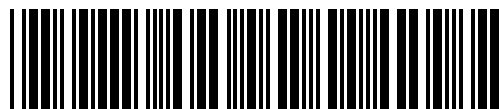




Registration of a Charge

Company Name: **HH GLOBAL LIMITED**

Company Number: **04680562**



XCDU04QY

Received for filing in Electronic Format on the: **10/10/2023**

Details of Charge

Date of creation: **04/10/2023**

Charge code: **0468 0562 0014**

Persons entitled: **WILMINGTON TRUST (LONDON) LIMITED**

Brief description: **NIL**

Contains fixed charge(s).

Contains negative pledge.

Authentication of Form

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

Authentication of Instrument

Certification statement: **THIS CERTIFIED A TRUE AND COMPLETE COPY OF THE ORIGINAL
SAVE FOR CERTAIN PERMITTED REDACTIONS UNDER S.859G OF
THE COMPANIES ACT 2006**

Certified by: **RICHARD HENG OF ASHURST**



CERTIFICATE OF THE REGISTRATION OF A CHARGE

Company number: 4680562

Charge code: 0468 0562 0014

The Registrar of Companies for England and Wales hereby certifies that a charge dated 4th October 2023 and created by HH GLOBAL LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 10th October 2023 .

Given at Companies House, Cardiff on 12th October 2023

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**

This is certified a true
and complete copy of
the original save for
certain permitted redactions
under s859G of the
Companies Act 2006.

Ashurst Australia

Richard Heng

Reteng

6 October 2023.

Specific Security Deed - Shares

HH Australia Pty Ltd

HH Global Limited (Grantor)

Wilmington Trust (London) Limited (Secured Party)

Execution Version

4 October 2023

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Parties

- 1 HH Global Limited (company number 04680562) (the **Grantor**)
- 2 Wilmington Trust (London) Limited in its capacity as Security Agent for itself and each of the other parties to the Intercreditor Agreement referred to below (**Secured Party**)

The parties agree

Background

The Grantor has agreed to grant security on its Secured Property to secure the payment of the Secured Obligations on the terms set out in this deed.

1 Defined terms and interpretation

1.1 Definitions from Finance Documents

Subject to clause 1.2 (*Definitions – general*):

- (a) a term defined in the Facility Agreement or the Intercreditor Agreement has the same meaning when used in this deed (unless the context dictates otherwise); and
- (b) if a term is defined in both the Facility Agreement and the Intercreditor Agreement, the definition in the Intercreditor Agreement prevails to the extent of any inconsistency.

1.2 Definitions – general

In this deed,

Acceleration Event means:

- (a) any Event of Default in respect of which a written notice has been served by the Agent pursuant to clause 27.19 (*Acceleration*) of the Facility Agreement; and/or
- (b) any Material Event of Default in respect of which a Super Senior Enforcement Notice has been served by the Agent pursuant to clause 27.20 (*Super Senior Acceleration*) of the Facility Agreement; and/or
- (c) any Term Facility Event of Default in respect of which a written notice has been served by the Agent pursuant to clause 27.21 (*Term Lender Acceleration*) of the Facility Agreement.

Additional Rights means all present and future rights and property interests attaching to or arising out of or otherwise in respect of the holding of an interest in:

- (d) any Issuer Marketable Security (including an option to acquire).
- (e) any Distributions paid or payable, any bonus shares or other Issuer Marketable Securities issued, and any rights to take up Issuer Marketable Securities;

- (f) any proceeds of, or from the disposal of or other dealing with, any Issuer Marketable Security;
- (g) any rights or Issuer Marketable Security consequent upon the conversion, consolidation, subdivision, redemption, cancellation, reclassification or forfeiture of any Issuer Marketable Security;
- (h) any in specie distribution in respect of any Issuer Marketable Security; and
- (i) any rights consequent on a reduction of capital, buy-back, Liquidation or scheme of arrangement in respect of any Issuer Marketable Security.

Attorney means an attorney appointed under this deed.

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

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

Costs means, in relation to the Secured Party, a Controller or an Attorney, any costs reasonably incurred by that party including any legal costs and expenses and any professional consultant's fees, on a full indemnity basis.

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

Event of Default has the meaning given to it in the Facility Agreement.

Facility Agreement means the Multicurrency Term and Revolving Facilities Agreement dated 20 February 2020 (as amended and/or amended and restated from time to time) between, amongst others, HH Global Finance Limited as Original Borrower, the Original Guarantors (as defined therein), the Original Lenders (as defined therein) and Wilmington Trust (London) Limited as Agent and Security Agent.

Finance Document has the meaning given to it in the Facility Agreement.

Intercreditor Agreement means the agreement dated 20 February 2020 and made between, amongst others, HH Global Finance Limited, the Original Guarantors, Midco, the Original Lenders, the Agent and the Secured Party (as amended from time to time)

Issuer means HH Australia Pty Ltd (ACN 150 535 461) and any Obligor under the Facility Agreement, incorporated in Australia, that is a Subsidiary of the Grantor.

Issuer Marketable Security means each Marketable Security in an Issuer held by the Grantor (or on its behalf) including each Marketable Security specified in Schedule 1 (*Issuer Marketable Securities*) and each Marketable Security in an Issuer to which the Grantor becomes legally or beneficially entitled at any time (whether or not the Marketable Security is held by the Grantor or on its behalf).

Liquidation means official management, appointment of an administrator or provisional liquidator, compromise, arrangement, merger, amalgamation, reconstruction, winding up, dissolution, deregistration, assignment for the benefit of creditors, scheme, composition or arrangement with creditors, insolvency, bankruptcy, or a similar procedure or, where applicable, changes in the constitution of any partnership or person, or death.

Marketable Securities means any:

- (a) marketable securities (as defined in the Corporations Act);
- (b) interest in a partnership; or
- (c) unit (whatever called) or interest in a trust estate which represents a legal or beneficial interest in any of the income or assets of that trust estate and includes any options to acquire any units as described,

in each case, in a person incorporated or organised in Australia.

Personal Property means, in respect of the Grantor, all of the Grantor's Secured Property that constitutes personal property to which the PPS Law applies.

Power means any right, power, authority, discretion, remedy or privilege.

PPS Law means:

- (a) the PPSA;
- (b) the PPS Regulations;
- (c) any legislative instrument made under the PPSA or the PPS Regulations;
- (d) any amendment to any of the above, made at any time; or
- (e) any amendment made at any time to any other legislation as a consequence of a PPS Law referred to in paragraphs (a) to (d) above.

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

PPSR means the Personal Property Securities Register established under the PPSA.

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

Receiver means a receiver or receiver and manager appointed under this deed.

Secured Debt Documents means the Finance Documents and any other documents designated as Secured Debt Documents by the Grantor and the Secured Party.

Secured Obligations has the meaning given to it in the Intercreditor Agreement.

Secured Property means, in respect of the Grantor, all of the Grantor's present and future interest in, to, under or derived from all:

- (a) Issuer Marketable Securities; and
- (b) Additional Rights in respect of, derived from, or in connection with Issuer Marketable Securities.

Security Provider means a person who has granted Security or guarantee or entered into a guarantee or Transaction Security Document to, with or for the benefit of, the Secured Party in connection with the Secured Obligations and includes, on the date of this deed, the Grantor, and any member of the Group that has granted Transaction Security.

Title Document means any original, duplicate or counterpart certificate or document of title or any share certificate or any other document evidencing title to an Issuer Marketable Security

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

1.3 PPS Law

- (a) As the context requires, the following terms when used in this deed have the meaning given to them in the PPSA:
- (i) account;
 - (ii) amendment demand;
 - (iii) attaches;
 - (iv) financing change statement;
 - (v) financing statement;
 - (vi) personal property
 - (vii) possession;
 - (viii) purchase money security interest; and
 - (ix) term deposit.
- (b) The term **control** when used in this deed means control as such term is used in the PPSA and control within its ordinary meaning.
- (c) The term **proceeds** includes proceeds for the purposes of the PPS Law but is not limited to them.

1.4 Interpretation

Clause 1.2 (*Construction*) of the Facility Agreement applies to this deed as if it was fully set out in this deed with the necessary changes. Any reference to "this Agreement" or similar shall be construed to be a reference to this deed.

1.5 Facility Agreement and Intercreditor Agreement

This deed is a "Transaction Security Document" and a "Finance Document" for the purposes of the Facility Agreement and the Intercreditor Agreement.

1.6 Conflict of terms

In the event of any inconsistency between the terms of this deed and the Facility Agreement or the Intercreditor Agreement, the terms of the Facility Agreement or the Intercreditor Agreement (as applicable) shall prevail. Notwithstanding any provision of this deed, nothing which is expressly permitted to be done under the Facility Agreement shall be deemed to constitute a breach of any term of this deed and no representation, warranty or undertaking contained herein shall be breached to the extent it expressly

conflicts with the Facility Agreement or prohibits something which would otherwise be expressly permitted under the Facility Agreement.

1.7 Consideration

The Grantor enters into this deed for valuable consideration from the Secured Party and acknowledges receipt of that consideration including the agreement of the Secured Party to enter into the Finance Documents to which they are a party at the request of the Grantor.

2 Grant of Security

2.1 Security

- (a) The Grantor grants security in all of its Secured Property to the Secured Party to secure payment of the Secured Obligations.
- (b) The security granted by the Grantor under this deed operates as a security interest for the purposes of the PPSA being a fixed charge over all of its Secured Property which is Personal Property.
- (c) For the purposes of s 20(2)(b) of the PPSA (but without limiting the meaning of 'Secured Property' in this deed), the security granted under this deed is taken over all of a Grantor's present and after-acquired property, except any such property which is not Secured Property.

2.2 Priority

- (a) The parties to this deed intend that each Security granted by the Grantor under this deed takes priority over all other Security of the Grantor over the Secured Property other than any Security mandatorily preferred by law.
- (b) Each Security granted under this deed has the same priority in respect of all Secured Obligations, including future advances.
- (c) Nothing in this deed shall be construed as an agreement or consent by the Secured Party to subordinate the Security granted under this deed in favour of any person.

2.3 Attachment

Each Security in Personal Property granted under this deed attaches to the relevant Secured Property in accordance with the PPS Law and the parties to this deed confirm that they have not agreed that any Security in Personal Property granted under this deed attaches at any later time.

2.4 Limited Recourse

- (a) The maximum amount the Secured Party can recover from the Grantor under this deed in respect of the security interest created under clause 2.1 (*Security*), is the amount the Secured Party obtains from enforcing its rights in connection with the Secured Property.
- (b) The Secured Party may not seek to recover any shortfall in the amounts owing to it under this deed by bringing proceedings against the Grantor or applying to have the Grantor wound up.

- (c) This applies despite anything else in this deed but subject to the rest of this clause 2.4 (*Limited Recourse*) and clause 2.5 (*When the limit does not apply*).
- (d) The Secured Party may:
 - (i) do anything necessary to enforce its rights in connection with Secured Property; and
 - (ii) take proceedings to obtain:
 - (A) an injunction or other order to restrain any breach of this deed by the Grantor; or
 - (B) declaratory relief or other similar judgment or order as to the obligations of the Grantor under this deed.

2.5 When the limit does not apply

The Secured Party may take action against the Grantor personally to recover any shortfall in the amounts owing to it under this deed to the extent the shortfall arises (directly or indirectly) as a result of the Grantor's fraud, gross negligence or wilful default in connection with this deed.

3 Discharge of Security

3.1 Discharge

If:

- (a) all of the Secured Obligations have been irrevocably paid in full, the Grantor and each other Security Provider have observed and performed all of its obligations under this deed and each other Finance Document, and the Secured Party does not have any actual or contingent liability to advance further monies to, or incur liability on behalf of, the Grantor; or
- (b) the Grantor is entitled pursuant to any provision of the Secured Debt Documents or Intercreditor Agreement to have the Secured Property released from the Security, the Secured Party shall, at the request and cost of the Grantor, execute any documents (or procure that its nominees execute any documents) or take any action which may be necessary to release the Secured Property from the Security constituted by this deed.

4 Dealing with the Secured Property

4.1 Restricted dealings

- (a) Except as expressly permitted or not prohibited under a Finance Document or with the prior written consent of the Secured Party, the Grantor shall not:
 - (i) create or allow to exist any Security over any of its Secured Property;
 - (ii) sell, assign, part with possession, transfer or otherwise dispose of any of its Secured Property; or

- (iii) give control of any of its Secured Property (that falls within the description in section 21(2)(c) of the PPSA) to any person who has the benefit of a Security over that asset other than to the Secured Party.
- (b) The Grantor agrees to do everything necessary to ensure that a third person cannot acquire an interest in any Secured Property free of, or having priority over, the Security granted under this deed, except as permitted under the Finance Documents.

5 Representations, warranties and undertakings

5.1 Representations and warranties

- (a) The Grantor, in relation only to:
 - (i) itself (and not in respect of any other person),
 - (ii) the Secured Property; and
 - (iii) the Finance Documents to which it is a party (in each case, as the context requires).

makes the representations and warranties set out in clauses 23.2 (*Status*) to 23.9 (*No Filing or Stamp Taxes*), 23.22 (*Legal and Beneficial ownership*) and 23.23 (*Shares*) of the Facility Agreement (in each case as construed and interpreted mutatis mutandis for the foregoing and in particular as if these representations were set out in this deed and made by the Grantor) to each Secured Party on the date of this deed and on any date on which a representation and warranty is made, or is taken to be made, under the Finance Documents.

- (b) The Grantor further represents and warrants to the Secured Party that:
 - (i) no person other than the Secured Party has a Security Interest over the Secured Property which is perfected by possession or control;
 - (ii) Schedule 1 (*Issuer Marketable Securities*) sets out the details of all of its Secured Property which it owns or possesses on the date of this deed and those details are true and correct in all respects;
 - (iii) none of its secured property is consumer property; and
 - (iv) except as disclosed in writing by it, or on its behalf, to the Secured Party, its details are true and correct in all respects and reflects the information contained in the source from which information in relation to it must be taken for the purposes of the PPS Regulations in order to register a financing statement in respect of any Security granted under this deed or any other Finance Document.

5.2 Survival of representations and warranties

The representations and warranties in clause 5.1 (*Representations and warranties*) are taken to be made by the Grantor (by reference to the facts and circumstances then existing) on the date of this deed.

5.3 Reliance

The Grantor acknowledges that it has not entered into this deed or any other Finance Document in reliance on any representation, warranty, promise or statement of the Secured Party or of any person on behalf of the Secured Party.

5.4 Performance under the Finance Documents

- (a) The Grantor must perform its obligations in accordance with the terms of the Finance Documents.
- (b) The Grantor must ensure that no Event of Default occurs. Without affecting the liability of the Grantor or the Powers in any other respect (including where a breach of this paragraph (b) is also a breach of another provision of a Finance Document), the Grantor is not liable in damages for breach of this paragraph (b) but the Secured Party may exercise its Powers consequent upon or following a Declared Default which is continuing as a result of that breach.

5.5 Further assurances

- (a) Subject to the Agreed Security Principles, the Grantor must, at its own cost, promptly do anything which the Secured Party reasonably requests which more satisfactorily:
 - (i) secures to the Secured Party the Secured Property or the full benefit of its rights under this deed;
 - (ii) perfects a Security intended to be granted or which is granted under this deed;
 - (iii) ensures the priority required by the Finance Documents of a Security granted under this deed and that such Security is fully effective and enforceable;
 - (iv) vests or assigns absolutely any Secured Property in or to the Secured Party or any other person nominated by the Secured Party (including a purchaser); or
 - (v) aids in the exercise of any Power of the Secured Party
- (b) Subject to the Agreed Security Principles and except as would otherwise be inconsistent with this deed, the Grantor shall take all such action as is available to it (including making all filings and registrations), at its own expense, as may be reasonably necessary for the purpose of the creation, perfection, protection or maintenance of any Security conferred or intended to be conferred on Secured Party by or pursuant to this deed.

5.6 Deposit of documents

- (a) Upon the execution of this deed, the Grantor agrees to execute, deliver and/or deposit with the Secured Party, or as the Secured Party reasonably directs:
 - (i) any document evidencing title to any Secured Property, including all Title Documents; and
 - (ii) Transfers (in form and number satisfactory to the Secured Party) in respect of any Issuer Marketable Securities which form part of the Secured Property,

as soon as reasonably practicable (and in any event within 10 Business Days) after the date of this deed.

(b) The Grantor shall:

- (i) in respect of the acquisition of any property or asset which forms part of its Secured Property after the date of this deed, promptly after the acquisition, execute, deliver and/or deposit with the Secured Party (or as the Secured Party reasonably directs) all certificates or other documents evidencing title, including, if applicable, a Transfer (in form and number satisfactory to the Secured Party) in relation to such Secured Property; and
- (ii) in respect of any Issuer uncertificated Marketable Security which forms part of the Secured Property, having a Title Document issued in respect of it after the date of this deed, promptly after the date of issue, deliver and/or deposit such Title Document (including, if applicable, a Transfer (in form and number satisfactory to the Secured Party) in relation to such Title Document) with the Secured Party.

provided that if that Security is released the Grantor must promptly provide the documents specified above to the Secured Party.

- (c) Promptly, at the request of the Secured Party the Grantor agrees to deposit with the Secured Party, or as the Secured Party reasonably directs, any other document which evidences the Secured Property.
- (d) The Secured Party may retain the Title Documents, Transfers and any other documentation delivered under this clause 5.6 (*Deposit of Documents*) (until the Security granted under this deed are discharged and released under clause 3 (*Discharge of Security*)).
- (e) If a Security granted under this deed is enforced by the Secured Party, the Secured Party, a Controller or an Attorney:
 - (i) is entitled to deal with the relevant Title Documents as if it were the absolute and unencumbered owner of the Secured Property to which those Title Documents relate;
 - (ii) in exercising a power of sale, may deliver any Title Document to a purchaser of the Secured Property to which those Title Documents relate; and
 - (iii) may complete, in favour of the Secured Party, any appointee of the Secured Party or any purchaser, any Transfer or other instrument executed in blank by or on behalf of the Grantor and deposited with the Secured Party under this deed.
- (f) Where title to any Issuer Marketable Security is evidenced by a certificate, the relevant Grantor must obtain the issue of replacement certificates if the original certificates are lost or destroyed or believed by the Secured Party to be so.

5.7 Undertakings in respect of Issuer Marketable Securities

The Grantor agrees:

- (a) to promptly notify the Secured Party if it acquires any Issuer Marketable Securities;

- (b) to promptly notify the Secured Party of becoming aware of any Additional Rights which are Secured Property (other than Distributions) and to provide to the Secured Party the details of those Additional Rights and all documents or other evidence relating to those Additional Rights;
- (c) to acquire, at its own cost, any Additional Rights which are Secured Property it is entitled to acquire, if the failure to acquire the Additional Rights would adversely affect the validity, enforceability or existence of the Security created over such Additional Rights under this deed;
- (d) that it will ensure that the terms of the constituent documents of an Issuer does not restrict the transfer of any Secured Property on enforcement of the Secured Property granted under this deed or give the directors of an Issuer any discretion in relation to the registration of any such transfer in the register of the relevant Marketable Securities of an Issuer;
- (e) not to do or omit to do anything which might render any Issuer Marketable Security or any Title Document liable to forfeiture, cancellation, avoidance or loss or might otherwise materially affect the value of any Issuer Marketable Security or the interest of the Security Trustee; and
- (f) following the occurrence of an Acceleration Event which is continuing, the Grantor shall promptly execute and/or deliver to the Secured Party a copy of each circular, notice, report, set off accounts or other documents received by it or its nominee in connection with any Issuer Marketable Security, as the Secured Party requires.

5.8 Dividends and voting

- (a) Prior to the occurrence of an Acceleration Event, the Grantor shall be entitled to exercise all voting rights and receive all Distributions in relation to any Issuer Marketable Securities, provided that the exercise of such rights and the receipt of such Distributions:
 - (i) is not inconsistent with or prohibited by the terms of any Secured Debt Document and this deed; and
 - (ii) does not adversely affect the validity or enforceability of any Secured Debt Document or this deed.
- (b) Upon the occurrence of an Acceleration Event, the rights of the Grantor under paragraph (a) above cease and the Secured Party, a Controller or an Attorney is entitled to receive all Distributions and exercise all voting powers in respect of any Marketable Security which forms part of the Security of the Grantor, to the exclusion of the Grantor. The Secured Party, a Controller or an Attorney is entitled to exercise its rights in respect of an Issuer Marketable Security in its absolute discretion and is not responsible for any loss as a result of a failure to act or a delay in so acting.

5.9 General Undertakings

The Grantor shall notify the Secured Party in writing:

- (a) at least 14 days before it changes its name as recorded in a public register in its jurisdiction of incorporation or in its constituent document; and
- (b) immediately, if:

- (i) any ABN, ARBN or ARSN allocated to it, a trust of which it is a trustee or any partnership of which it is a partner, changes, is cancelled or otherwise ceases to apply to it; or
- (ii) it is proposed that any ABN, ARBN or ARSN allocated to it, a trust of which it is a trustee or any partnership of which it is a partner, will change, will be cancelled or will otherwise cease to apply to it; or
- (iii) if it does not have an ABN, ARBN or ARSN, one is allocated, or otherwise starts to apply, to it.

6 Enforcement

6.1 Enforcement

- (a) Upon the occurrence of an Acceleration Event, but only while it is continuing, immediately and, subject to clause 11.1 (*Waiver of notices*), without the need for any demand or notice to be given to the Grantor or any other person other than a demand or notice required by the terms of a Finance Document or required by law, the Secured Party may:
 - (i) enforce the Security of the Grantor granted under this deed; and/or
 - (ii) exercise any Power or any right or power of the Grantor in relation to its Secured Property.
- (b) The Grantor agrees that on the enforcement of a Security of the Grantor granted under this deed, the Grantor shall have no right to deal, for any purpose, with any of its Secured Property, other than by or through the Secured Party, a Controller or an Attorney.
- (c) For the avoidance of doubt, any Security in respect of the Secured Property only of the Grantor granted under this deed or a Transaction Security, that have been enforced in accordance with this clause may continue to be enforced even if no Acceleration Event is continuing at that time.

6.2 Assistance in realisation

After the Security of the Grantor granted under this deed have become enforceable, the Grantor must take all action required by the Secured Party, a Controller or an Attorney to assist any of them to realise its Secured Property and exercise any Power including:

- (a) executing all transfers, conveyances, assignments and assurances of any of its Secured Property;
- (b) doing anything necessary or desirable under the law in force in any place where its Secured Property is situated;
- (c) giving all notices, orders, directions and consents which the Secured Party, a Controller or an Attorney thinks expedient; and
- (d) doing anything necessary:
 - (i) for a call to be made on the uncalled capital of the Grantor; or
 - (ii) to collect all called but unpaid capital of the Grantor.

6.3 Postponing or delaying realisation or enforcement

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

7 Controller

7.1 Appointment of Controller

The Secured Party may while an Acceleration Event is continuing:

- (a) appoint any person or any two or more persons jointly, or severally, or jointly and severally to be a Receiver of the Secured Property of the Grantor, but only whilst an Acceleration Event is continuing;
- (b) appoint another Controller in addition to or in place of any Controller;
- (c) remove or terminate the appointment of any Controller at any time and on the removal, retirement or death of any Controller, appoint another Controller and, at any time give up, or re-take, possession of the Secured Property; and
- (d) fix the remuneration and direct payment of that remuneration and any Costs of a Controller out of the proceeds of any realisation of the Secured Property.

7.2 Agency of Controller

- (a) Subject to clause 7.5 (*Status of Controller after commencement of winding up*), each Controller is the agent of the Grantor.
- (b) The Grantor is responsible for the acts, defaults and remuneration of any Controller which has been appointed in respect of its Secured Property.
- (c) No Finance Party will incur any liability (either to the Grantor or to any other person) by reason of the appointment of a Controller or the exercise of any Power by a Controller other than any liability of the Finance Party arising from its fraud, wilful misconduct or gross negligence.

7.3 Powers of Controller

Subject to any express exclusion by the terms of the Controller's appointment, a Controller appointed in respect of any Secured Property has all of the rights of the Secured Party at law or under the Intercreditor Agreement or this deed in addition to any powers conferred on the Controller by applicable law (except as specified in clause 13.1 (*Exclusion of certain PPS Law provisions*)) or otherwise, and whether or not in possession of that Secured Property or any part of it, including without limitation, the following powers:

- (a) **manage, possession or control:** to manage, enter into possession or assume control of that Secured Property;

- (b) **sale:** to sell or concur in selling any of that Secured Property to any person:
 - (i) by auction, private treaty or tender;
 - (ii) on such terms and special conditions as the Secured Party or the Controller thinks fit;
 - (iii) for cash or for a deferred payment of the purchase price, in whole or in part, with or without interest or security;
 - (iv) in conjunction with the sale of any property by any other person; or
 - (v) in one lot or in separate parcels.
- (c) **grant options to purchase:** to grant to any person an option to purchase any of that Secured Property;
- (d) **acquire Additional Rights:** to acquire any Additional Rights;
- (e) **carry on business:** to carry on or concur in carrying on any business of the Grantor in respect of that Secured Property;
- (f) **borrowings and security**
 - (i) to raise or borrow money, in its name or the name or on behalf of the Grantor, from the Secured Party or any person approved by the Secured Party in writing;
 - (ii) to secure money raised or borrowed under paragraph (e)(i) by creating a Security over any of that Secured Property, ranking in priority to, equal with, or after, each Security granted under this deed, and
 - (iii) give guarantees;
- (g) **income and bank accounts** to do anything to maintain or obtain income or revenue from any of that Secured Property including operating any bank account which forms part of that Secured Property or opening and operating a new bank account;
- (h) **insure Secured Property** to insure any of that Secured Property,
- (i) **compromise:** to make or accept any compromise or arrangement;
- (j) **surrender Secured Property:** to surrender or transfer any of that Secured Property to any person,
- (k) **exchange Secured Property:** to exchange with any person any of that Secured Property for any other property, whether of equal value or not;
- (l) **employ or discharge:** to employ or discharge any person as an employee, contractor, agent, professional advisor or auctioneer for any of the purposes of this deed.
- (m) **delegate:** to delegate to any person any Power of the Controller;

- (n) **perform or enforce documents:** to observe, perform, enforce, exercise or refrain from exercising any right, power, authority, discretion or remedy of the Grantor under, or otherwise obtain the benefit of:
 - (i) any document, agreement or right which attaches to or forms part of that Secured Property; and
 - (ii) any document or agreement entered into in exercise of any Power by the Controller;
- (o) **receipts:** to give effectual receipts for all money and other assets which may come into the hands of the Controller;
- (p) **take proceedings:** to commence, discontinue, prosecute, defend, settle or compromise in its name or on behalf of the Grantor, any proceedings including proceedings in relation to any insurance in respect of any of that Secured Property;
- (q) **insolvency proceedings:** to make any debtor bankrupt, wind up any company, corporation or other entity and do all things in relation to any bankruptcy or winding up which the Controller thinks necessary or desirable including attending and voting at creditors' meetings and appointing proxies for those meetings;
- (r) **execute documents:** to enter into and execute any document or agreement in the name of the Controller or the name or on behalf of the Grantor including bills of exchange, cheques or promissory notes for any of the purposes of this deed;
- (s) **ability of Grantor:** to do anything the Grantor could do in respect of the Secured Property including exercise all the powers, authorities and things which it would be capable of exercising as if it were the absolute beneficial owner of that Secured Property;
- (t) **make calls:** to make calls on any member of the Grantor in respect of uncalled capital of the Grantor;
- (u) **vote:** to exercise any voting rights or powers in respect of any part of that Secured Property;
- (v) **collect called capital:** to collect or enforce payment of any called but unpaid capital of the Grantor whether or not the calls were made by the Controller;
- (w) **issue shares:** to issue shares in the Grantor;
- (x) **marketable securities:** exercise the rights and powers of an absolute owner in connection with Marketable Securities or any Additional Rights which forms part of the Secured Property of the Grantor (including voting at meetings and appointing proxies, and effecting conversion of the title to any Marketable Securities as to being certificated or uncertificated); and
- (y) **incidental power:** to do anything else the law allows an absolute beneficial legal owner of the property or a Controller of the Secured Property to do or that is necessary or incidental to the exercise of any Powers in this deed

7.4 Nature of Controller's Powers

The Powers of a Controller must be construed independently and no one Power limits the generality of any other Power. Any dealing under any Power of a Controller will be on the terms and conditions as the Controller thinks fit.

7.5 Status of Controller after commencement of winding up

- (a) The power to appoint a Controller under clause 7.1 (*Appointment of Controller*) may be exercised even if, at any time after an Acceleration Event occurs which is continuing or at the time a Controller is appointed, an order has been made or a resolution has been passed for the winding up of the Grantor in respect of whose Secured Property it has been appointed
- (b) If, for any reason, including operation of law, a Controller:
 - (i) appointed in the circumstances described in paragraph (a); or
 - (ii) appointed at any other time,

ceases to be the agent of the Grantor in respect of whose Secured Property it has been appointed as a result of an order being made or a resolution being passed for the winding up of the Grantor, then the Controller immediately becomes the agent of the Secured Party.

7.6 Powers exercisable by the Secured Party

- (a) Whether or not a Controller is appointed under clause 7.1 (*Appointment of Controller*), the Secured Party may, on or after the occurrence of an Acceleration Event which is continuing and without giving notice to any person (other than any notice required by law):
 - (i) exercise any Power of the Controller in addition to any Power of the Secured Party; and
 - (ii) otherwise do anything that the Grantor could do in relation to its Secured Property.

This clause does not limit any other provision of this deed or any other Finance Document.

- (b) The exercise of any Power by the Secured Party, a Controller or an Attorney does not, except to the extent provided by law, cause or deem the Secured Party, Controller or Attorney:
 - (i) to be a mortgagee in possession;
 - (ii) to account as mortgagee in possession; or
 - (iii) to be answerable for any act of omission for which a mortgagee in possession is liable.

8 Application and receipts of money

8.1 Order of application

At any time after any Security granted under this deed is enforceable, all moneys received by the Secured Party, a Controller, an Attorney or any other person acting on their behalf under this deed must be applied in accordance with clause 16.2 of the Intercreditor Agreement. For the purposes of section 14(6)(a) of the PPSA, this clause constitutes the method of payment application agreed by the parties to this deed.

8.2 Money actually received

In applying any money towards satisfaction of the Secured Obligations, the Grantor is to be credited only with so much of the money which is available for that purpose (after deducting any goods and services Tax or any similar Tax imposed) and which is actually received by the Secured Party, a Controller or an Attorney. The credit dates from the time of receipt.

8.3 Suspense account

- (a) The Secured Party may apply to the credit of a suspense account any:
 - (i) amounts received under this deed;
 - (ii) dividends, distributions or other amounts received in respect of the Secured Obligations in any Liquidation; and
 - (iii) other amounts received from any Security Provider or any other person in respect of the Secured Obligations.
- (b) The Secured Party may retain the amounts in the suspense account for as long as it determines and is not obliged to apply them in or towards satisfaction of the Secured Obligations.

8.4 Amounts contingently due

- (a) If at the time of a distribution of any money under clause 8.1 (*Order of application*) any part of the Secured Obligations is contingently owing to the Secured Party, the Secured Party, a Controller or an Attorney may retain an amount equal to the amount contingently owing or any part of it.
- (b) If the Secured Party, a Controller or an Attorney retains any amount under paragraph (a), it must place that amount on short term interest bearing deposit until the amount contingently owing becomes actually due and payable or otherwise ceases to be contingently owing at which time the Secured Party, Controller or Attorney must:
 - (i) pay, or effect the payment of, to the Secured Party the amount which has become actually due to it; and
 - (ii) unless paragraph (a) otherwise applies, apply the balance of the amount retained, together with any interest on the amount contingently owing, in accordance with clause 8.1 (*Order of application*).

8.5 Notice of a subsequent Security

- (a) If the Secured Party receives actual or constructive notice of a subsequent Security in respect of the Grantor's Secured Property, the Secured Party:
 - (i) may open a new account in the name of the Grantor in its books; or
 - (ii) is regarded as having opened a new account in the name of the Grantor in its books,on the date it received, or was regarded as having received, notice of the subsequent Security.

- (b) From the date on which that new account is opened or regarded as opened:
 - (i) all payments made by the Grantor to the Secured Party, and
 - (ii) all financial accommodation and advances by the Secured Party to the Grantor,

are, or are regarded as, credited and debited, as the case may be, to the new account
- (c) The payments by the Grantor under paragraph (b) must be applied:
 - (i) first, in reduction of the debit balance, if any, in the new account; and
 - (ii) second, if there is no debit balance in the new account, in reduction of the Secured Obligations which have not been debited or deemed to have been debited to the new account.

8.6 Secured Party's statement of indebtedness

A certificate or determination of the Secured Party as to any amount payable under this deed will be conclusive and binding on the Grantor, except in the case of manifest error.

8.7 Secured Party's receipts

- (a) The receipt of any Authorised Officer of the Secured Party for any money payable to or received by the Secured Party under this deed exonerates the payer from all liability to enquire whether any of the Secured Obligations have become payable.
- (b) Every receipt of an Authorised Officer of the Secured Party effectually discharges the payer from:
 - (i) any future liability to pay the amount specified in the receipt; and
 - (ii) being concerned to see to the application of, or being answerable or accountable for any loss or misapplication of, the amount specified in the receipt.

8.8 Conversion of currencies on application

All monies received or held by the Secured Party or any Controller under this deed may be converted into any other currency which the Secured Party considers necessary to cover the obligations and liabilities comprised in the Secured Obligations in that other currency at the Secured Party's spot rate of exchange.

9 Power of attorney

9.1 Appointment of attorney

In consideration of the Secured Party entering into the Finance Documents and for other consideration received, the Grantor irrevocably appoints the Secured Party, each Controller and each Authorised Officer of the Secured Party (each by way of security) severally as its attorney for the purposes set out in clause 9.2 (*Purposes of appointment*).

9.2 Purposes of appointment

The Attorney may, in its name or in the name of the Grantor, Secured Party or Controller, at such time after the occurrence of an Acceleration Event which is continuing and in such manner as the Attorney thinks fit:

- (a) do anything which, in the reasonable opinion of the Secured Party, Controller or Attorney, is necessary or expedient for securing or perfecting a Security of the Grantor granted under this deed;
- (b) sell or otherwise part with the possession of any of the Secured Property;
- (c) to do anything which the Grantor is obliged to do (but has not done) under any Finance Document to which it is party within 5 Business Days of being notified of that failure and being requested to comply or exercise any right, power, authority, discretion or remedy of the Grantor under this deed or any agreement forming part of its Secured Property (including to execute charges over, transfers, conveyances, legal mortgages, deeds of composition or release, assignments and assurances of, and other instruments, notices, orders and directions relating to, the Secured Property and send any instructions, messages or communications by which the Secured Property can be transferred or otherwise dealt with); and
- (d) to exercise any of the rights conferred on the Secured Party or Controller in relation to the Secured Property or under any Finance Document or legislation.

9.3 Delegation and substitution

The Attorney may, at any time, for any of the purposes in clause 9.2 (*Purposes of appointment*), appoint or remove any substitute or delegate or sub attorney.

10 Protection

10.1 Protection of third parties

- (a) No person dealing with the Secured Party, a Controller or an Attorney is bound to enquire whether:
 - (i) a Security of the Grantor granted under this deed has become enforceable;
 - (ii) the Controller or Attorney is duly appointed; or
 - (iii) any Power has been properly or regularly exercised.
- (b) No person dealing with the Secured Party, a Controller or an Attorney is affected by express notice that the exercise of any Power was unnecessary or improper.
- (c) The irregular or improper exercise of any Power is, as regards the protection of any person, regarded as authorised by the Grantor and this deed, and is valid.

10.2 Protection of Secured Party, Controller and Attorney

- (a) The Secured Party, a Controller or an Attorney is not liable for any loss or damage including consequential loss or damage, arising directly or indirectly from:
 - (i) the exercise, attempted exercise, non-exercise or purported exercise of any Power; or

- (ii) the neglect, default or dishonesty of any manager, Authorised Officer, employee, agent, accountant, auctioneer or solicitor of the Grantor, the Secured Party, a Controller or an Attorney.
- (b) Paragraph (a) does not apply:
 - (i) in respect of the Secured Party, to any loss or damage which arises from the fraud, gross negligence and wilful misconduct of the Secured Party; and
 - (ii) in respect of a Controller or an Attorney, to any loss or damage which arises from the fraud, gross negligence and wilful misconduct of the Controller or Attorney.

11 Saving provisions

11.1 Waiver of notices

- (a) To the extent the law permits, the Grantor waives:
 - (i) its right to receive any notice that is required by:
 - (A) any provision of the PPS Law (including notice of a verification statement but not including a notice under section 135 of the PPSA); or
 - (B) any other law before a Secured Party, a Controller or an Attorney exercises a right, power or remedy; and
 - (ii) any time period that must otherwise lapse under any law before a Secured Party, a Controller or an Attorney exercises a right, power or remedy.
- (b) If the law which requires a period of notice or a lapse of time cannot be excluded, but the law provides that the period of notice or lapse of time may be agreed, that period or lapse is one day or the minimum period the law allows to be agreed (whichever is the longer).
- (c) Nothing in this clause prohibits the Secured Party, a Controller or an Attorney from giving a notice under the PPS Law or any other law.
- (d) The Secured Party, a Controller or an Attorney is not required:
 - (i) except to the extent required by law, to give notice of any Security granted under this deed to any debtor or creditor of the Grantor or to any other person;
 - (ii) to enforce payment of any money payable to the Grantor; or
 - (iii) to obtain the consent of the Grantor to any exercise of a Power,

however, nothing in this clause prohibits the Secured Party or any Receiver from giving a notice under the PPSA or any other law.

11.2 Continuing security

Each Security of the Grantor granted under this deed is a continuing security despite:

- (a) any settlement of account; or
- (b) the occurrence of any other thing.

and remains in full force and effect until the Secured Party has given a discharge and release of the Security in respect of all of the Secured Property of the Grantor under clause 3 (*Discharge of Security*)

11.3 No merger of security

- (a) Nothing in this deed merges, extinguishes, postpones, lessens or otherwise prejudicially affects:
 - (i) any Security in favour of the Secured Party;
 - (ii) any indemnity in favour of the Secured Party contained in any Finance Document;
 - (iii) any right, power, authority, discretion or remedy which the Secured Party may have against the Grantor or any other person at any time; or
 - (iv) a judgment obtained by the Secured Party against the Grantor or any other person in connection with the Secured Obligations.
- (b) No other Security or Finance Document which the Secured Party has the benefit of in any way prejudicially affects any Power.

11.4 Exclusion of moratorium

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

- (a) lessens or otherwise varies or affects in favour of the Grantor any obligations under this deed or any Finance Document; or
- (b) stays, postpones or otherwise prevents or prejudicially affects the exercise by the Secured Party, a Controller or an Attorney of any Power,

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

11.5 Conflict

Where any right, power, authority, discretion or remedy of the Secured Party, a Controller or an Attorney under this deed or any Finance Document is inconsistent with the powers conferred by applicable law then, to the extent not prohibited by that law, those powers conferred by applicable law are regarded as negated or varied to the extent of the inconsistency

11.6 Principal obligations

Each Security of the Grantor granted under this deed is:

- (a) a principal obligation and is not ancillary or collateral to any other Security or other obligation; and
- (b) independent of, and unaffected by, any other Security or other obligation which the Secured Party may hold at any time in respect of the Secured Obligations.

11.7 No obligation to marshal

Before the Secured Party enforces a Security of the Grantor granted under this deed, it is not required to marshal or to enforce or apply under, or appropriate, recover or exercise.

- (a) any Security held, at any time, by the Secured Party; or
- (b) any moneys or assets which the Secured Party, at any time, holds or is entitled to receive

11.8 Increase in financial accommodation

The Secured Party may at any time increase the financial accommodation provided under any Finance Document or otherwise provide further financial accommodation.

11.9 Variation

Without limiting the above provisions, this deed covers the Secured Obligations as varied from time to time including as a result of:

- (a) any new Finance Document or any amendment to any Finance Document; or
- (b) the provision of further accommodation to any Security Provider.

and whether or not with the consent of or notice to the Grantor.

11.10 Reinstatement of Security

- (a) Whenever a claim is made that a transaction (including a payment) in connection with the Secured Obligations is void or voidable and that claim is upheld, conceded or compromised, then:
 - (i) the Secured Party immediately becomes entitled against the Grantor to all rights in respect of the Secured Obligations to which it was entitled immediately before the transaction; and
 - (ii) the Grantor must immediately do or cause to be done everything the Secured Party requests to restore the Secured Party to the position it held with respect to the Grantor immediately before the transaction.
- (b) The obligations under this clause 11.10 (*Reinstatement of Security*) are continuing obligations, independent of the Grantor's other obligations under this deed, and survive the discharge of the Security granted under this deed or the termination of this deed.

12 Third party provisions

12.1 Independent obligations

This deed is enforceable against the Grantor:

- (a) whether or not the Secured Party or any other person has:
 - (i) made demand on any Security Provider other than the Grantor;

- (ii) given notice to any Security Provider (other than the Grantor) or any other person in respect of any thing; or
- (iii) taken any other steps against any Security Provider (other than the Grantor) or any other person;
- (b) whether or not any Secured Obligations is then due and payable; and
- (c) despite the occurrence of any event described in clause 12.2 (*Unconditional nature of obligations*).

12.2 Unconditional nature of obligations

- (a) The Security of the Grantor granted under this deed and the obligations of the Grantor under the Finance Documents are absolute, binding and unconditional in all circumstances.
- (b) The Security of the Grantor granted under this deed and the obligations of the Grantor under the Finance Documents are not released or discharged or otherwise affected by anything which but for this provision might have that effect, including:
 - (i) the grant to any Security Provider or any other person of any time, waiver, covenant not to sue or other indulgence;
 - (ii) the release (including a release as part of any novation) or discharge of any Security Provider or any other person;
 - (iii) the cessation of the obligations, in whole or in part, of any Security Provider or any other person under a Finance Document or any other document or agreement;
 - (iv) the Liquidation of any Security Provider or any other person;
 - (v) any arrangement, composition or compromise entered into by the Secured Party, any Security Provider or any other person;
 - (vi) any Finance Document or another document or agreement being in whole or in part illegal, void, voidable, avoided, unenforceable or otherwise of limited force or effect;
 - (vii) any extinguishment, failure, loss, release, discharge, abandonment, impairment, compounding, composition or compromise, in whole or in part of any Finance Document or another document or agreement;
 - (viii) any alteration, amendment, variation, supplement, renewal or replacement of a Finance Document or any other document or agreement;
 - (ix) any moratorium or other suspension of a Power;
 - (x) the Secured Party, a Controller or Attorney exercising or enforcing, delaying or refraining from exercising or enforcing, or not being entitled or unable to exercise or enforce any Power;
 - (xi) the Secured Party obtaining a judgment against any Security Provider or any other person for the payment of any of the Secured Obligations;

- (xii) any transaction, agreement or arrangement that may take place with the Secured Party, any Security Provider or any other person;
 - (xiii) any payment to the Secured Party, a Controller or an Attorney, including any payment which at the payment date or at any time after the payment date is, in whole or in part, illegal, void, voidable, avoided or unenforceable;
 - (xiv) any failure to give effective notice to any Security Provider or any other person of any default under a Finance Document or another document or agreement;
 - (xv) any legal limitation, disability or incapacity of any Security Provider or of any other person;
 - (xvi) any breach of a Finance Document or another document or agreement;
 - (xvii) the acceptance of the repudiation of, or termination of, a Finance Document or another document or agreement;
 - (xviii) any Secured Obligations being irrecoverable for any reason;
 - (xix) any disclaimer by any Security Provider or any other person of any Finance Document or any other document or agreement;
 - (xx) any assignment, novation, assumption or transfer of, or other dealing with, any Powers or any other rights or obligations under a Finance Document or any other document or agreement;
 - (xxi) the opening of a new account of any Security Provider with the Secured Party or any transaction on or relating to the new account;
 - (xxii) any prejudice (including, material prejudice) to a person as a result of any thing done, or omitted by the Secured Party, any Security Provider or any other person;
 - (xxiii) any prejudice (including, material prejudice) to a person as a result of a failure or neglect by the Secured Party, a Controller or an Attorney or any other person to recover the Secured Obligations from any Security Provider;
 - (xxiv) any prejudice (including, material prejudice) to any person as a result of any other thing;
 - (xxv) the receipt by the Secured Party of any dividend, distribution or other payment in respect of any Liquidation;
 - (xxvi) the failure of any other Security Provider or any other person to execute any Finance Document or any other document; or
 - (xxvii) any other act, omission, matter or thing whatsoever whether negligent or not.
- (c) Paragraphs (a) and (b) apply irrespective of:
- (i) the consent or knowledge or lack of consent or knowledge, of the Secured Party, any Security Provider or any other person of any event described in paragraph (b); or
 - (ii) any rule of law or equity to the contrary

12.3 No competition

- (a) At any time while any Secured Obligations which are due and payable remain unpaid (unless each Security granted under this deed has been fully discharged under clause 3 (*Discharge of Security*)), except to the extent permitted by any other Finance Document, the Grantor is not entitled to:
- (i) be subrogated to the Secured Party;
 - (ii) claim or receive the benefit of any Security, guarantee (including any Finance Document) or other document or agreement of which the Secured Party has the benefit;
 - (iii) claim or receive the benefit of any Power;
 - (iv) claim or receive the benefit of any moneys held by the Secured Party;
 - (v) make a claim or exercise or enforce any right, power or remedy (including under a Security or guarantee or by way of contribution) against any Security Provider liable to pay the Secured Obligations;
 - (vi) either directly or indirectly prove in, claim or receive the benefit of any distribution, dividend or payment arising out of or relating to the Liquidation of any Security Provider, except in accordance with paragraph (b);
 - (vii) accept, procure the grant of, or allow to exist any Security in favour of the Grantor from any Security Provider liable to pay the Secured Obligations;
 - (viii) exercise or attempt to exercise any right of set off against, nor realise any Security taken from, any Security Provider liable to pay the Secured Obligations; or
 - (ix) raise any defence or counterclaim in reduction or discharge of its obligations under the Finance Documents.
- (b) If required by the Secured Party, the Grantor must prove in any Liquidation of any Security Provider liable to pay the Secured Obligations for all moneys owed to the Grantor.
- (c) All moneys recovered by the Grantor from any Liquidation or under any Security from any Security Provider must be received by the Grantor and paid to the Secured Party to the extent of the unsatisfied liability of the Grantor under the Finance Documents.
- (d) The Grantor must not do or seek, attempt or purport to do anything referred to in paragraph (a).

12.4 No challenge of disposal

The Grantor agrees that if the Secured Party, a Controller or an Attorney disposes of the Secured Property in accordance with this deed, the Grantor will not challenge the acquirer's right to the Secured Property and will not seek to reclaim that property or asset.

13 PPS Law

13.1 Exclusion of certain PPS Law provisions

Without limiting clause 6 (*Enforcement*), to the extent the law permits:

- (a) for the purposes of sections 115(1) and 115(7) of the PPSA:
 - (i) the Secured Party need not comply with sections 95, 118, 121(4), 125, 130, 132(3)(d) or 132(4); and
 - (ii) sections 142 and 143 are excluded;
- (b) for the purposes of section 115(7) of the PPSA, the Secured Party need not comply with sections 132 and 137(3);
- (c) if the PPSA is amended after the date of this deed to permit the Grantor and the Secured Party to agree to not comply with or to exclude other provisions of the PPS Law, the Secured Party may notify the Grantor that any of these provisions is excluded, or that the Secured Party need not comply with any of these provisions, as notified to the Grantor by the Secured Party; and
- (d) the Grantor agrees not to exercise its rights to make any request of the Secured Party under section 275 of the PPSA, to authorise the disclosure of any information under that section or to waive any duty of confidence that would otherwise permit non-disclosure under that section.

13.2 Exercise of rights by Secured Party

If the Secured Party exercises a Power in connection with this deed, that exercise is taken not to be an exercise of a Power under the PPS Law unless the Secured Party states otherwise at the time of exercise. However, this clause does not apply to a right, power or remedy which can only be exercised under the PPS Law.

13.3 Other Powers not affected

Where the Secured Party, Controller or an Attorney has Powers in addition to, or existing separately from, those in Chapter 4 of the PPSA, those Powers will continue to apply and are not limited or excluded (or otherwise adversely affected) by the PPS Law. This is despite clause 13.1 (*Exclusion of certain PPS Law provisions*) or any other provision of a Finance Document.

13.4 Notices

Despite clause 13.1 (*Exclusion of certain PPS Law provisions*), notices or documents required or permitted to be given to the Secured Party for the purposes of the PPS Law must be given in accordance with the PPS Law.

13.5 Registration on the PPSR and other registers

- (a) The Grantor consents to the Secured Party effecting a registration on the PPSR (in any manner the Secured Party considers appropriate, including as a purchase money security interest), or giving any notification, in relation to any Security granted under or in connection with this deed. The Grantor agrees not to make any amendment demand.

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

13.6 Details of source

The Grantor agrees, if requested by the Secured Party, to promptly provide to the Secured Party a certified copy of each source or source document necessary (in the Secured Party's opinion), for the purposes of the PPS Regulations, to verify the information set out in this deed or otherwise provided to the Secured Party under this deed.

13.7 Confidentiality

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

13.8 Appointment of nominee for registration

For the purposes of section 153 of the PPSA, the Secured Party appoints the Grantor as its nominee, and authorises the Grantor to act on its behalf, in connection with a registration under the PPS Law of any Security in favour of the Grantor which is:

- (a) perfected by registration under the PPS Law; and
- (b) transferred to the Secured Party under this deed.

This authority ceases when the registration is transferred to the Secured Party.

14 General

14.1 Notices

Any notice or other communication including any request, demand, consent or approval, to or by a party to this deed must be given in accordance with the notice requirements of the Facility Agreement.

14.2 Performance by Secured Party of Grantor's obligations

If the Grantor fails to perform an obligation in a Finance Document, the Secured Party may do all things which the Secured Party considers necessary or desirable to make good or attempt to make good that failure without adversely affecting a Power of the Secured Party

14.3 Grantor to bear cost

Any thing which must be done by the Grantor under this deed, whether or not at the request of the Secured Party, is to be done at the cost of the Grantor unless otherwise provided in a Finance Document

14.4 Authority to fill in blanks

The Grantor agrees that:

- (a) the Secured Party may fill in any blanks in this deed or a document connected with this deed (such as Corporations Act forms and PPS Law forms (including financing statements and financing change statements)); and
- (b) at any time after a Security of the Grantor created under this deed has become enforceable, the Secured Party, a Controller, Attorney or any Authorised Officer of the Secured Party may complete, in favour of the Secured Party, any appointee of the Secured Party or any purchaser, any instrument or transfer executed in blank by or on behalf of the Grantor and deposited with the Secured Party under this deed.

14.5 Consent of Secured Party

- (a) Whenever the doing of anything by the Grantor is dependent upon the consent of the Secured Party, a Controller or an Attorney, the Secured Party, Controller or Attorney may withhold its consent or give it conditionally or unconditionally in its absolute discretion unless expressly stated otherwise in a Finance Document.
- (b) Any conditions imposed on the Grantor under paragraph (a) must be complied with by the Grantor.

14.6 Prompt performance

- (a) If this deed specifies when the Grantor agrees to perform an obligation, the Grantor agrees to perform it by the time specified. The Grantor agrees to perform all other obligations promptly.
- (b) Time is of the essence in this deed in respect of an obligation to pay money.

14.7 Discretion in exercising rights

The Secured Party, a Controller or an Attorney may each exercise a right or remedy or give or refuse its consent in any way it considers appropriate (including by imposing conditions), unless this deed expressly states otherwise.

14.8 Partial exercising of rights

If the Secured Party, a Controller or an Attorney does not exercise a Power fully or at a given time, the Secured Party, the Controller or Attorney may still exercise it later.

14.9 No assignment

- (a) The Grantor may not assign or novate any of its rights and obligations under this deed without the prior written consent of the Secured Party.
- (b) Subject to any Finance Document, the Secured Party may assign or novate any of its rights and obligations under this deed without the consent of the Grantor.

14.10 Amendments and waivers

No amendment or waiver of any provision of this deed is effective unless made or given in accordance with the terms of the Facility Agreement.

14.11 Remedies and waivers

No failure to exercise, nor any delay in exercising, on the part of the Secured Party, 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 in this deed are cumulative and not exclusive of any rights or remedies provided by law.

14.12 Severability

Any term of this deed which is wholly or partially void or unenforceable is severed to the extent that it is void or unenforceable. The validity or enforceability of the remainder of this deed is not affected.

14.13 Partial Invalidity

If, at any time, any provision of this deed is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability 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.

14.14 Cumulative rights

Except as expressly provided in this deed, the rights of the Secured Party, a Controller and an Attorney under this deed are in addition to and do not exclude or limit any other rights or remedies provided by law and where the Secured Party, Controller or an Attorney has Powers in addition to, or existing separately from, those in Chapter 4 of the PPS Law, those Powers will continue to apply and are not limited or excluded (or otherwise adversely affected) by the PPS Law.

14.15 Counterparts

- (a) The parties acknowledge and agree that:
 - (i) a party may sign this deed electronically and bind itself to this deed by executing in that manner; and
 - (ii) a party's signature (whether affixed to this deed electronically or in handwriting) may be witnessed remotely in accordance with any applicable laws
- (b) A party whose signature appears in this deed (whether affixed electronically or in handwriting) acknowledges that it is their signature and that such party affixed (or expressly authorised the affixing of) their signature to this deed.
- (c) This deed may be executed in any number of counterparts, each of which:
 - (i) may be executed electronically or in handwriting; and
 - (ii) will be deemed an original whether kept in electronic or paper form, and all of which taken together will constitute one and the same document.

Without limiting the foregoing, if the signatures of, or on behalf of, one party are on more than one copy of this deed, this shall be taken to be the same as, and have the same effect as, if all of those signatures were on the same counterpart of this deed and the parties acknowledge that each such copy executed by a company registered under the Corporations Act will have been executed in a manner consistent with section 127 of the Corporations Act.

- (d) If this deed is signed electronically, the parties' intention is to print this deed out after all parties that have signed electronically have done so, so that where a party

prints it out, the first print-out by that party after all signatories who have signed electronically have done so will also be an executed original counterpart of this deed.

14.16 Attorneys

Each of the attorneys executing this deed states that the attorney has no notice of the revocation or suspension of the power of attorney appointing that attorney.

14.17 Governing law

This deed is governed by and shall be construed in accordance with the New South Wales law.

14.18 Jurisdiction

- (a) The courts having jurisdiction in New South Wales have exclusive jurisdiction to settle any dispute arising out of or in connection with this deed (including a dispute regarding the existence, validity or termination of this deed) and including any non-contractual matters (a **Dispute**).
- (b) The parties to this deed agree that those courts are the most appropriate and convenient courts to settle Disputes and accordingly no party to this deed will argue to the contrary.
- (c) Each party to this deed irrevocably waives any objection it may now or in the future have to the venue of any proceedings, and any claim it may now or in the future have that any proceedings have been brought in an inconvenient forum, where that venue falls within paragraph (a).
- (d) The Grantor irrevocably waives any immunity in respect of its obligations under this deed that it may acquire from the jurisdiction of any court or any legal process for any reason.

14.19 Service of Process

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

- (a) irrevocably appoints HH Australia Pty Ltd (ACN 150 535 461), as its agent for service of process in relation to any proceedings in connection with this deed; and
- (b) agrees that failure by a process agent to notify the Grantor of the process will not invalidate the proceedings concerned.

Each party to this deed expressly agrees and consents to the provisions of this clause 14.19 (*Service of Process*).

Schedule 1 Issuer Marketable Securities

Grantor	Issuer	Description of Marketable Securities	Number of Marketable Securities	Amount paid per share (A\$)	Fully paid	Certificate number of Marketable Securities
HH Global Limited	HH Australia Pty Ltd (ACN 150 535 461)	Ordinary Shares	300	1	Y	12

Execution page

Executed as a deed.

Grantor

Signed, sealed and delivered by **HH Global Limited** in the presence of:

Seal

Signature of director

Signature of director/ company secretary

Name of director (print)

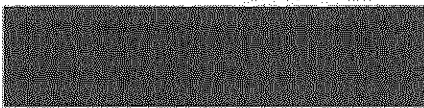
Name of director/ company secretary (print)

Execution page

Executed as a deed.

Grantor

Signed, sealed and delivered by HH Global
Limited in the presence of:



Signature of director

MICHAEL EDWARD PEREZ

Name of director (print)



Signature of director/ company secretary

Name of director/ company secretary (print)

Secured Party

Signed, sealed and delivered by Wilmington
Trust (London) Limited in the presence of:

Seal


Signature of witness

Terry Herridge
Assistant Vice President

Name of witness (print)


Signature of authorised signatory

Antony Girling
Vice President

Name of authorised signatory (print)