer pursuant to the Receivables Purchase Agreement and instructing the Customer to make payments to the Issuer Account or any other account compliant with the Transaction Document.

"Performing Receivable" means a Purchased Receivable relating to an Underlying Agreement which is not a Defaulted Receivable, Voluntarily Terminated Receivable or PCP Handback Receivable.

"Permitted Investments" means any amount standing to the credit of the Issuer Account invested by the Account Bank, on behalf of the Issuer and upon instructions, **provided that** any such investment:

- (a) must be denominated and payable in sterling;
- (b) may only be made:
 - (i) in securities with:
 - (A) a short term rating of "R-1(low)" and a long term rating of "A" by DBRS;
 - (B) (x) a short-term rating of at least F1 (or its replacement) by Fitch or a long-term rating of at least A (or its replacement) by Fitch for securities with a tenor of up to 30 days or (y) a short-term rating of at least F1+ (or its replacement) by Fitch or a long-term rating of at least AA- (or its replacement) by Fitch for securities with a tenor between 30 to 365 days; and
 - (C) at least P-1 (or its replacement) by Moody's; or

- (ii) in deposits with a credit institution which has:
 - (A) a short term rating of at least F1+ (or its replacement) by Fitch or a long-term rating of at least AA- (or its replacement) by Fitch;
 - (B) a short term rating of at least P-1 (or its replacement) and a long term rating of at least A2 (or its replacement) by Moody's; and
 - (C) either:
 - (1) if a critical obligations rating is currently maintained in respect of the relevant entity, a rating of "A (high)" from DBRS or
 - (2) a long-term senior unsecured debt rating of "A" from DBRS; or
 - (3) if none of paragraph (1) or (2) above are currently maintained on the entity, the DBRS equivalent of at least a rating equal to "A"; and
- (c) shall mature no later than the next following Payment Date; and
- (d) shall in no event be the Notes.

For the avoidance of doubt, no such investment shall be made, in whole or in part, actually or potentially, in tranches of other asset-backed securities, credit linked notes, swaps or other derivatives instruments, or synthetic securities.

"Permitted Variations" means any Variation which is made in accordance with the terms of the relevant Underlying Agreement and the Credit and Collection Policy and which is not a Non-Permitted Variation.

"Permitted Withdrawal" means an amount equal to the aggregate of the following withdrawals made from:

- (a) the Issuer Account (other than the amounts standing to the credit of the Commingling Reserve Ledger) by the Servicer (as directed by the Seller) on any Business Day:
 - (i) amounts under a Direct Debit which are repaid to the bank making the payment if such bank is unable to recoup or recall such amount itself from its customer's account or is required to refund an amount previously debited; and
 - (ii) any Excluded VAT Receivables Amount,
- (b) amounts standing to the credit of the Commingling Reserve Ledger in the amounts, and on the dates, as permitted or required by clause 16.5 of the Servicing Agreement,

provided that, any such withdrawals shall (i) (only in respect of (a)(ii)) in any Monthly Period only be made up to a maximum amount equal to the Available Distribution Amount received in such Monthly Period, (ii) be deemed to be made prior to administration of the applicable Priority of Payments and (iii) for the avoidance of doubt, shall not be included as Available Distribution Amount.

"Person" means an individual, partnership, corporation (including a business trust), unincorporated association, trust, joint stock company, limited liability company, joint venture or other entity, or a government or political subdivision, agency or instrumentality thereof.

"Portfolio" means the Initial Portfolio and each Additional Portfolio.

"Portfolio Decryption Key" means a file of information sent by the Seller to the Data Trustee, required to decrypt the encrypted Portfolio Information.

"Portfolio Information" means a portfolio file (non encrypted information) and a Data Trustee file (encrypted information) with the information as set out in the Annex to Schedule 2 (*Form of Transfer Notice*) of the Receivables Purchase Agreement sent by the Seller to the Issuer (the encrypted information readable only together with the Portfolio Decryption Key).

"Portfolio Purchase Price" means the Initial Portfolio Purchase Price or the Additional Portfolio Purchase Price (as applicable) together with the Deferred Purchase Price.

"Post-Enforcement Priority of Payments" means the priority of payments set out in Schedule 7 (*Post-Enforcement Priority of Payments*) of the Deed of Charge.

"Potential Issuer Event of Default" means any event which may become (with the passage of time, the giving of notice, the making of any determination or any combination thereof) an Issuer Event of Default.

"Pre-Enforcement Priority of Payments" means the priority of payments set out in Schedule 6 (*Pre-Enforcement Priority of Payments*) of the Deed of Charge.

"Principal Paying Agent" means Elavon Financial Services DAC, UK Branch in its capacity as principal paying agent or any successor principal paying agent appointed in accordance with the Agency Agreement.

"Priority of Payments" means either the Pre-Enforcement Priority of Payments or the Post-Enforcement Priority of Payments (as applicable).

"Proceedings" means any legal proceedings relating to a Dispute.

"Provisions for Meetings of Noteholders" means the provisions contained in Schedule 2 (*Provisions for Meetings of Noteholders*) to the Trust Deed.

"Proxy" means, in relation to any Meeting, a person appointed to vote under a Block Voting Instruction other than:

- (a) any person whose appointment has been revoked and in relation to whom the relevant Paying Agent has been notified in writing of such revocation by the time which is 48 hours before the time is fixed for such Meeting; and
- (b) any person appointed to vote at a Meeting which has been adjourned for want of a quorum and who has not been appointed to vote at the Meeting when it is resumed.

"Purchase Date" means:

- (a) in respect of the Initial Portfolio, the Initial Issue Date; and
- (b) in respect of any Additional Portfolio, the relevant Payment Date on which such Additional Portfolio is purchased by the Issuer.

"Purchased Receivable" means any Receivable which is purchased by the Issuer or held on trust or purported to be held on trust by the Seller for the Issuer in accordance with the Receivables Purchase Agreement which has neither been paid in full by or on behalf of the Customer nor repurchased (and not subsequently re-sold) by the Seller pursuant to the Receivables Purchase Agreement.

"RBC Affiliate" means Royal Bank of Canada or any of its Subsidiaries or a holding company of any of them, or a Subsidiary of any such holding company.

"Receivable" means any and all claims and rights of the Seller against the Customer under or in connection with relevant Underlying Agreements originated by the Seller (including, for the avoidance of doubt, all Instalments due from the Customer under the relevant Underlying Agreement (including any VAT or related fees and expenses due and payable by the Customer under the terms of the Underlying Agreement) and any Related Collateral).

"Receivables Call Option" means the call option granted to the Seller pursuant to the Receivables Purchase Agreement, under which the Seller, subject to (a) the PCP/VT Indemnification Amount having been received by the Issuer from the Seller, and (b) such Indemnified Receivable being written off in accordance with the Seller's Credit and Collection Policy, but prior to the occurrence of an Insolvency Event in respect of the Seller, has the right to repurchase from the Issuer any Indemnified Receivables.

"Receivables Indemnity Amount" means, where a Purchased Receivable has never existed, or has ceased to exist, such that it is not outstanding on the date on which it is otherwise due to be repurchased pursuant to the Receivables Purchase Agreement, an amount equal to (i) the Discounted Receivables Balance of such Purchased Receivable had the Purchased Receivable existed and complied with each of the Receivables Warranties and (ii) any deemed interest accrued on the relevant Purchased Receivable at a rate equal to the APR in respect of such Purchased Receivable, as determined by the Servicer at the end of the immediately preceding Monthly Period.

"Receivables Purchase Agreement" means a receivables purchase agreement between, *inter alios*, the Seller, the Issuer and the Trustee dated as of the Initial Issue Date (as

most recently amended and restated on or about the Second Amendment Date, and as the same may be further amended and restated from time to time).

"Receivables Warranties" means the representations and warranties made by the Seller in respect of the Purchased Receivables as set out in Part 3 (*Receivables Representations and Warranties of the Seller*) of Schedule 3 (*Seller Representations and Warranties*) of the Incorporated Terms Memorandum.

"Receiver" means any receiver, manager, or administrative receiver appointed in respect of the Issuer by the Trustee in accordance with Clause 18.2 (*Appointment of a Receiver*) of the Deed of Charge.

"Records" means with respect to any Purchased Receivable, Related Collateral, Financed Vehicle and the related Customer(s) which owes such Purchased Receivable all contracts, invoices, receipts, correspondence, files, notes of dealings and other documents, books, books of account, registers, records and other information (especially computerised data, tapes, discs, punch cards, data processing software and related property and rights) maintained (and recreated in the event of destruction of the originals thereof) regardless of how stored.

"Recoveries" means all amounts received in respect of, or in connection with, any Purchased Receivable by the Servicer after the date such Purchased Receivable became a Defaulted Receivable, a PCP Handback Receivable or Voluntarily Terminated Receivable, including, for the avoidance of doubt, Vehicle Sales Proceeds, Instalments, damages, reminder fees, past due interest and any other payment, by or for the account of the relevant Customer.

"Redeeming Class A1 Noteholder" means RBC Europe Limited (acting for itself and as nominee for Royal Bank of Canada, London Branch).

"Redeeming Class B Noteholder" means BMW Financial Services (GB) Limited.

"Reference Rate" means interest set by reference to the Compounded Daily SONIA (as determined pursuant to Condition 6.4 (*Interest Rate*)).

"Register" means the register of Notes held by the Registrar.

"Registrar" means Elavon Financial Services DAC, UK Branch, or any other entity appointed as the registrar for the purposes of the Transaction Documents in accordance with the terms of the Agency Agreement.

"Regulation S" means Regulation S under the Securities Act.

"Regulatory Direction" means, in relation to any person, a direction or requirement of any Governmental Authority with whose directions or requirements such person is required or accustomed to comply.

"Related Collateral" means in relation to each Purchased Receivable:

- (a) the right to demand, sue for, recover, receive and give receipts for all amounts due (whether or not from the relevant Customer) under, relating to or in

connection with the Underlying Agreement from which such Receivable derives;

- (b) the benefit of all covenants and undertakings from the relevant Customer and from any guarantor under, relating to or in connection with the Underlying Agreement from which such Receivable derives;
- (c) the benefit of all causes of action against the relevant Customer and any guarantor under, relating to or in connection with the Underlying Agreement from which such Receivable derives;
- (d) the right to receive the Vehicle Sales Proceeds;
- (e) the benefit of any other rights, title, interests, powers or benefits of the Seller in relation to the Underlying Agreement from which such Receivable derives, other than title to the Financed Vehicle (including (i) amounts (if any) received by the Seller arising from claims by a Customer against the relevant insurer under any Insurance Agreement entered into by the Customer in connection with the relevant specified Financed Vehicles or the financing of their acquisition by the relevant Customer and (ii) any claims against a Dealer in respect of a Financed Vehicle),

and for the purpose of this definition references to "guarantees" shall be deemed to include all other indemnities, security, collateral or other documents, agreements or arrangements whatsoever whereby any person (including, but without limitation, any Customer) agrees to make any payment to the Seller in respect of that Customer's obligations under the relevant Underlying Agreement or to provide any security therefor and "guarantors" shall be construed accordingly.

"Related Underlying Agreement" means, in relation to each Receivable, the Underlying Agreement from which such Receivable derives.

"Relevant Margin" means, in respect of any Class A Notes, the meaning given thereto in respect of the Note Purchase Agreement executed in respect of the Class A Notes.

"Relevant Transaction Documents" means, with reference to any particular Transaction Party, the Transaction Documents to which such Transaction Party is a party together with the Transaction Documents that contain provisions that otherwise bind or confer rights upon such Transaction Party.

"Relevant Transaction Party" means, in respect of any representation, warranty, covenant or undertaking, the Transaction Party to whom such representation, warranty, covenant or undertaking is given.

"Replacement Note Certificates" means any Note Certificates which have been authenticated and delivered by the Principal Paying Agent under the terms of the Agency Agreement, as a replacement for any which have been mutilated or defaced or which are alleged to have been destroyed and **"Replacement Note"** means any one of them.

"Replacement Swap Premium" shall mean an amount received by the Issuer from a replacement interest rate swap provider upon entry by the Issuer into an agreement with

such replacement interest rate swap provider to replace a transaction entered into under a Swap Agreement.

"Replenishment Available Amount" means, as of any Payment Date during the Revolving Period, the amount by which the Aggregate Outstanding Note Balance exceeds the Aggregate Discounted Receivables Balance of Performing Receivables as of the Cut-Off Date immediately preceding such Payment Date.

"Replenishment Ledger" means a ledger to the Issuer Account held by the Issuer with the Account Bank for and into which, during the Revolving Period only, the Excess Collection Amount shall be credited.

"Reporting Date" means the fourth (4th) Business Day prior to the respective Payment Date.

"Required Cash Reserve Amount" means, an amount equal to (i) on any date not falling within (ii) or (iii), £5,300,000; or (ii) upon and following the occurrence of either (a) the Legal Final Maturity Date or (b) the date on which the Available Distribution Amount is sufficient to reduce the Class A Outstanding Note Balance to zero, whichever occurs earlier, zero; or (iii) (x) upon and following the issuance of (A) any new sub-classes of Class A Notes or (B) any Further Notes; or (y) the optional redemption of any Non-Renewing Sub-Class of Class A Notes pursuant to clause 14 (*Optional Redemption*) of the Receivables Purchase Agreement and Condition 8.6 (*Optional redemption for non-renewal of Scheduled Amortisation Date*), such amount as the Servicer reasonably determines and notifies to the Issuer, the Trustee and the Seller **provided that**, in the case of (iii) if such amount is less than £5,300,000 this does not result in the occurrence of an Early Amortisation Event as set out in limb (d) of the definition thereof.

"Requirement of Law" in respect of any person means:

- (a) any law, treaty, rule, requirement or regulation;
- (b) a notice by or an order of any court having jurisdiction;
- (c) a mandatory requirement of any regulatory authority having jurisdiction; or
- (d) a determination of an arbitrator or Governmental Authority,

in each case applicable to or binding upon that person or to which that person is subject or with which it is customary for it to comply.

"Retained Profit Ledger" means the ledger to the Issuer Account held by the Issuer with the Account Bank for the Issuer Profit Amount for the purposes of the Transaction.

"Reverse Charge" means the charge arising as a result of Section 8(1) of VATA.

"Revolving Period" means the period commencing on (and includes) the Initial Issue Date and ending on (but excludes) the earlier of (a) the Scheduled Amortisation Date and (b) the date on which an Early Amortisation Event occurs.

"Scheduled Amortisation Date" means, subject to any extension which may be agreed between the Issuer (with the consent of the Trustee) and the Seller, the Payment Date falling in September 2023.

"Scottish Declaration of Trust" means each declaration of trust (forming part of a Transfer Notice) in relation to Scottish Receivables and their Related Collateral constituted pursuant to a Transfer Notice delivered pursuant to the Receivables Purchase Agreement by means of which the sale of such Scottish Receivables and their Related Collateral by the Seller to the Issuer and the transfer of the beneficial interest therein to the Issuer are given effect.

"Scottish Receivables" means those Receivables contained in the Portfolio governed by or otherwise subject to Scots law.

"Scottish Reversionary Interest Supplemental Charge" means each reversionary interest assignment in security granted by the Issuer in favour of the Trustee in respect of the Issuer's reversionary interest in a Scottish Supplemental Charge entered into pursuant to a Supplemental Deed of Charge and in substantially the form set out in schedule 2 (*Form of Scottish Reversionary Interest Supplemental Charge*) to the First Supplemental Deed of Charge.

"Scottish Supplemental Charge" means each assignment in security granted by the Issuer in favour of the Trustee in respect of the Issuer's interest in a Scottish Declaration of Trust and/or the Scottish Vehicle Sales Proceeds Floating Charge entered into pursuant to this Deed of Charge and in substantially the form set out at Schedule 5 (*Form of Scottish Supplemental Charge*) hereto.

"Scottish Trust" means the trust declared by the Seller pursuant to the Scottish Declaration of Trust.

"Scottish Trust Property" has the meaning given to it in the Scottish Declaration of Trust.

"Scottish Vehicle Sales Proceeds" means Vehicle Sales Proceeds in respect of Purchased Receivables in so far as they relate to Scottish Vehicles.

"Scottish Vehicle Sales Proceeds Floating Charge" means the Scots law governed floating charge granted by the Seller in favour of the Issuer in respect of the Scottish Vehicle Sales Proceeds pursuant to Clause 4.10 of the Receivables Purchase Agreement.

"Scottish Vehicles" means Financed Vehicles situated in Scotland or otherwise subject to Scots law.

"Second Amendment Date" means 20 September 2022.

"Second Issue Date" means 20 August 2021.

"Second Supplemental Trust Deed" means the supplemental trust deed dated on or about the Second Amendment Date.

"Secured Obligations" means the aggregate of all moneys and Liabilities which from time to time are or may become due, owing or payable by the Issuer to each, some or any of the Secured Parties under the Notes or the Transaction Documents.

"Secured Party" means each of the Noteholders, the Trustee, the Seller, the Servicer (if different from the Seller), the Subordinated Lender, any Swap Counterparty, the Agents, the Principal Paying Agent, the Registrar, the Account Bank, the Data Trustee, the Corporate Services Provider, any Receiver, any successor, assignee, transferee or replacement thereof and any other party that becomes a Secured Party pursuant to the Deed of Charge.

"Securities Act" means the U.S. Securities Act of 1933 as amended from time to time.

"Securitisation Regulation" means Regulation (EU) 2017/2402 of the European Parliament and of the Council of 12 December 2017 laying down a general framework for securitisation and creating a specific framework for simple, transparent and standardised securitisation as it forms part of domestic law of the United Kingdom by virtue of the European Union (Withdrawal) Act 2018.

"Security" means a mortgage, standard security, pledge, lien, charge, assignment or assignation by way of security, hypothecation or other security interest or any other agreement or arrangement having the effect of creating a security interest granted by the Issuer to the Trustee in favour of the Secured Parties under the terms of the Security Documents.

"Security Documents" means the Deed of Charge, any Supplemental Deed of Charge, any Scottish Supplemental Charge and any Scottish Reversionary Interest Supplemental Charge.

"Security Interest" means any mortgage, charge, assignment or assignation by way of security, lien, pledge, hypothec, right of set-off (or analogous right), retention of title, flawed asset or blocked deposit arrangement or any other encumbrance or security interest or security arrangement whatsoever created or arising under any relevant law or any agreement or arrangement having the effect of or performing the economic function of conferring security howsoever created or arising.

"Security Protection Notice" means a notice, in or substantially in, the form set out in Schedule 4 (*Form of Security Protection Notice*) to the Deed of Charge.

"Seller" means BMW Financial Services (GB) Limited.

"Seller Covenants" means the covenants of the Seller set out in Schedule 4 (*Seller Covenants*) of the Incorporated Terms Memorandum and Clause 12 (*Covenants*) of the Receivables Purchase Agreement.

"Seller Power of Attorney" means the power of attorney executed by the Seller in the form set out in Schedule 4 (*Form of Power of Attorney*) to the Receivables Purchase Agreement.

"Seller Share" means the Seller share of each Collection Account Declaration of Trust which shall be an amount equal to all amounts from time to time standing to the credit

of the relevant Collection Account to the extent such amounts represent amounts other than the Issuer Share or Collection Account Beneficiary Share.

"Seller Warranties" means the representations and warranties of the Seller set out in Schedule 3 (*Seller Representations and Warranties*) of the Incorporated Terms Memorandum;

"Servicer" means BMW Financial Services (GB) Limited, unless the engagement of BMW Financial Services (GB) Limited as servicer of the Issuer is terminated upon the occurrence of a Servicer Termination Event in accordance with the Servicing Agreement in which case the Servicer shall mean the successor Servicer or replacement Servicer (if any) appointed in accordance with the Servicing Agreement.

"Servicer Shortfall" means, with respect to any Payment Date relating to any period for which BMW Financial Services (GB) Limited is the Servicer, the amount by which the Collections paid by the Servicer to the Issuer is less than the amount of the Collections as indicated in the relevant Monthly Investor Report prepared by the Servicer for such Payment Date and in respect of which no previous withdrawal has been made from the amounts standing to the credit of the Commingling Reserve Ledger.

"Servicer Termination Event" means any of the following:

- (a) an Insolvency Event has occurred with respect to the Seller or the Servicer; or
- (b) the Seller or the Servicer fails to make any payment or deposit required by the terms of the relevant Transaction Document within five (5) Business Days of the date such payment or deposit is required to be made; or
- (c) the Seller or the Servicer fails to perform any of its material obligations under the Receivables Purchase Agreement and/or the Servicing Agreement (other than a payment or deposit required), and such breach, if capable of remedy, is not remedied within sixty (60) days of written notice from the Issuer or the Trustee; or
- (d) any representation or warranty in the Servicing Agreement or in any report provided by the Servicer is materially false or incorrect, and such inaccuracy, if capable of remedy, is not remedied within sixty (60) days of written notice from the Issuer or the Trustee and has a Material Adverse Effect in relation to the Issuer.

"Services" means the services to be provided by the Servicer under the Servicing Agreement.

"Servicing Agreement" means a servicing agreement between, *inter alios*, the Servicer, the Issuer and the Trustee dated as of the Initial Issue Date (as amended and restated on or about the First Amendment Date, and as the same may be further amended and restated from time to time).

"Servicing Fee" means, for as long as BMW Financial Services (GB) Limited or any Affiliate is no longer the Servicer and for any Monthly Period, a rate as is agreed by the Issuer but which does not exceed the rate then commonly charged by providers of

services of the kind described in the Servicing Agreement and required by the Servicing Agreement to be provided by the Servicer.

"Share Trust" means the trust established under English law by the Share Trust Deed and made by the Share Trustee.

"Share Trust Deed" means the trust deed so named and dated 5 June 2020 entered into by the Share Trustee.

"Share Trustee" means Wilmington Trust SP Services (London) Limited, (registered number 2548079), whose registered office is at Third Floor, 1 King's Arms Yard, London, EC2R 7AF.

"SONIA" means the Sterling Over Night Index Average as calculated by the Bank of England and appearing on the Telerate Service on the page designated 3937 or the Bloomberg page designated SONIA 1.

"Specified Office" means, in relation to any Agent:

- (a) the office specified against its name in the Notice Details; or
- (b) such other office as such Agent may specify in accordance with Clause 14.7 (*Changes in Specified Offices*) of the Agency Agreement.

"Specified Party" means any of the Agents, the Account Bank, the Corporate Services Provider and the Data Trustee.

"SR Report" means the monthly investor report published by the Servicer in respect of the relevant period, as required by and in accordance with Article 7(1)(e) of the Securitisation Regulation and certain loan-by-loan information in relation to the Portfolio as required by and in accordance with Article 7(1)(a) of the Securitisation Regulation.

"Subordinated Lender" means BMW Financial Services (GB) Limited or any successor thereof.

"Subordinated Loan" means the GBP 5,300,000 loan received by the Issuer under the Subordinated Loan Agreement.

"Subordinated Loan Agreement" means a subordinated loan agreement entered into, *inter alios*, by the Issuer, the Subordinated Lender and the Trustee and dated as of the Initial Issue Date (as amended and restated from time to time) under which the Subordinated Lender will advance the Subordinated Loan to the Issuer.

"Subordinated Loan Amount" has the meaning given to it in clause 2.2 (*Drawing of the Subordinated Loan*) of the Subordinated Loan Agreement.

"Subsidiary" means a corporation in relation to another corporation, if (x) the other corporation (aa) controls the composition of the board of directors of the first-mentioned corporation; (bb) controls more than half of the voting power of the first-mentioned corporation; (cc) holds more than half of the issued share capital of the first-mentioned corporation (excluding any part thereof which consists of preference shares);

or (dd) possesses, directly or indirectly the power to direct or cause the direction of the management and policies of the first-mentioned corporation, whether through the ownership or voting of securities, by contract or otherwise; or, (y) the first-mentioned corporation is a Subsidiary of any corporation which is that other corporation's Subsidiary. For this purpose, the composition of a corporation's board of directors, *inter alia*, shall be deemed to be controlled by another corporation if that other corporation by the exercise of some power exercisable by it without the consent or concurrence of any other person can directly or indirectly appoint or influence the appointment of or remove all or a majority of the directors, and for the purposes of this provision that other corporation shall be deemed to have power to make such an appointment if a person cannot be appointed as a director without the exercise in his favour by that other corporation of such a power or a person's appointment as a director follows necessarily from his being a director or other office of that other corporation.

"Substituted Obligor" means a single purpose company incorporated in any jurisdiction.

"Successor Bank" means an entity appointed in accordance with Clause 8 (*Termination*) of the Bank Account Agreement to act as successor Account Bank.

"Successor Trustee" means an entity appointed in accordance with Clause 32 (*Appointment of Trustees*) of the Trust Deed to act as successor trustee.

"Suitable Entity" means an entity that:

- (a) has experience of administering receivables reasonably similar to the Purchased Receivables being administered by the Servicer in the United Kingdom or is able to demonstrate that it has the capability to administer receivables reasonably similar to the Purchased Receivables being administered by the Servicer in the United Kingdom;
- (b) is resident in the United Kingdom for tax purposes and will perform its obligations from a fixed establishment in the United Kingdom;
- (c) has obtained and maintains in effect all authorisations, approvals, licences and consents required in connection with its business pursuant to any applicable law or regulation applicable to the provision of the Services; and
- (d) undertakes to administer and use the Records in compliance with any applicable law or regulation.

"Supplemental Deed of Charge" means each supplemental deed of charge.

"Supplemental Trust Deed" means each supplemental trust deed relating to the issuance of any Notes or Further Notes.

"Swap Agreement" means the Class A Swap Agreement and any other swap agreement entered into by the Issuer and any swap counterparty in relation to any subclass of Class A Notes on or about the Second Issue Date as amended and restated on or about the Third Issue Date, and a confirmation executed on or about the Third Issue Date and **"Swap Agreements"** shall be construed accordingly.

"Swap Counterparty" means the Class A Swap Counterparty and any other swap counterparty that enters into a Swap Agreement with Issuer in relation to any sub-class of Class A Notes after the Third Issue Date and **"Swap Counterparties"** shall be construed accordingly.

"Swap Net Cashflow" means the amount equal, on any Payment Date, to the sum of (i) (A) in respect of the Class A Swap Agreement the Class A Swap Incoming Cashflow, minus (B) the Class A Swap Outgoing Cashflow; and (ii) the net swap receipts received in respect of any other Swap Agreement.

"Swap Termination Date" means, in relation to a Swap Agreement, the earlier of (i) the Legal Final Maturity Date, (ii) the Clean-Up Call Settlement Date and (iii) the date on which the related sub-class of A Notes are otherwise redeemed in full in accordance with the Conditions.

"Tax" includes all present and future taxes and any levies, imposts, duties, fees, deductions, withholdings or charges in the nature of tax wheresoever imposed, including, without limitation, VAT or other tax in respect of added value and any stamp, transfer, gross receipts, business, excise, sales, use, occupation, franchise, personal or real property or other tax, together with all penalties, charges, fines and/or interest relating to any of the foregoing, and **"Taxes"** shall be construed accordingly.

"Tax Authority" means any government, state or municipality or any local, state, federal or other authority, body or official anywhere in the world exercising a fiscal, revenue, customs or excise function (including, without limitation, HM Revenue and Customs).

"Tax Deduction" means any deduction or withholding for or on account of Tax, other than a FATCA Deduction.

"Third Issue Date" means 20 September 2022.

"Transaction" means the transaction as contemplated by the Transaction Documents, in particular, relating to the issue of notes by the Issuer on the Issue Date.

"Transaction Documents" means the Notes, the Agency Agreement, the Trust Deed, the Bank Account Agreement, the Receivables Purchase Agreement, the Servicing Agreement, the Data Trust Agreement, the Subordinated Loan Agreement, the Deed of Charge, the Corporate Services Agreement, any Supplemental Deed of Charge, the Scottish Declaration of Trust, any Scottish Supplemental Charge, the Scottish Vehicle Sales Proceeds Floating Charge, any Scottish Reversionary Interest Supplemental Charge, any Supplemental Trust Deed, any Swap Agreement and each Collection Account Declaration of Trust, collectively, including any amendment agreement, termination agreement or replacement agreement relating to any such agreement or any other agreement designated as such (in each case, as amended and restated from time to time, including on the Third Issue Date).

"Transaction Party" means any Person who is a party to a Transaction Document and **"Transaction Parties"** means some or all of them.

"Transfer Notice" means a transfer notice from the Seller to the Issuer and the Trustee, substantially in the form as set out in Schedule 2 (*Form of Transfer Notice*) to the Receivables Purchase Agreement.

"Trust Corporation" means a corporation entitled by the rules made under the Public Trustee Act 1906 to act as a custodian trustee or entitled pursuant to any other comparable legislation applicable to a trustee in any jurisdiction other than England and Wales to act as trustee and carry on trust business under the laws of the country of its incorporation.

"Trust Deed" means a trust deed entered into by, *inter alios*, the Issuer in respect of the Transaction and the Trustee on the Initial Issue Date (as most recently amended and restated on or about the Second Amendment Date, and as the same may be further amended, restated and supplemented from time to time).

"Trust Documents" means the Trust Deed and the Deed of Charge and (unless the context requires otherwise) includes any deed or other document executed in accordance with or pursuant to the provisions of the Trust Deed or (as applicable) the Deed of Charge and expressed to be supplemental to the Trust Deed or the Deed of Charge (as applicable).

"Trust Property" means the Issuer Covenants, the Seller Covenants, the Issuer Warranties, the Seller Warranties, the Security and all proceeds of the Security.

"Trustee" means Wilmington Trust (London) Limited in its capacity as the trustee pursuant to the terms of Trust Deed, any successor thereof or any other Person appointed as replacement trustee from time to time in accordance with the Trust Deed.

"Trustee Acts" means each of the Trustee Act 1925 and the Trustee Act 2000, as amended.

"Trustee Liabilities" means any Liabilities due and payable by the Issuer to the Trustee in accordance with the terms of the Trust Deed together with interest payable in accordance with the terms of the Trust Deed accrued due in the immediately preceding Monthly Period.

"U.S. Risk Retention Rules" means the Credit Risk Retention regulations implemented by the SEC pursuant to Section 15G of the Securities Exchange Act of 1934, as amended.

"UK" or "United Kingdom" means the United Kingdom of Great Britain and Northern Ireland.

"Underlying Agreement" means any PCP Agreement (including any modifying agreements supplemental thereto relating to any replacement vehicle which becomes the subject matter of any such PCP Agreement (as the case may be) in substitution for the original vehicle) from which any Receivable derives.

"Variation" means any amendment or variation to the terms of an Underlying Agreement after the relevant Cut-Off Date.

"VAT" means:

- (a) value added tax imposed by VATA;
- (b) any tax imposed in compliance with the Council Directive of 28 November 2006 on the common system of value added tax (EC Directive 2006/112); and
- (c) any other tax of a similar nature, whether imposed in the United Kingdom or a member state of the European Union in substitution for, or levied in addition to, such tax referred to in paragraph (a) or (b) above or imposed elsewhere.

"VAT Adjustment Amount" means an amount to be paid by the Servicer to the Issuer pursuant to the Servicing Agreement, being an amount equal to the reduction in the amount of VAT for which the Seller is required to account to HM Revenue & Customs pursuant to Regulation 38 of the Value Added Tax Regulations 1995 in respect of Financed Vehicles relating to Defaulted Receivables, Voluntarily Terminated Receivables or PCP Handback Receivables less an amount equal to any VAT for which the Seller is required to account to HM Revenue & Customs in respect of any disposal of Financed Vehicles.

"VAT Group" means a group for the purposes of the VAT Grouping Legislation.

"VAT Grouping Legislation" means (a) sections 43 to 43D (inclusive) of VATA and (b) the Value Added Tax (Groups: eligibility) Order 2004 (SI 2004/1931).

"VATA" means the Value Added Tax Act 1994.

"Vehicle Sales Proceeds" means the proceeds derived from the disposal (including by way of sale or otherwise) of any Financed Vehicle returned to or recovered by or on behalf of the Seller.

"Voluntarily Terminated Receivable" means any Purchased Receivable in relation to which a Customer serves a notice to the Seller pursuant to Section 99 of the CCA.

"Voter" means, in relation to any Meeting, the bearer of a Voting Certificate or a Proxy.

"Voting Certificate" means a certificate in the English language issued by the Principal Paying Agent and dated in which it is stated:

- (a) that the Deposited Notes will not be released until the earlier of:
 - (i) the conclusion of the Meeting; and
 - (ii) the surrender of such certificate to the Principal Paying Agent; and
- (b) that the bearer of such certificate is entitled to attend and vote at the Meeting in respect of the Deposited Notes.

"Written Resolution" means a resolution in writing signed by or on behalf of holders of Notes not less than 75 per cent. in aggregate Outstanding Note Balance of the relevant Class of Notes then outstanding and shall have the same effect as an Extraordinary Resolution.

"2006 ISDA Definitions" means the definitions and provisions published by the International Swaps and Derivatives Association, Inc.

"24 hours" means a period of 24 hours including all or part of a day (disregarding for this purpose the day upon which such Meeting is to be held) upon which banks are open for business in both the place where the relevant Meeting is to be held and in each of the places where the Paying Agents have their Specified Offices and such period shall be extended by one period or, to the extent necessary, more periods of 24 hours until there is included as aforesaid all or part of a day upon which banks are open for business as aforesaid.

"3 Month Rolling Average Delinquency Percentage" means, as of any Payment Date, the arithmetic mean of the Delinquency Percentage of the current Payment Date and, as far as available, the previous two Payment Dates.

"3 Month Rolling Net Loss Percentage" means, as of any Payment Date, the arithmetic mean of the Net Loss Percentage of the current Payment Date and, as far as available, the previous two Payment Dates.

"48 hours" means two consecutive periods of 24 hours.

2. PRINCIPLES OF CONSTRUCTION

2.1 Knowledge

2.1.1 References in any Transaction Document to the expressions **"so far as the Seller is aware"** or **"to the best of the knowledge, information and belief of the Seller"** or any similar expression in respect of any matter shall be deemed to refer to the actual knowledge of senior officers of the Seller.

2.1.2 References in any Transaction Document to the expressions **"so far as the Servicer is aware"** or **"to the best of the knowledge, information and belief of the Servicer"** or any similar expression in respect of any matter shall be deemed to refer to the actual knowledge of senior officers of (i) the Servicer (as long as identical with the Seller) usually entrusted with the retail financing of the Seller, or (ii) the Servicer (if not identical with the Seller), respectively.

2.1.3 References in any Transaction Document to the expressions **"so far as the Issuer is aware"** or **"to the best of the knowledge, information and belief of the Issuer"** or any similar expression in respect of any matter shall be deemed to refer to the actual knowledge of directors of the Issuer.

2.2 Construction

In any Transaction Document, the following shall apply:

2.2.1 a document being in an **"agreed form"** means that the form of the document in question has been signed off or agreed by each of the proposed parties thereto;

2.2.2 any reference to an **"agreement"**, **"deed"** or **"document"** shall be construed as a reference to such agreement, deed or document as the same may from time to

time be amended, varied, novated, supplemented, replaced or otherwise modified;

2.2.3 in the computation of periods of time from a specified date to a later specified date, the word "from" means "from and including" and the words "to" and "until" each mean "to but excluding".

2.2.4 "periods" of days shall be counted in calendar days unless Business Days are expressly prescribed;

2.2.5 any reference to any "Person" appearing in any of the Transaction Documents shall include its successors and permitted assigns;

2.2.6 a reference to any person defined as a "Transaction Party" or in any Transaction Document or in the Conditions shall be construed so as to include its and any subsequent successors and permitted transferees in accordance with their respective interests;

2.2.7 a "successor" of any party shall be construed so as to include an assignee or successor in title of such party and any person who under the laws of the jurisdiction of incorporation or domicile of such party has assumed the rights and obligations of such party under any Transaction Document or to which, under such laws, such rights and obligations have been transferred; and

2.2.8 a "class" shall be a reference to a class of the Notes being the Class A Notes or the Class B Notes and "classes" shall be construed accordingly.

2.3 Statutes and Treaties

Any reference to a statute or treaty shall be construed as a reference to such statute or treaty as the same may have been, or may from time to time be, amended or, in the case of a statute, re-enacted.

2.4 Time

Any reference in any Transaction Document to a time of day shall, unless a contrary indication appears, be a reference to London time.

2.5 Schedules

Any Schedule of, or Appendix or Annex to, a Transaction Document forms part of such Transaction Document and shall have the same force and effect as if the provisions of such Schedule, Appendix or Annex were set out in the body of such Transaction Document. Any reference to a Transaction Document shall include any such Schedule, Appendix or Annex.

2.6 Headings

Section, Part, Schedule, Paragraph and Clause headings are for ease of reference only. They do not form part of any Transaction Document and shall not affect such Transaction Document's construction.

2.7 Sections

Except as otherwise specified in a Transaction Document, any reference in a Transaction Document to:

- 2.7.1 a **"Section"** shall be construed as a reference to a Section of such Transaction Document;
- 2.7.2 a **"Part"** shall be construed as a reference to a Part of such Transaction Document;
- 2.7.3 a **"Schedule"**, an **"Appendix"** or an **"Annex"** shall be construed as a reference to a Schedule, Appendix or Annex of such Transaction Document;
- 2.7.4 a **"Clause"** shall be construed as a reference to a Clause of a Part or Section (as applicable) of such Transaction Document; and
- 2.7.5 **"this Transaction Document"** shall be construed as a reference to such Transaction Document together with any Schedules, Appendices or Annexes thereto.

2.8 Number

In any Transaction Document, save where the context otherwise requires, words importing the singular number include the plural and *vice versa*.

2.9 References to Incorporated Terms Memorandum

In any Transaction Document, any reference to the Incorporated Terms Memorandum shall be construed as a reference to this Incorporated Terms Memorandum originally dated on or about the Initial Issue Date and as amended and restated from time to time.

SCHEDULE 2
FORM OF SCOTTISH REVERSIONARY INTEREST SUPPLEMENTAL CHARGE

SCOTTISH REVERSIONARY INTEREST SUPPLEMENTAL CHARGE

by

- (1) **BAVARIAN SKY UK-D LIMITED** a company incorporated in England and Wales with limited liability (registered number 12616726) whose registered office is at Third Floor, 1 King's Arms Yard, London, EC2R 7AF (the "**Issuer**");

In favour of

- (2) **WILMINGTON TRUST (LONDON) LIMITED** (registered number 05650152), whose registered office is at Third Floor, 1 King's Arms Yard, London, EC2R 7AF, (in its capacity as the "**Trustee**", which expression shall include such company and all other persons or companies for the time being acting as Trustee pursuant to the terms of the Second Supplemental Trust Deed);

With the intimation to and acknowledgement by:

- (3) **WILMINGTON TRUST (LONDON) LIMITED** (registered number 05650152), whose registered office is at Third Floor, 1 King's Arms Yard, London, EC2R 7AF, (in its capacity as the Trustee (as such term is defined in the Scottish First Supplemental Charge (as defined below), which expression shall include such company and all other persons or companies for the time being acting as Trustee pursuant to the terms of the Trust Deed (as defined in the Scottish First Supplemental Charge)) (the "**Existing Trustee**"); and
- (4) **BMW FINANCIAL SERVICES (GB) LIMITED** a company incorporated in England and Wales with limited liability (registered number 01288537) whose registered office is at Summit One, Summit Avenue, Farnborough, England, GU14 0FB (in its capacity as the "**Seller**").

WHEREAS

- (A) This deed is supplemental to:
- (i) a deed of charge dated 3 August 2020 entered into by, among others, the Issuer, the Seller and the Trustee (the "**Deed of Charge**");
 - (ii) a Scottish supplemental charge dated 3 August 2020 granted by the Issuer in favour of the Existing Trustee (the "**Scottish First Supplemental Charge**"); and
 - (iii) a deed of charge dated on or about 20 September 2022 entered into by, among others, the Issuer, the Seller and the Trustee (the "**First Supplemental Deed of Charge**").
- (B) Pursuant to the Receivables Purchase Agreement, the Seller has sold, transferred and assigned to the Issuer all beneficial rights to certain Purchased Receivables. Some of such Receivables are Scottish (the "**relevant Scottish Purchased Receivables**").
- (C) Legal title to the relevant Scottish Purchased Receivables is and will continue to be held by and vested in the Seller.

- (D) Pursuant to clause 2.1 of the Receivables Purchase Agreement, a declaration of trust forming part of a Transfer Notice dated 3 August 2020 (the "**Scottish Declaration of Trust**") has been granted by the Seller in favour of the Issuer and delivered, in terms of which the relevant Scottish Purchased Receivables and other related Ancillary Rights as more fully specified therein (the "**Scottish Trust Property**") are held in trust by the Seller for the Issuer.
- (E) The Seller has confirmed that it holds the beneficial interest in the Scottish Trust Property for the Issuer.
- (F) Pursuant to clause 4.10 of the Receivables Purchase Agreement, a Scots law governed floating charge dated 3 August 2020 (the "**Scottish Vehicle Sales Proceeds Floating Charge**") has been granted by the Seller in favour of the Issuer in terms of which Scottish Vehicle Sales Proceeds are charged by the Seller in favour of the Issuer.
- (G) Pursuant to the Scottish First Supplemental Charge, the Issuer assigned by way of security to the Existing Trustee its rights, interest and benefit, present and future, in and to the Scottish Declaration of Trust, the Scottish Trust Property and the Scottish Vehicle Sales Proceeds Floating Charge.
- (H) In connection with the First Supplemental Deed of Charge, the Issuer has agreed to assign: (i) its reversionary interest in the Scottish First Supplemental Charge, and (ii) its rights, interest and benefit, present and future, in and to the Scottish Declaration of Trust, the Scottish Trust Property and the Scottish Vehicle Sales Proceeds Floating Charge in security for the Secured Obligations.

WITNESSES

1. Schedule 1 (*Master Definitions Schedule*) to the incorporated terms memorandum signed by, amongst others, the Issuer, the Seller and the Trustee originally dated 3 August 2020 (as most recently amended and restated on the Second Amendment Date (as defined therein), and as the same may be further amended and restated from time to time) and signed, *inter alios*, by the parties to the First Supplemental Deed of Charge and others (as the same may be amended, varied and/or supplemented from time to time with the consent of the parties to the First Supplemental Deed of Charge, the "**Incorporated Terms Memorandum**") is expressly and specifically incorporated into this deed and, accordingly, the expressions defined in the Incorporated Terms Memorandum shall, except where the context otherwise requires and save where otherwise defined herein, have the same meanings in this deed, including the recitals hereto and this deed shall be construed in accordance with the interpretation provisions set out in the Incorporated Terms Memorandum.
2. This deed is the Scottish Reversionary Interest Supplemental Charge referred to in the Incorporated Terms Memorandum.
3. The Issuer, as holder of the beneficial interest or (as applicable) the security holder's interest therein, with absolute warrandice and subject to clause 9 (*Redemption and Release*) of the Deed of Charge and/or the First Supplemental Deed of Charge, (to the extent not already assigned pursuant to the Deed of Charge and/or the First Supplemental Deed of Charge) hereby assigns to and in favour of the Trustee by way of first fixed security for the payment or discharge of the Secured Obligations:

- (a) its reversionary right and all other rights, title, interest and benefit, present and future, in, under and pursuant to the Scottish Declaration of Trust (and each trust created pursuant thereto), the Scottish Trust Property and the Scottish Vehicle Sales Proceeds Floating Charge in each case arising under the Scottish First Supplemental Charge and without limitation to the foregoing, its rights to the balance of the foregoing or any proceeds in respect thereof following enforcement of the security created under or pursuant to the Scottish First Supplemental Charge;
- (b) all its right, title, interest and benefit, present and future, in, under and pursuant to the Scottish Declaration of Trust (and each trust created pursuant thereto);
- (c) all its right, title, interest and benefit, present and future, in and to the Scottish Trust Property including the benefit of all covenants, undertakings, representations, warranties and indemnities in respect thereof, all powers and remedies of enforcement and/or protection thereunder, all rights to receive payment of all amounts assured or payable (or to become payable) thereunder, all rights to serve notices and/or to make demands and all rights to take such steps as are required to cause payment to become due and payable thereunder and all causes and rights of action in respect of any breach and all rights to receive damages or obtain other relief in respect thereof; and
- (d) all its right, title, interest and benefit, present and future, in, under and pursuant to the Scottish Vehicle Sales Proceeds Floating Charge,

surrogating and substituting the Trustee in its full right and place therein and thereto.

- 4. The Issuer hereby confirms that all the obligations, undertakings, covenants, rights and powers specified and contained in the Deed of Charge and/or the First Supplemental Deed of Charge which relate to the property referred to in and the security and other rights and powers created under and pursuant to the Deed of Charge and/or the First Supplemental Deed of Charge shall be deemed to be repeated herein and shall apply *mutatis mutandis* to the property referred to in Clause 3 hereof and the security and other rights and powers created under and pursuant hereto and that the whole remaining terms of the Deed of Charge and/or the First Supplemental Deed of Charge shall, except in so far as inconsistent herewith apply *mutatis mutandis* hereto **provided always that** this deed shall be without prejudice to the Deed of Charge and/or the First Supplemental Deed of Charge and all of the rights, powers obligations and immunities comprised therein and arising pursuant thereto, which shall remain in full force and effect notwithstanding this deed.
- 5. The Trustee will exercise its powers and authority under this deed in the manner provided for in the Deed of Charge and/or the First Supplemental Deed of Charge and in the Second Supplemental Trust Deed and, in so acting, the Trustee shall have the protection, immunities, rights, powers, authorisations, indemnities and benefits conferred on it under and by the Second Supplemental Trust Deed and the other Transaction Documents.
- 6. This deed shall be deemed delivered to the Trustee and the Existing Trustee on receipt by the Trustee and the Existing Trustee of copies (duly executed by the Issuer and the

Seller) of this deed (whether by fax, e-mail or otherwise) and whether or not the principal of this deed is also physically delivered.

7. The Issuer hereby:
 - (a) gives notice of and intimates the assignation in security made in terms of paragraph 3 above to the Existing Trustee;
 - (b) unconditionally and irrevocably instructs the Existing Trustee to remit or otherwise transfer the Issuer's rights, interest, title and benefit in and to the Scottish Declaration of Trust (and each trust created pursuant thereto), the Scottish Trust Property and the Scottish Vehicle Sales Proceeds Floating Charge arising under the Scottish First Supplemental Charge (or any balance thereof) following enforcement or discharge of the security created under the Scottish First Supplemental Charge to the Trustee;
 - (c) confirms to the Trustee that the Issuer's rights, interest, title and benefit in and to the Scottish Declaration of Trust (and each trust created pursuant thereto), the Scottish Trust Property and the Scottish Vehicle Sales Proceeds Floating Charge (or any balance thereof) following enforcement or discharge of the security created by, under or pursuant to the Scottish First Supplemental Charge may be retained and applied by the Trustee in or towards settlement of the Secured Obligations.
 - (d) gives notice of and intimates the assignation in security made in terms of paragraph 3 above to the Seller, and the Seller by its execution hereof acknowledges the notice and intimation contained in this paragraph 7(d).
8. The Existing Trustee by its execution hereof acknowledges the notice, intimation and instruction contained in paragraph 7 above and confirms that, save under or pursuant to the Transaction Documents, as at the date of delivery of this deed it has not received notification of any other dealing with the Scottish First Supplemental Charge, the Scottish Declaration of Trust, the Scottish Vehicle Sales Proceeds Floating Charge and/or the Scottish Trust Property or any part thereof.
9. This deed may be executed in any number of counterparts and by each of the parties on separate counterparts. Where executed in counterparts.
 - 9.1 This deed will not take effect until each of the counterparts have been delivered.
 - 9.2 Each counterpart will be held as undelivered until the parties agree a date on which the counterparts are to be treated as delivered.
10. The date of delivery may be inserted in the testing clause in the space provided for the date of delivery of this deed.

EXECUTION VERSION

11. This deed will be governed and construed in accordance with the laws of Scotland.

IN WITNESS WHEREOF this deed consisting of this and preceding 4 pages is executed as follows and where executed in counterparts is delivered for the purposes of the Legal Writings (Counterparts and Delivery) (Scotland) Act 2015 on _____ 2022 with the counterparts executed by Bavarian Sky UK-D Limited, Wilmington Trust (London) Limited (as Trustee), Wilmington Trust (London) Limited (as Existing Trustee) and BMW Financial Services (GB) Limited being treated as delivered on such date and in such order:

SUBSCRIBED for and on behalf of the said
BAVARIAN SKY UK-D LIMITED

Signature of witness	Signature of director
Full name of above (print)	Full name of above (print)
	Date of signing
Address of witness	Place of signing

SUBSCRIBED for and on behalf of the said
WILMINGTON TRUST (LONDON)
LIMITED as Trustee

.....
Signature of witness

.....
Signature of Director/Authorised Signatory

.....
Full name of above (print)

.....
Full name of above (print)

.....
Date of signing

.....
Address of witness

.....
Place of signing

We, **WILMINGTON TRUST (LONDON) LIMITED** as Existing Trustee hereby
acknowledge the terms of this Scottish Reversionary Interest Supplemental Charge and the
assignment in security constituted hereby.

Acknowledged for and subscribed for and on behalf of **WILMINGTON TRUST (LONDON)**
LIMITED by the said

.....
Signature of witness

.....
Signature of Director/Authorised Signatory

.....
Full name of above (print)

.....
Full name of above (print)

.....
Date of signing

.....
Address of witness

.....
Place of signing

We, **BMW FINANCIAL SERVICES (GB) LIMITED** as Seller hereby acknowledge the terms of this Scottish Reversionary Interest Supplemental Charge and the assignation in security constituted hereby.

Acknowledged for and subscribed for and on behalf of the said

**BMW FINANCIAL SERVICES (GB)
LIMITED**

.....
Signature of witness

.....
Signature of Director/Authorised Signatory

.....
Full name of above (print)

.....
Full name of above (print)

.....
Date of signing

.....
Address of witness

.....
Place of signing

FOR BMW INTERNAL APPROVAL ONLY

.....
Signature of Director/Authorised Signatory

.....
full name of above (print)

.....
Date of signing

.....
Place of signing