



**Registration of a Charge**

Company name: **ULTIMATE INVOICE FINANCE LIMITED**

Company number: **04325262**



X440954G

Received for Electronic Filing: **26/03/2015**

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**Details of Charge**

Date of creation: **22/03/2015**

Charge code: **0432 5262 0005**

Persons entitled: **LLOYDS BANK PLC (SECURITY TRUSTEE)**

Brief description: **EACH SECURITY OBLIGOR CHARGES AND AGREES TO CHARGE ALL OF ITS PRESENT AND FUTURE RIGHT, TITLE AND INTEREST IN AND TO THE FOLLOWING ASSETS WHICH ARE AT ANY TIME OWNED BY IT, OR IN WHICH IT FROM TIME TO TIME HAS AN INTEREST: (A) BY WAY OF FIRST LEGAL MORTGAGE THE SPECIFIED REAL PROPERTY; (B) BY WAY OF FIRST FIXED CHARGE: (I) ALL REAL PROPERTY AND ALL INTERESTS IN REAL PROPERTY NOT CHARGED BY CLAUSE 5.1(A); AND (II) ALL LICENCES TO ENTER UPON OR USE LAND AND THE BENEFIT OF ALL OTHER AGREEMENTS RELATING TO LAND. "SPECIFIED REAL PROPERTY" MEANS THE REAL PROPERTY (IF ANY) SPECIFIED IN PART 1 OF SCHEDULE 3 (DETAILS OF SECURITY ASSETS) OF THE COMPOSITE GUARANTEE AND DEBENTURE. ALL TERMS ARE AS DEFINED IN THE COMPOSITE GUARANTEE AND DEBENTURE.**

**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.**

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## 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: **NATALIE BARNES**



## **CERTIFICATE OF THE REGISTRATION OF A CHARGE**

Company number: 4325262

Charge code: 0432 5262 0005

The Registrar of Companies for England and Wales hereby certifies that a charge dated 22nd March 2015 and created by ULTIMATE INVOICE FINANCE LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 26th March 2015 .

Given at Companies House, Cardiff on 27th March 2015

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 22 March 2015

LLOYDS BANK PLC  
as Security Trustee

- and -

THE COMPANIES NAMED IN THIS DEED AS SECURITY OBLIGORS  
as Security Obligors

COMPOSITE GUARANTEE AND  
DEBENTURE

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THIS COMPOSITE GUARANTEE AND DEBENTURE is made on 22 March 2015  
BETWEEN

- (1) LLOYDS BANK PLC, registered in England and Wales with the number 00002065 (the "Security Trustee"); and
- (2) THE COMPANIES LISTED IN SCHEDULE 1 TO THIS DEED (the "Security Obligors").

IT IS AGREED as follows:

**1. DEFINITIONS AND INTERPRETATION**

**1.1 Definitions**

In this Deed:

(a) terms defined in, or construed for the purposes of, a Syndicated Back to Back Receivables Finance Agreement (as defined below) have the same meanings when used in this Deed (unless the same are otherwise defined in this Deed); and

(b) the following terms have the following meanings:

"Act" means the Law of Property Act 1925;

"Agreed Client Agreements" means each factoring, invoice discounting or other form of receivables purchase arrangement under which an Obligor provides financing to its Agreed Clients together and the benefit in each case of all guarantees, indemnities, warranties and security (whether registrable or otherwise) given by any party in respect thereof;

"Ashley" means Ashley Commercial Finance Limited, registered in England & Wales with the number 02797120;

"Assigned Assets" means the Security Assets expressed to be assigned pursuant to clause 5.2 (*Security assignments*);

"BBB" means British Business Bank Investments Ltd, registered in England & Wales with the number 09091930;

"Charged Investments" means the Charged Securities and all present and future Securities Rights accruing to all or any of the Charged Securities;

"Charged Securities" means the Securities specified in part 3 of schedule 3 (*Details of Security Assets*);

"Guarantee" means the guarantee and indemnity contained in clause 2 (*Guarantee and indemnity*) as extended by schedule 2 (*The Guarantee*);

**"Insurances"** means, all policies of insurance (and all cover notes) which are at any time held by, or written in favour of, a Security Obligor or in which a Security Obligor from time to time has an interest;

**"LBCF"** means Lloyds Bank Commercial Finance Limited, registered in England & Wales with the number 733011;

**"Non-Vesting Invoice"** means any Non-Vesting Domestic Invoice and any Non-Vesting Currency Invoice and **"Non-Vesting Invoice"** means any one of them;

**"Non-Vesting Domestic Invoice"** means any Invoice (other than a Currency Invoice) purportedly assigned to the Security Trustee (in its capacity as "the Agent") pursuant to a Syndicated Back to Back Receivables Finance Agreement but which does not, for any reason, vest absolutely and effectively in the Security Trustee (in its capacity as "the Agent");

**"Non-Vesting Currency Invoice"** means any Currency Invoice purportedly assigned to the Security Trustee (in its capacity as "the Agent") pursuant to the Syndicated Back to Back Receivables Finance Agreement but which does not, for any reason, vest absolutely and effectively in the Security Trustee (in its capacity as "the Agent");

**"Other Proceeds"** means all and any monies paid to a Trust Account which are not the proceeds of an Invoice purchased by the Security Trustee (in its capacity as "the Agent" pursuant to a Syndicated Back to Back Receivables Finance Agreement) or a Non-Vesting Invoice;

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

**"Receiver"** means any receiver or receiver and manager appointed by the Security Trustee under this Deed;

**"Secured Obligations"** means all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or alone or in any other capacity whatsoever) of the Security Obligors (whether alone or jointly) to the Finance Parties under or pursuant to any Finance Document (including all monies covenanted to be paid under this Deed), provided that no obligation or liability shall be included in the definition of "Secured Obligations" to the extent that, if it were so included, this Deed (or any part of it) would constitute unlawful financial assistance within the meaning of Chapter 2 to Part 18 of the Companies Act 2006;

**"Secured Parties"** means each Finance Party from time to time and any Receiver;

**"Securities"** means all stocks, shares, debentures, bonds, warrants, coupons, negotiable instruments, certificates of deposit or other securities or *"investments"* (as defined in part II of schedule II to the Financial Services and Markets Act 2000 as in force at the date of this Deed) now or in future owned (legally or beneficially) by a Security Obligor, held by a nominee on its behalf or in which such Security Obligor has an interest at any time;

**"Securities Rights"** means:

- (a) all dividends, distributions and other income paid or payable on the relevant Securities or Charged Securities or on any asset referred to in paragraph (b) of this definition;
- (b) all rights, monies or property accruing or offered at any time in relation to such Securities or Charged Securities whether by way of redemption, substitution, exchange, bonus or preference, under option rights or otherwise;

**"Security"** means the Security Interests created by or pursuant to this Deed;

**"Security Assets"** means all property and assets from time to time mortgaged, charged or assigned (or expressed to be mortgaged, charged or assigned) by or pursuant to this Deed;

**"Security Period"** means the period beginning on the date of this Deed and ending on the date on which:

- (a) all the Secured Obligations have been unconditionally and irrevocably paid and discharged in full;
- (b) each Syndicated Back to Back Receivables Finance Agreement has been terminated according to its terms; and
- (c) neither the Finance Parties nor the Security Trustee has any further commitment, obligation or liability, actual or contingent, under or pursuant to any Finance Document;

**"Specified Real Property"** means the Real Property (if any) specified in part 1 of schedule 3 (*Details of Security Assets*);

**"Syndicated Back to Back Receivables Finance Agreement"** means each of:-

- (a) the agreement with that name dated on or about the date of this Deed and made between (1) the Lloyds Bank Plc (in various capacities) and (2) BBB, and (3) Ultimate, and (4) LBCF, pursuant to which the Financiers from time to time have agreed to make certain receivables finance facilities available to Ultimate; and
- (b) the agreement with that name dated on or about the date of this Deed and made between (1) the Lloyds Bank Plc (in various capacities) and (2) BBB, and (3) Ashley, and (4) LBCF, pursuant to which the Financiers from time to time have agreed to make certain receivables finance facilities available to Ashley;

together the "Syndicated Back to Back Receivables Finance Agreements";

"Ultimate" means Ultimate Invoice Finance Limited, registered in England & Wales with the number 04325262.

## 1.2 Interpretation

- (a) Unless a contrary indication appears, any reference in this Deed to:
  - (i) a "Security Obligor" or the "Security Trustee" shall be construed so as to include its successors in title, permitted assigns and permitted transferees;
  - (ii) "this Deed", a "Syndicated Back to Back Receivables Finance Agreement", any other "Finance Document" or any other agreement or instrument shall be construed as a reference to this Deed, the Syndicated Back to Back Receivables Finance Agreement, such other Finance Document or such other agreement or instrument as varied, amended, supplemented, extended, restated, novated and/or replaced in any manner from time to time (however fundamentally and even if any of the same increases the obligations of any Security Obligor or surety in respect of any Security Obligor or provides for further advances);
  - (iii) "assets" includes any present and future properties, revenues and rights of every description and includes uncalled capital;
  - (iv) "including" or "includes" means including or includes without limitation;
  - (v) a provision of law is a reference to that provision as amended or re-enacted; and
  - (vi) the singular includes the plural and vice versa.
- (b) References to clauses, paragraphs and schedules are to be construed, unless otherwise stated, as references to clauses, paragraphs and schedules of and to this Deed and references to this Deed include its schedules.
- (c) Clause and schedule headings are for convenience only and shall not affect the construction of this Deed.
- (d) Each undertaking given by any Security Obligor contained in this Deed must be complied with at all times during the Security Period.
- (e) The terms of the other Finance Documents are incorporated in this Deed to the extent required to ensure that any disposition of the property contained in this Deed is a valid disposition in accordance with section 2(1) of the Law of Property (Miscellaneous Provisions) Act 1989.
- (f) If the Security Trustee reasonably considers that an amount paid by any Security Obligor to any LBCF, the Agent or any Finance Party under a Finance Document is capable of being avoided or otherwise set aside on the

liquidation or administration of such Security Obligor, then that amount shall not be considered to have been irrevocably paid for the purposes of this Deed.

- (g) The liabilities and obligations of each Security Obligor under this Deed shall be joint and several. Each Security Obligor agrees to be bound by this Deed notwithstanding that any other Security Obligor which was intended to sign or be bound by this Deed did not so sign or is not bound by this Deed.
- (h) The Parties intend that this document shall take effect as a deed notwithstanding the fact that a Party may only execute this document under hand.

### **1.3 Third party rights**

A person who is not a Party shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or enjoy the benefit of any term of this Deed.

## **2. GUARANTEE AND INDEMNITY**

### **2.1 Guarantee and indemnity**

Each Security Obligor irrevocably and unconditionally:

- (a) guarantees in favour of the Secured Parties and the Security Trustee the punctual performance by the other Security of all obligations that other Security Obligor under the Finance Documents;
- (b) undertakes in favour of the Finance Parties and the Security Trustee that whenever that other Security Obligor does not pay any amount when due under or in connection with any Finance Document, it shall immediately on demand pay that amount as if it were the principal obligor; and
- (c) indemnifies the Finance Parties and the Security Trustee immediately on demand against any cost, loss or liability suffered by the Finance Parties and/or the Security Trustee, if any obligation guaranteed by it is or becomes unenforceable, invalid or illegal, with the amount of the cost, loss or liability being equal to the amount which the Finance Parties and/or the Security Trustee would otherwise have been entitled to recover.

### **2.2 Extension of guarantee**

The guarantee set out in this clause 2 is given subject to and with the benefit of the provisions set out in schedule 2 (*The Guarantee*).

## **3. COVENANT TO PAY**

### **3.1 Covenant to pay**

Each Security Obligor, as principal obligor and not merely as surety, covenants in favour of the Security Trustee and the Secured Parties that it will pay and discharge the Secured Obligations from time to time when they fall due.

### **3.2 Default interest**

- (a) Any amount which is not paid under this Deed when due shall bear interest (both before and after judgment and payable on demand) from the due date until the date on which such amount is unconditionally and irrevocably paid and discharged in full on a daily basis at the rate equal to the rate of the Discount Charge provided for in the Syndicated Back to Back Receivables Finance Agreement to which Ultimate is a party.
- (b) Such interest will accrue from day to day and will be compounded at such intervals as the Security Trustee states are appropriate.

## **4. GRANT OF SECURITY**

### **4.1 Nature of security**

All Security Interests and dispositions created or made by or pursuant to this Deed are created or made:

- (a) in favour of the Security Trustee for itself and as Security Trustee for the Secured Parties pursuant to the terms of the Syndicated Back to Back Receivables Finance Agreements;
- (b) with full title guarantee in accordance with the Law of Property (Miscellaneous Provisions) Act 1994; and
- (c) as continuing security for payment of the Secured Obligations.

### **4.2 Qualifying floating charge**

Paragraph 14 of schedule B1 to the Insolvency Act 1986 applies to any floating charge created by or pursuant to this Deed (and each such floating charge is a qualifying floating charge for the purposes of the Insolvency Act 1986).

## **5. FIXED SECURITY**

### **5.1 Fixed charges**

Each Security Obligor charges and agrees to charge all of its present and future right, title and interest in and to the following assets which are at any time owned by it, or in which it from time to time has an interest:

- (a) by way of first legal mortgage the Specified Real Property;
- (b) by way of first fixed charge:
  - (i) all Real Property and all interests in Real Property not charged by clause 5.1(a)); and
  - (ii) all licences to enter upon or use land and the benefit of all other agreements relating to land;

- (c) by way of first fixed charge:
  - (i) all computers, vehicles, office equipment and other equipment (if any) specified in part 2 of Schedule 3 (*Details of Security Assets*); and
  - (ii) the benefit of all contracts, licences and warranties relating to the same;
- (d) by way of first fixed charge the Charged Securities;
- (e) by way of first fixed charge all Securities Rights from time to time accruing to the Charged Securities;
- (f) by way of first fixed charge all rights which a Security Obligor may have at any time against any clearance or settlement system or any custodian in respect of any Charged Securities;
- (g) by way of first fixed charge all Securities (not charged by clause 5.1(d)),
- (h) by way of first fixed charge (A) all Securities Rights from time to time accruing to Securities and (B) all rights which such Security Obligor may have at any time against any clearance or settlement system or any custodian in respect of any Securities;
- (i) by way of first fixed charge all Non-Vesting Domestic Invoices and their proceeds now or in the future owing to the Obligor;
- (j) by way of first fixed charge all Related Rights relating to any Non-Vesting Domestic Invoices;
- (k) by way of first fixed charge all Non-Vesting Currency Invoices and their proceeds now or in the future owing to the Obligor;
- (l) by way of first fixed charge all Related Rights relating to any Non-Vesting Currency Invoices;
- (m) by way of first fixed charge all Other Proceeds;
- (n) to the extent that any Assigned Asset is not effectively assigned under clause 5.2 (*Security assignments*), by way of first fixed charge, such Assigned Asset;
- (o) by way of first fixed charge (to the extent not otherwise charged or assigned in this Deed):
  - (i) the benefit of all licences, consents, agreements and authorisations held or used in connection with the business of such Security Obligor or the use of any of its assets; and
  - (ii) any letter of credit issued in favour of such Security Obligor and all bills of exchange and other negotiable instruments held by it; and

- (p) by way of first fixed charge all of the goodwill and uncalled capital of such Security Obligor.

## **5.2 Security assignments**

Each Security Obligor assigns and agrees to assign absolutely (subject to a proviso for reassignment on redemption) all its present and future right, title and interest in and to:

- (a) the proceeds of the sale of any Specified Real Property;
- (b) the proceeds of the sale of any computers, vehicles, office equipment and other equipment;
- (c) the proceeds of the sale of any Charged Securities;
- (d) the Insurances, all claims under the Insurances and the proceeds of the Insurances; and
- (e) the Agreed Client Agreements; and
- (f) all proceeds received pursuant to the terms of the Agreed Client Agreements.

To the extent that any Assigned Asset described in clauses 5.2(a) to 5.2(f) inclusive is not assignable, the assignment which that clause purports to effect shall operate as an assignment of all present and future rights and claims of such Security Obligor to any proceeds of an Assigned Asset.

## **5.3 Assigned Assets**

The Security Trustee is not obliged to take any steps necessary to preserve any Assigned Asset, or to make any enquiries as to the nature or sufficiency of any payment received by it pursuant to this Deed.

## **6. FLOATING CHARGE**

Each Security Obligor charges and agrees to charge by way of first floating charge all of its present and future:

- (a) assets and undertaking (wherever located) which are not effectively charged by way of first fixed mortgage or charge or assigned pursuant to clause 5.1 (*Fixed charges*), clause 5.2 (*Security assignments*) or any other provision of this Deed; and
- (b) (whether or not effectively so charged or assigned) heritable property and all other property and assets in Scotland.

## **7. CONVERSION OF FLOATING CHARGE**

### **7.1 Conversion by notice**

The Security Trustee may, by written notice to a Security Obligor, convert the floating charge created under this Deed into a fixed charge as regards all or any of the assets of such Security Obligor specified in the notice if:

- (a) A Termination Event has occurred and is continuing; or
- (b) the Security Trustee (acting reasonably) considers any Security Assets (whether or not those specified in the notice) to be in danger of being seized or sold under any form of distress, attachment, execution or other legal process or to be otherwise in jeopardy.

## **7.2 Small companies**

The floating charge created under this Deed by any Security Obligor shall not convert into a fixed charge solely by reason of a moratorium being obtained under the Insolvency Act 2000 (or anything done with a view to obtaining such a moratorium) in respect of such Security Obligor.

## **7.3 Automatic conversion**

The floating charge created under this Deed shall (in addition to the circumstances in which the same will occur under general law) automatically convert into a fixed charge:

- (a) in relation to any Security Asset which is subject to a floating charge if:
  - (i) such Security Obligor creates (or attempts or purports to create) any Security Interest on or over the relevant Security Asset without the prior written consent of the Security Trustee; or
  - (ii) any third party levies or attempts to levy any distress, execution, attachment or other legal process against any such Security Asset; and
- (b) over all Security Assets of a Security Obligor which are subject to a floating charge if an administrator is appointed in respect of such Security Obligor or the Security Trustee receives notice of intention to appoint such an administrator;
- (c) upon the crystallisation of any other floating charge over the Security Assets; and
- (d) in any other circumstances prescribed by law.

## **7.4 Partial conversion**

The giving of a notice by the Security Trustee pursuant to clause 7.1 (*Conversion by notice*) in relation to any class of assets of any Security Obligor shall not be construed as a waiver or abandonment of the rights of the Security Trustee to serve similar notices in respect of any other class of assets or of any other right of the Security Trustee.

# **8. CONTINUING SECURITY**

## **8.1 Continuing security**

The Security is continuing and will extend to the ultimate balance of the Secured Obligations regardless of any intermediate payment or discharge in whole or in part.

This Deed shall remain in full force and effect as a continuing security for the duration of the Security Period.

**8.2 Additional and separate security**

This Deed is in addition to, without prejudice to, and shall not merge with, any other right, remedy, guarantee or Security Interest which the Security Trustee may at any time hold for any Secured Obligation.

**8.3 Right to enforce**

This Deed may be enforced against each or any Security Obligor without the Security Trustee first having recourse to any other right, remedy, guarantee or Security Interest held by or available to it.

**9. LIABILITY OF SECURITY OBLIGORS RELATING TO SECURITY ASSETS**

Notwithstanding anything contained in this Deed or implied to the contrary, each Security Obligor remains liable to observe and perform all conditions and obligations assumed by it in relation to the Security Assets. The Security Trustee is under no obligation to perform or fulfil any such condition or obligation or to make any payment in respect of any such condition or obligation.

**10. ACCOUNTS**

No monies at any time standing to the credit of any account (of any type and however designated) of any Security Obligor with the Security Trustee or in which any Security Obligor has an interest (and no rights and benefits relating thereto) shall be capable of being assigned to any third party.

**11. REPRESENTATIONS**

**11.1 General**

Each Security Obligor makes the representations and warranties set out in this clause 11 to the Security Trustee.

**11.2 No Security Interests**

Its Security Assets are, or when acquired will be, beneficially owned by such Security Obligor free from any Security Interest other than as created by this Deed.

**11.3 No avoidance**

This Deed creates the Security Interests which it purports to create and is not liable to be avoided or otherwise set aside on the liquidation or administration of any Security Obligor or otherwise.

**11.4 Ownership of Security Assets**

Each Security Obligor is the sole legal and beneficial owner of all the Security Assets identified against its name in schedule 3 (*Details of Security Assets*) except in respect of those Charged Securities (if any) which are held by a nominee for a Security

Obligor, in which case such Security Obligor is the beneficial owner only of such Charged Securities.

**11.5 No proceedings pending or threatened**

Each Security Obligor confirms that there are no proceedings pending or threatened against it which if adversely determined against that Security Obligor would have a material adverse effect on its income, profits, assets, prospects or ability to perform its obligations under the Finance Documents.

**11.6 Charged Securities**

- (a) All Securities (including any Charged Securities) are fully paid.
- (b) If any Charged Securities are listed in part 3 of schedule 3 (*Details of Security Assets*) those Charged Securities constitute the entire share capital owned by each Security Obligor in the relevant company.

**11.7 Time when representations made**

- (a) All the representations and warranties in this clause 11 are made by each Security Obligor on the Start Date, and on each day during the Security Period.
- (b) Each representation or warranty deemed to be made after the date of this Deed shall be deemed to be made by reference to the facts and circumstances existing at the date the representation or warranty is deemed to be made.

**12. UNDERTAKINGS BY SECURITY OBLIGORS**

**12.1 Restrictions on dealing**

No Security Obligor shall do or agree to do any of the following without the prior written consent of the Security Trustee:

- (a) create or permit to subsist any Security Interest on any Security Assets except those created pursuant to this Deed and/or the Syndicated Back to Back Receivables Finance Agreement;
- (b) sell, transfer, lease, lend or otherwise dispose of (whether by a single transaction or a number of transactions and whether related or not) the whole or any part of its interest in any Security Asset the subject of any legal mortgage or fixed charge or assignment pursuant to this Deed;
- (c) sell, transfer, lease, lend or otherwise dispose of (whether by a single transaction or a number of transactions and whether related or not) the whole or any part of its interest in any Security Asset not the subject of any legal mortgage or fixed charge or assignment pursuant to this Deed except for the sale thereof at full market value in the usual course of trading of such Security Obligor.

## 12.2 Security Assets generally

Each Security Obligor shall:

(a) permit the Security Trustee (or its designated representatives), on reasonable written notice:

(i) access during normal office hours to any documents and records relating to the Security Assets; and

(ii) to inspect, take extracts from, and make photocopies of, the same,

and to provide (at the expense of the Security Obligor), such clerical and other assistance which the Security Trustee may reasonably require to do this;

(b) notify the Security Trustee of every notice, order, application, requirement or proposal given or made by any competent authority:

(i) in relation to any Security Asset specified in schedule 3 (*Details of Security Assets*), immediately upon receipt; and

(ii) within 14 days of receipt of every notice, order, application, requirement or proposal given or made in relation to any Security Assets other than the Security Assets specified in schedule 3 (*Details of Security Assets*)

and (if required by the Security Trustee) immediately provide it with a copy of the same and either (A) comply with such notice, order, application, requirement or proposal or (B) make such objections to the same as the Security Trustee may require or approve. **PROVIDED ALWAYS** that notices in respect of limb (a) of the definition of Securities Rights shall be dealt with in accordance with clause 12.2(b)(i) above following the exercise by the Security Trustee of its rights in accordance with clause 12.6(b) (*Rights in respect of Charged Securities and Securities Rights*);

(c) duly and punctually pay all rates, rents, Taxes, and other outgoings owed by it in respect of the Security Assets; and

(d) in addition to any provisions of the Syndicated Back to Back Receivables Finance Agreement or this Deed relating to specific Security Assets:

(i) comply in all material respects with all obligations in relation to the Security Assets under any present or future law, regulation, order or instrument or under any bye-laws, regulations or requirements of any competent authority or other approvals, licences or consents;

(ii) comply with all material covenants and obligations affecting the Security Assets (or their manner of use);

(iii) not, except with the prior written consent of the Security Trustee, enter into any onerous or restrictive obligation affecting any Security Asset;

(iv) provide the Security Trustee with all information which it may reasonably request in relation to the Security Assets; and

- (v) not do, cause or permit to be done anything which may in any way depreciate, jeopardise or otherwise prejudice the value or marketability of any Security Asset (or make any omission which has such an effect).

#### **12.3 Specified computers, vehicles and equipment**

Each Security Obligor undertakes that it is the owner, with full title guarantee, of the computers, vehicles and equipment (if any in each case) listed by its name in schedule 3 (*Details of Security Assets*) and in relation to those Security Assets, that it shall permit the Security Trustee (or any of its duly authorised representatives or agents) to inspect any of such security Assets at all reasonable times or at any time following the occurrence of a Termination Event.

#### **12.4 Specified Real Property**

Each Security Obligor undertakes that it is the owner, with full title guarantee, of the Specified Real Property listed by its name in schedule 3 (*Details of Security Assets*) and in relation to that Specified Real Property, that:-

- (a) it shall deposit with the Security Trustee all deeds and documents of title relating to the Specified Real Property and all local land charges, land charges and Land Registry search certificates and similar documents received by or on behalf of the security Obligor;
- (b) there is no breach of the Planning Acts or any other law or regulation which may materially affect the value or marketability of the Specified Real Property;
- (c) there is no covenant, agreement, stipulation, reservation, condition, interest, right or other matter affecting the Specified Real Property;
- (d) there is no unregistered interest which overrides (A) first registration or (B) registered dispositions affecting the Specified Real Property, and there is no person in adverse possession of the Specified Real Property;
- (e) it is free from any tenancies or licences; and
- (f) it is in and shall be kept by the Security Obligor in, good and substantial repair.

#### **12.5 Charged Securities**

- (a) In relation to any Charged Securities, each Security Obligor shall, immediately upon execution of this Deed or (if later), as soon as is practicable after its acquisition of any such Charged Securities in certificated form, by way of security for the Secured Obligations:
  - (i) deposit with the Security Trustee or, as the Security Trustee may direct, all certificates and other documents of title or evidence of ownership to such Charged Securities and their Securities Rights; and
  - (ii) execute and deliver to the Security Trustee pre-stamped instruments of transfer in respect of such Charged Securities (executed in blank

and left undated) and/or such other documents as the Security Trustee shall require to enable it (or its nominees) to be registered as the owner of or otherwise to acquire a legal title to such Charged Securities and their Securities Rights (or to pass legal title to any purchaser).

- (b) In relation to any Charged Securities, each Security Obligor shall:
  - (i) promptly give notice to any custodian of any agreement with such Security Obligor in respect of any such Charged Securities and all present and future Securities Rights accruing to all or any of such Charged Securities, in a form the Security Trustee may require; and
  - (ii) use its reasonable endeavours to ensure that the custodian acknowledges that notice in a form the Security Trustee may require.
- (c) Without prejudice to the rest of this clause 12.5, the Security Trustee may, at the expense of the relevant Security Obligor, take whatever action is required for the dematerialisation or rematerialisation of any Charged Securities and all present and future Securities Rights accruing to all or any of such Charged Securities.
- (d) Each Security Obligor shall promptly pay all calls or other payments which may become due in respect of Charged Securities and all present and future Securities Rights accruing to all or any of such Charged Securities.
- (e) Each Security Obligor shall immediately upon a request from the Security Trustee comply with the provisions of this clause 12.5 in relation to any Securities other than the Charged Securities and their Securities Rights.

#### **12.6 Rights in respect of Securities Charged Securities and Securities Rights**

- (a) Until a Termination Event occurs, each Security Obligor shall be entitled to:
  - (i) receive and retain all dividends, distributions and other monies paid on or derived from its Securities and its Charged Securities; and
  - (ii) exercise all voting and other rights and powers attaching to its Securities and its Charged Securities, provided that it must not do so in a manner which (A) has the effect of changing the terms of the Securities or the Charged Securities (or any class of them) or of any Securities Rights or (B) which is prejudicial to the interests of the Security Trustee.
- (b) At any time following the occurrence of a Termination Event which has not been waived by the Security Trustee or remedied to the Security Trustee's satisfaction, the Security Trustee may complete the instrument(s) of transfer for all or any Securities or Charged Securities on behalf of any Security Obligor in favour of itself or such other person as it may select.
- (c) At any time when any Securities or Charged Securities are registered in the name of the Security Trustee or its nominee, the Security Trustee shall be under no duty to:

- (i) ensure that any dividends, distributions or other monies payable in respect of such Securities or Charged Securities are duly and promptly paid or received by it or its nominee; or
- (ii) verify that the correct amounts are paid or received; or
- (iii) take any action in connection with the taking up of any (or any offer of any) Securities Rights in respect of or in substitution for any such Securities or Charged Securities.

**12.7 Dealings with and realisation of Non-Vesting Invoices, Non-Vesting Currency Invoices and Other Proceeds**

- (a) The Security Obligors shall only deal with Non-Vesting Invoices and Non-Vesting Currency Invoices and, in each case, the proceeds thereof and the Related Rights thereto, in accordance with the Syndicated Back to Back Receivables Finance Agreements as though they had vested in the Security Trustee pursuant thereto.
- (b) The Security Obligors agree that the Other Proceeds shall be dealt with as if they were the proceeds of Invoices assigned or purportedly assigned to the Security Trustee in accordance with the terms of the Syndicated Back to Back Receivables Finance Agreements.

**12.8 Proceeds of the sale of certain Charged Securities and Real Property**

The Security Obligors undertake to deal with the proceeds of sale of the Security Assets referred to at clauses 5.2(a) to (d) inclusive in accordance with the terms of any consent issued by the Security Trustee to a Security Obligor in relation to any of such Security Assets.

**13. POWER TO REMEDY**

**13.1 Power to remedy**

If at any time a Security Obligor does not comply with any of its obligations under this Deed, the Security Trustee (without prejudice to any other rights arising as a consequence of such non-compliance) shall be entitled (but not bound) to rectify that default. The relevant Security Obligor irrevocably authorises the Security Trustee and its employees and agents by way of security to do all things (including entering the property of such Security Obligor) which are necessary or desirable to rectify that default.

**13.2 Mortgagee in possession**

The exercise of the powers of the Security Trustee under this clause 13 shall not render it liable as a mortgagee in possession.

**13.3 Monies expended**

The relevant Security Obligor shall pay to the Security Trustee on demand any monies which are expended by the Security Trustee in exercising its powers under this clause 13, together with interest on which those monies were expended by the

Security Trustee (both before and after judgment) and otherwise in accordance with clause 3.2 (*Default interest*).

#### **14. WHEN SECURITY BECOMES ENFORCEABLE**

##### **14.1 When enforceable**

This Security shall become immediately enforceable upon the occurrence of a Termination Event and shall remain so for so long as such Termination Event has not been waived by the Security Trustee or been remedied to the Security Trustee's satisfaction.

##### **14.2 Statutory powers**

The power of sale and other powers conferred by section 101 of the Act (as amended or extended by this Deed) shall be immediately exercisable upon and at any time after the occurrence of a Termination Event and for so long as such Termination Event has not been waived by the Security Trustee or been remedied to the Security Trustee's satisfaction.

##### **14.3 Enforcement**

After this Security has become enforceable, the Security Trustee may in its absolute discretion enforce all or any part of the Security in such manner as it sees fit.

#### **15. ENFORCEMENT OF SECURITY**

##### **15.1 General**

For the purposes of all powers implied by statute, the Secured Obligations are deemed to have become due and payable on the date of this Deed. Sections 93 and 103 of the Act shall not apply to the Security. The statutory powers of leasing conferred on the Security Trustee are extended so as to authorise the Security Trustee to lease, make agreements for leases, accept surrenders of leases and grant options as the Security Trustee may think fit and without the need to comply with section 99 or 100 of the Act.

##### **15.2 Powers of the Security Trustee**

- (a) At any time after the Security becomes enforceable, the Security Trustee may without further notice (unless required by law):
  - (i) (or if so requested by any Security Obligor by written notice at any time may) appoint any person or persons to be a receiver or receiver and manager of all or any part of the Security Assets and/or of the income of the Security Assets; and/or
  - (ii) appoint or apply for the appointment of any person who is appropriately qualified as administrator of a Security Obligor; and/or
  - (iii) exercise all or any of the powers conferred on mortgagees by the Act (as amended or extended by this Deed) and/or all or any of the powers which are conferred by this Deed on a Receiver, in each case

without first appointing a Receiver or notwithstanding the appointment of any Receiver; and/or

- (iv) exercise (in the name of any Security Obligor and without any further consent or authority of such Security Obligor) any voting rights and any powers or rights which may be exercised by the person(s) in whose name the Charged Investments are registered, or who is the holder of any of them.

- (b) The Security Trustee is not entitled to appoint a Receiver in respect of any Security Assets of any Security Obligor which are subject to a charge which (as created) was a floating charge solely by reason of a moratorium being obtained under the Insolvency Act 2000 (or anything done with a view to obtaining such a moratorium) in respect of such Security Obligor.

### **15.3 Redemption of prior mortgages**

At any time after the Security has become enforceable, the Security Trustee may:

- (a) redeem any prior Security Interest against any Security Asset; and/or
- (b) procure the transfer of that Security Interest to itself; and/or
- (c) settle and pass the accounts of the holder of any prior Security Interest and any accounts so settled and passed shall be conclusive and binding on each Security Obligor.

All principal, interest, costs, charges and expenses of and incidental to any such redemption and/or transfer shall be paid by the relevant Security Obligor to the Security Trustee on demand.

### **15.4 Privileges**

Each Receiver and the Security Trustee is entitled to all the rights, powers, privileges and immunities conferred by the Act on mortgagees and receivers when such receivers have been duly appointed under the Act, except that section 103 of the Act does not apply.

### **15.5 No liability**

- (a) Neither the Security Trustee nor any Receiver shall be liable (i) in respect of all or any part of the Security Assets or (ii) for any loss or damage which arises out of the exercise or the attempted or purported exercise of, or the failure to exercise any of, its or his respective powers (unless such loss or damage is caused by its or his gross negligence or wilful misconduct).
- (b) Without prejudice to the generality of clause 15.5(a), neither the Security Trustee nor any Receiver shall be liable, by reason of entering into possession of a Security Asset, to account as mortgagee in possession or for any loss on realisation or for any default or omission for which a mortgagee in possession might be liable.

#### **15.6 Protection of third parties**

No person (including a purchaser) dealing with the Security Trustee or any Receiver or its or his agents will be concerned to enquire:

- (a) whether the Secured Obligations have become payable; or
- (b) whether any power which the Security Trustee or the Receiver is purporting to exercise has become exercisable; or
- (c) whether any money remains due under any Finance Document; or
- (d) how any money paid to the Security Trustee or to the Receiver is to be applied.

#### **16. RECEIVER**

##### **16.1 Removal and replacement**

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

##### **16.2 Multiple Receivers**

If at any time there is more than one Receiver of all or any part of the Security Assets and/or the income of the Security Assets, each Receiver shall have power to act individually (unless otherwise stated in the appointment document).

##### **16.3 Remuneration**

Any Receiver shall be entitled to remuneration for his services at a rate to be fixed by agreement between him and the Security Trustee (or, failing such agreement, to be fixed by the Security Trustee).

##### **16.4 Payment by Receiver**

Only monies actually paid by a Receiver to the Security Trustee in relation to the Secured Obligations shall be capable of being applied by the Security Trustee in discharge of the Secured Obligations.

##### **16.5 Agent of Security Obligors**

Any Receiver shall be the agent of the Security Obligor in respect of which it is appointed. Such Security Obligor shall (subject to the Companies Act 1985 and the Insolvency Act 1986) be solely responsible for his acts and defaults and for the payment of his remuneration. The Security Trustee shall incur no liability (either to such Security Obligor or to any other person) by reason of the appointment of a Receiver or for any other reason.

## **17. POWERS OF RECEIVER**

### **17.1 General powers**

Any Receiver shall have:

- (a) all the powers which are conferred by the Act on mortgagees in possession and receivers appointed under the Act;
- (b) (whether or not he is an administrative receiver) all the powers which are listed in schedule 1 of the Insolvency Act 1986; and
- (c) all powers which are conferred by any other law conferring power on receivers.

### **17.2 Additional powers**

In addition to the powers referred to in clause 17.1 (*General powers*), a Receiver shall have the following powers:

- (a) to take possession of, collect and get in all or any part of the Security Assets and/or income in respect of which he was appointed;
- (b) to manage the Security Assets and the business of any Security Obligor as he thinks fit;
- (c) to redeem any security and to borrow or raise any money and secure the payment of any money in priority to the Secured Obligations for the purpose of the exercise of his powers and/or defraying any costs or liabilities incurred by him in such exercise;
- (d) to sell or concur in selling, leasing or otherwise disposing of all or any part of the Security Assets in respect of which he was appointed without the need to observe the restrictions imposed by section 103 of the Act. Fixtures may be severed and sold separately from the Real Property containing them, without the consent of any Security Obligor. The consideration for any such transaction may consist of cash, debentures or other obligations, shares, stock or other valuable consideration (and the amount of such consideration may be dependent upon profit or turnover or be determined by a third party). Any such consideration may be payable in a lump sum or by instalments spread over such period as he thinks fit;
- (e) to alter, improve, develop, complete, construct, modify, refurbish or repair any building or land and to complete or undertake or concur in the completion or undertaking (with or without modification) of any project in which any Security Obligor was concerned or interested before his appointment (being a project for the alteration, improvement, development, completion, construction, modification, refurbishment or repair of any building or land);
- (f) to carry out any sale, lease or other disposal of all or any part of the Security Assets by conveying, transferring, assigning or leasing the same in the name of the relevant Security Obligor and, for that purpose, to enter into covenants

and other contractual obligations in the name of, and so as to bind, such Security Obligor;

- (g) to take any such proceedings (in the name of any of the relevant Security Obligors or otherwise) as he shall think fit in respect of the Security Assets and/or income in respect of which he was appointed (including proceedings for recovery of rent or other monies in arrears at the date of his appointment);
- (h) to enter into or make any such agreement, arrangement or compromise as he shall think fit;
- (i) to insure, and to renew any insurances in respect of, the Security Assets as he shall think fit (or as the Security Trustee shall direct);
- (j) to appoint and employ such managers, officers and workmen and engage such professional advisers as he shall think fit (including, without prejudice to the generality of the foregoing power, to employ his partners and firm);
- (k) to form one or more Subsidiaries of any Security Obligor, and to transfer to any such Subsidiary all or any part of the Security Assets;
- (l) to operate any rent review clause in respect of any Real Property in respect of which he was appointed (or any part thereof) and to apply for any new or extended lease; and
- (m) to:
  - (i) give valid receipts for all monies and to do all such other things as may seem to him to be incidental or conducive to any other power vested in him or necessary or desirable for the realisation of any Security Asset;
  - (ii) exercise in relation to each Security Asset all such powers and rights as he would be capable of exercising if he were the absolute beneficial owner of the Security Assets; and
  - (iii) use the name of any Security Obligor for any of the above purposes.

## **18. APPLICATION OF PROCEEDS**

### **18.1 Application**

All monies received by the Security Trustee or any Receiver after the Security has become enforceable shall (subject to the rights and claims of any person having a security ranking in priority to the Security) be applied in the following order:

- (a) *first*, in satisfaction of, or provision for, all costs, charges and expenses incurred, and payments made by the Security Trustee or any Receiver and of all remuneration due to the Receiver in connection with this Deed or the Security Assets;
- (b) *secondly*, in or towards satisfaction of the remaining Secured Obligations; and

- (c) *thirdly*, in payment of any surplus to any Security Obligor or other person entitled to it.

## **18.2 Contingencies**

If the Security is enforced at a time when no amounts are due under the Finance Documents (but at a time when amounts may become so due), the Security Trustee or a Receiver may pay the proceeds of any recoveries effected by it into a blocked suspense account.

## **19. SET-OFF**

### **19.1 Set-off**

- (a) The Security Trustee may (but shall not be obliged to) set off any obligation (contingent or otherwise under the Finance Documents or which has been assigned to the Security Trustee) against any obligation (whether or not matured) owed by the Security Trustee to the Security Obligor, regardless of the place of payment, booking branch or currency of either obligation.
- (a) If the obligations are in different currencies, the Security Trustee may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.
- (b) If either obligation is unliquidated or unascertained, the Security Trustee may set off in an amount estimated by it in good faith to be the amount of that obligation.

### **19.2 Time deposits**

Without prejudice to clause 19.1(*Set-off*) if any time deposit matures on any account which any Security Obligor has with the Security Trustee at a time when:

- (a) this Security has become enforceable; and
- (b) no Secured Obligation is due and payable,
- (c) such time deposit shall automatically be renewed for such further maturity as the Security Trustee in its absolute discretion considers appropriate unless the Security Trustee otherwise agrees in writing.

## **20. DELEGATION**

Each of the Security Trustee and any Receiver may delegate, by power of attorney (or in any other manner) to any person, any right, power or discretion exercisable by it under this Deed upon any terms (including power to sub-delegate) which it may think fit. Neither the Security Trustee nor any Receiver shall be in any way liable or responsible to any Security Obligor for any loss or liability arising from any act, default, omission or misconduct on the part of any such delegate or sub-delegate.

## **21. FURTHER ASSURANCES**

### **21.1 Further action**

Each Security Obligor shall, at its own expense, promptly take whatever action the Security Trustee or a Receiver may require for:

- (a) creating, perfecting or protecting the Security Interests intended to be created by this Deed; and
- (b) facilitating the realisation of any Security Asset or the exercise of any right, power or discretion exercisable by the Security Trustee or any Receiver or any of its or his delegates or sub-delegates in respect of any Security Asset;

including the execution of any transfer, conveyance, assignment or assurance of any property whether to the Security Trustee or to its nominees, the giving of any notice, order or direction and the making of any registration which in any such case the Security Trustee may think expedient.

### **21.2 Specific security**

Without prejudice to the generality of clause 21.1 (*Further action*), each Security Obligor shall forthwith at the request of the Security Trustee execute a legal mortgage, charge, assignment, assignation or other security over any Security Asset which is subject to or intended to be subject to any fixed security created by this Deed in favour of the Security Trustee (including any arising or intended to arise pursuant to clause 7 (*Conversion of floating charge*)) in such form as the Security Trustee may require.

## **22. POWER OF ATTORNEY**

Each Security Obligor, by way of security, irrevocably and severally appoints the Security Trustee, each Receiver and any of its or his delegates or sub-delegates to be its attorney to take any action which such Security Obligor is obliged to take under this Deed, including under clause 21 (*Further assurances*). Each Security Obligor ratifies and confirms whatever any attorney does or purports to do pursuant to its appointment under this clause.

## **23. PAYMENTS**

### **23.1 Payments**

Subject to clause 23.2 (*Gross-up*), all payments to be made by a Security Obligor in respect of this Deed shall be made:

- (a) in immediately available funds to the credit of such account as the Security Trustee may designate; and
- (b) without (and free and clear of, and without any deduction for or on account of):
  - (i) any set-off or counterclaim; or

- (ii) except to the extent compelled by law, any deduction or withholding for or on account of Tax.

#### **23.2 Gross-up**

If any Security Obligor is compelled by law to make any deduction or withholding from any sum payable under this Deed to the Security Trustee, the sum so payable by such Security Obligor shall be increased so as to result in the receipt by the Security Trustee of a net amount equal to the full amount expressed to be payable under this Deed.

#### **23.3 Right to debit**

Without prejudice to the provisions of clause 2 (*Guarantee and indemnity*) and each Security Obligor's obligations in accordance with this Deed, the Security Trustee may at any time discharge a Security Obligor's obligation to make payment of any sums due by a Security Obligor to the Security Trustee by debiting such sum to any account held by the Security Trustee in relation to the Obligor.

### **24. STAMP DUTY**

Each Security Obligor shall:

- (a) pay all present and future stamp, registration and similar Taxes or charges which may be payable, or determined to be payable, in connection with the execution, delivery, performance or enforcement of this Deed or any judgment given in connection therewith; and
- (b) indemnify the Security Trustee and any Receiver on demand against any and all costs, losses or liabilities (including, without limitation, penalties) with respect to, or resulting from, its delay or omission to pay any such stamp, registration and similar Taxes or charges.

### **25. COSTS AND EXPENSES**

#### **25.1 Transaction and amendment expenses**

Each Security Obligor shall promptly on demand pay to the Security Trustee the amount of all reasonable costs, charges and expenses (including, without limitation, reasonable legal fees, valuation, accountancy and consultancy fees (and any VAT or similar Tax thereon)) incurred by the Security Trustee in connection with:

- (a) the negotiation, preparation, printing, execution, registration, perfection and completion of this Deed, the Security or any document referred to in this Deed; or
- (b) any actual or proposed amendment or extension of, or any waiver or consent under, this Deed.

#### **25.2 Enforcement and preservation costs**

Each Security Obligor shall promptly on demand pay to the Security Trustee and the Finance Parties and any Receiver the amount of all costs, charges and expenses (including (without limitation) legal fees (and any VAT or similar Tax thereon))

incurred by any of them in connection with the enforcement, exercise or preservation (or the attempted enforcement, exercise or preservation) of any of their respective rights under this Deed or any document referred to in this Deed or the Security (including all remuneration of the Receiver).

## **26. CURRENCIES**

### **26.1 Conversion**

All monies received or held by the Security Trustee or any Receiver under this Deed may be converted from their existing currency into such other currency as the Security Trustee or the Receiver considers necessary or desirable to cover the obligations and liabilities comprised in the Secured Obligations in that other currency at the Spot Rate of Exchange. Each Security Obligor shall indemnify the Security Trustee against all costs, charges and expenses incurred in relation to such conversion. Neither the Security Trustee nor any Receiver shall have any liability to any Security Obligor in respect of any loss resulting from any fluctuation in exchange rates after any such conversion.

### **26.2 Currency indemnity**

No payment to the Security Trustee (whether under any judgment or court order or in the liquidation, administration or dissolution of any Security Obligor or otherwise) shall discharge the obligation or liability of any Security Obligor in respect of which it was made, unless and until the Security Trustee shall have received payment in full in the currency in which the obligation or liability was incurred and, to the extent that the amount of any such payment shall on actual conversion into such currency fall short of such obligation or liability expressed in that currency, the Security Trustee shall have a further separate cause of action against any Security Obligor and shall be entitled to enforce the Security to recover the amount of the shortfall.

## **27. INDEMNITY**

Each Security Obligor shall indemnify the Security Trustee, any Receiver and any attorney, agent or other person appointed by the Security Trustee under this Deed and the Security Trustee's officers and employees (each an "Indemnified Party") on demand against any cost, loss, liability or expense (however arising) incurred by any Indemnified Party as a result of or in connection with:

- (a) anything done or omitted in the exercise or purported exercise of the powers contained in this Deed;
- (b) the Security Assets or the use or occupation of them by any person (including any Environmental Claim); or
- (c) any breach by any Security Obligor of any of its obligations under this Deed.

## **28. MISCELLANEOUS**

### **28.1 Appropriation and suspense account**

- (a) The Security Trustee may apply all payments received in respect of the Secured Obligations in reduction of any part of the Secured Obligations as it

thinks fit. Any such appropriation shall override any appropriation by any Security Obligor.

- (b) All monies received, recovered or realised by the Security Trustee under, or in connection with, this Deed may at the discretion of the Security Trustee be credited to a separate interest bearing suspense account for so long as the Security Trustee determines (with interest accruing thereon at such rate, if any, as the Security Trustee may determine for the account of the relevant Security Obligor) without the Security Trustee having any obligation to apply such monies and interest or any part thereof in or towards the discharge of any of the Secured Obligations.

#### **28.2 New accounts**

If the Security Trustee receives, or is deemed to be affected by, notice, whether actual or constructive, of any subsequent Security Interest affecting any Security Asset and/or the proceeds of sale of any Security Asset or the Guarantee ceases to continue in force, it may open a new account or accounts for any Security Obligor. If it does not open a new account, it shall nevertheless be treated as if it had done so at the time when it received or was deemed to have received such notice. As from that time all payments made to the Security Trustee will be credited or be treated as having been credited to the new account and will not operate to reduce any amount of the Secured Obligations.

#### **28.3 Tacking**

For the purposes of section 94(1) of the Act and section 49(4) of the Land Registration Act 2002, the Security Trustee confirms on behalf of the Finance Parties that the Finance Parties shall make further advances to the Security Obligors on the terms and subject to the conditions of the Finance Documents.

#### **28.4 Changes to the Parties**

- (a) No Security Obligor may assign any of its rights under this Deed.
- (b) The Security Trustee may assign or transfer all or any part of its rights under this Deed. Each Security Obligor shall, immediately upon being requested to do so by the Security Trustee, enter into such documents as may be necessary or desirable to effect such assignment or transfer.

#### **28.5 Memorandum and articles**

Each Security Obligor certifies that the Security does not contravene any of the provisions of the memorandum or articles of association of that Security Obligor.

#### **28.6 The Land Registry**

If the Obligor has been provided with a Real Property Facility the following provisions shall apply:

- (a) Each Security Obligor shall apply to the Chief Land Registrar (and consents to such an application being made by or on behalf of the Security Trustee) for a restriction in the following terms to be entered on the Register of Title

relating to any property registered at the Land Registry (or any unregistered land subject to first registration) and against which this Deed may be noted:

*"No disposition of the registered estate by the proprietor of the registered estate is to be registered without a written consent signed by the proprietor for the time being of the charge dated [ ♦ ] 2015 in favour of Lloyds Bank Plc referred to in the charges register or, if appropriate, signed on such proprietor's behalf by its secretary or conveyancer."*

(b) Each Security Obligor:

- (i) authorises the Security Trustee to make any application which the Security Trustee deems appropriate for the designation of this Deed, the Syndicated Back to Back Receivables Finance Agreement or any other Finance Document as an exempt information document under rule 136 of the Land Registration Rules 2003;
  - (ii) shall use its best endeavours to assist with any such application made by or on behalf of the Security Trustee; and
  - (iii) shall notify the Security Trustee in writing as soon as it receives notice of any person's application under rule 137 of the Land Registration Rules 2003 for the disclosure of this Deed, the Syndicated Back to Back Receivables Finance Agreement or any other Finance Document, following its designation as an exempt information document.
- (c) No Security Obligor shall make any application under rule 138 of the Land Registration Rules 2003 for the removal of the designation of any such document as an exempt information document.
- (d) Each Security Obligor shall promptly make all applications to and filings with the Land Registry which are necessary or desirable under the Land Registration Rules to protect the Security.
- (e) No Security Obligor shall, without the prior written consent of the Security Trustee, permit any person to be or become registered under the Land Registration Act 2002 as the proprietor of a Security Asset who is not so registered under the Land Registration Act 2002 at the date of this Deed or, in the case of Real Property acquired after the date of this Deed, at the date of such acquisition.

**28.7 Amendments and waivers**

Any provision of this Deed may be amended only if the Security Trustee and the Security Obligors so agree in writing and any breach of this Deed may be waived before or after it occurs only if the Security Trustee so agrees in writing. A waiver given or consent granted by the Security Trustee under this Deed will be effective only if given in writing and then only in the instance and for the purpose for which it is given.

#### **28.8 Calculations and certificates**

A certificate of the Security Trustee specifying the amount of any Secured Obligation due from a Security Obligor (including details of any relevant calculation thereof) shall be prima facie evidence of such amount against each Security Obligor in the absence of manifest error.

#### **28.9 Waiver, rights and remedies**

No failure to exercise, nor any delay in exercising, on the part of the Security Trustee, any right or remedy under this Deed shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided are cumulative and not exclusive of any rights or remedies provided by law.

### **29. NOTICES**

#### **29.1 Communications in writing**

- (a) The provisions of condition 15 to part II of the Operating Conditions forming part of the Syndicated Back to Back Receivables Finance Agreement shall apply to this Deed as if the same were set out in this Deed, provided that:
- (b) reference to "each Party" shall be deemed to be references to each party to this Deed;
- (c) reference to the "Agent, the Arranger and the Security Trustee" shall be deemed to be references to the bank;
- (d) references to the "Client" shall be deemed to be references to each Security Obligor.

#### **29.2 Electronic communications**

No communication to be made under this Deed shall be made electronically.

#### **29.3 Agent for service**

Each Security Obligor (other than the Obligor) by its execution of this Deed irrevocably appoints the Obligor to act on its behalf as its agent in relation to the Finance Documents and irrevocably authorises:

- (a) the Obligor on its behalf to supply all information concerning itself contemplated by this Deed to the Security Trustee and to give all notices and instructions to make such agreements and to effect the relevant amendments, supplements and variations capable of being given, made or effected by any Security Obligor notwithstanding that they may affect the Security Obligor, without further reference to or the consent of that Security Obligor; and
- (b) the Security Trustee to give any notice, demand or other communication to be given to that Security Obligor pursuant to the Finance Documents to the Obligor.

and in each case the Security Obligor shall be bound as though the Security Obligor itself had given the notices and instructions or executed or made the agreements or effected the amendments, supplements or variations, or received the relevant notice, demand or other communication.

**30. PARTIAL INVALIDITY**

All the provisions of this Deed are severable and distinct from one another and if at any time any provision is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of any of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will in any way be affected or impaired.

**31. RELEASE**

Upon the expiry of the Security Period (but not otherwise) the Security Trustee shall, at the request and cost of the Security Obligors, take whatever action is necessary to release or re-assign (without recourse or warranty) the Security Assets from the Security.

**32. COUNTERPARTS**

This Deed may be executed in any number of counterparts, and this has the same effect as if the signatures (and seals, if any) on the counterparts were on a single copy of this Deed.

**33. GOVERNING LAW**

This Deed is governed by English law.

**IN WITNESS** of which this Deed has been duly executed by each Security Obligor as a deed and duly executed by the Security Trustee and has been delivered on the first date specified on page 1 of this Deed.

**SCHEDULE 1**

**Security Obligors**

Company name	Company number
ULTIMATE INVOICE FINANCE LIMITED	04325262
ASHLEY COMMERCIAL FINANCE LIMITED	02797120

## **SCHEDULE 2**

### **The Guarantee**

#### **1. Continuing guarantee**

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

#### **2. Reinstatement**

If any payment by a Security Obligor, or any discharge given by the Agent, any Finance Party or the Security Trustee (whether in respect of the obligations of any Security Obligor or any security for those obligations or otherwise) is avoided or reduced as a result of insolvency or any similar event:

- (a) the liability of each Security Obligor under this Deed shall continue as if the payment, discharge, avoidance or reduction had not occurred; and
- (b) the Security Trustee shall be entitled to recover the value or amount of that security or payment from each Security Obligor, as if the payment, discharge, avoidance or reduction had not occurred.

#### **3. Waiver of defences**

The obligations of each Security Obligor under this Deed will not be affected by an act, omission, matter or thing which, but for this Deed, would reduce, release or prejudice any of its obligations under this Deed (without limitation and whether or not known to it or to the Security Trustee) including:

- (a) any time, waiver or consent granted to, or composition with, any Security Obligor or other person;
- (b) the release of any other Security Obligor or any other person under the terms of any composition or arrangement with any creditor of any member of the group of companies of which the Security Obligor is a member;
- (c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any Security Obligor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;
- (d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of a Security Obligor or any other person;
- (e) any amendment, novation, supplement, extension (whether of maturity or otherwise), restatement or replacement (in each case, however fundamental and of any nature whatsoever including, without limitation, which results in any increase in any amount due or owing under any Finance Document or in the rate of interest or any other sum payable under any Finance Document) of a Finance Document or any other document or security;

- (f) any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document or any other document or security; or
- (g) any insolvency, administration or similar proceedings.

**4. Immediate recourse**

Each Security Obligor waives any right it may have of first requiring the Finance Parties or the Security Trustee to proceed against or enforce any other rights or security or claim payment from any person before claiming from that Security Obligor under this schedule 2. This waiver applies irrespective of any law or any provision of a Finance Document to the contrary.

**5. Appropriations**

Until all amounts which may be or become payable during the Security Period by the Security Obligors under or in connection with the Finance Documents have been irrevocably paid in full, the Security Trustee may:

- (a) refrain from applying or enforcing any other monies, security or rights held or received by the Security Trustee in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and no Security Obligor shall be entitled to the benefit of the same; and
- (b) hold in an interest-bearing suspense account any monies received from any Security Obligor or on account of any Security Obligor's liability under this schedule 2.

**6. Deferral of guarantors' rights**

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

- (a) to be indemnified by a Security Obligor;
- (b) to claim any contribution from any other guarantor of any Security Obligor's obligations under the Finance Documents; and/or
- (c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Security Trustee under the Finance Documents or of any other guarantee or security taken pursuant to, or in connection with, the Finance Documents by the Security Trustee.

**7. Additional security**

This guarantee is in addition to, and is not in any way prejudiced by, any other guarantee or security at the date of this guarantee or subsequently held by the Security Trustee.

**SCHEDULE 3**

**Details of Security Assets**

**Part 1 - Specified Real Property**

None at the date of this Deed

**Part 2 – Computers, vehicles and equipment**

None at the date of this Deed

**Part 3 - Charged Securities**

None at the date of this Deed

EXECUTION PAGE

THE BANK

SIGNED

by \_\_\_\_\_  
duly authorised for and on behalf of

LLOYDS BANK PLC

Address:

Facsimile No:

Attention:

THE SECURITY OBLIGORS

Executed as a deed, but not delivered until the )  
first date specified on page 1, by )  
ULTIMATE INVOICE FINANCE LIMITED )  
acting by SARAH COOMES a director

[Redacted Signature]

Director

In the presence of: \_\_\_\_\_ )

Signature: \_\_\_\_\_ )

Name: Daisy Nelson )

Occupation: New business assistant )

Address: \_\_\_\_\_ )

\_\_\_\_\_ )

\_\_\_\_\_ )

Address:

Facsimile No:

Attention:

Executed as a deed, but not delivered until the )  
first date specified on page 1, by )  
ASHLEY COMMERCIAL FINANCE )  
LIMITED acting by )

JEREMY COOMBS a director


  
Director

in the presence of:  )

Signature:  )

Name: Dorey Nelson )

Occupation: New business assistant )

Address:  )

 )

 )

Address:

Facsimile No:

Attention: