



**Registration of a Charge**

Company Name: **JUNGHEINRICH FINANCIAL SERVICES LIMITED**

Company Number: **05836857**



Received for filing in Electronic Format on the: **12/01/2022**

XAVJHCSZ

**Details of Charge**

Date of creation: **29/12/2021**

Charge code: **0583 6857 0037**

Persons entitled: **DE LAGE LANDEN LEASING LIMITED**

Brief description: **NONE**

**Contains fixed charge(s).**

**Contains floating charge(s) .**

**Contains negative pledge.**

**Authentication of Form**

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

**Authentication of Instrument**

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

Certified by: **MADELEINE BARROW**



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

Company number: 5836857

Charge code: 0583 6857 0037

The Registrar of Companies for England and Wales hereby certifies that a charge dated 29th December 2021 and created by JUNGHEINRICH FINANCIAL SERVICES LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 12th January 2022 .

Given at Companies House, Cardiff on 13th January 2022

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



**Companies House**



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

**DATED 29 DECEMBER 2021**

**JUNGHEINRICH FINANCIAL SERVICES  
LIMITED**  
*as JFS*

**and**

**DE LAGE LANDEN LEASING LIMITED**  
*as the Lender*

**FIXED AND FLOATING CHARGE  
(SUPPLEMENTAL JFS MLA AND MASL CHARGE)**

THIS DEED is dated 29 December 2021 and is effective on the Effective Date

## **PARTIES**

- (1) Jungheinrich Financial Services Limited a company incorporated under the law of England and Wales with company number 5836857 and having its registered office at Sherbourne House, Sherbourne Drive, Tilbrook, Milton Keynes, Buckinghamshire, MK7 8HX, United Kingdom (“**JFS**”); and
- (2) De Lage Landen Leasing Limited incorporated and registered in England whose registered office is at Building 7, Croxley Park, Hatters Lane, Watford, Herts, WD18 8YN (“**Lender**”).

## **BACKGROUND**

- (A) The Lender has agreed, pursuant to the Amendment Agreement (defined below), to consent to the accession of JFS to the Master Agreements (as defined below) initially entered into between Jungheinrich Lift Truck Finance (“**JLTF**”) and the Lender.
- (B) JFS will be provided with the secured term loan facility under the MLA for the purpose of purchasing or refinancing Equipment supplied by Jungheinrich UK Limited (“**JHUK**”) and leased to certain end user customers.
- (C) JFS shall grant security to the Lender to secure its obligations arising under the Master Agreements as amended by the Amendment Agreement.

## **AGREED TERMS**

### **1. DEFINITIONS AND INTERPRETATION**

#### **1.1 Definitions**

The following definitions apply in this deed:

**Amendment Agreement** means the, the Assignment, Assumption and Amendment Agreement between, among others, JFS and the Lender, dated on or about the date of this Deed.

**Business Day** means a day (other than a Saturday or Sunday) on which commercial banks are open for general business in London and Amsterdam.

**Charged Property** means the Equipment (other than Equipment owned by the Lender) and Related Rights.

**Customer** means a customer of JFS who is an end user of the Equipment.

**Customer Agreement** means any agreement pursuant to which a Customer uses, hires or has possession or control of the Equipment

**Delegate** means any person appointed by the Lender or any Receiver pursuant to clause 13, and any person appointed as attorney of the Lender, Receiver or Delegate.

**Effective Date** means 1 January 2022.

**Environment** means the natural and man-made environment including all or any of the following media, namely air, water and land (including air within buildings and other natural or man-made structures above or below the ground) and any living organisms (including man) or systems supported by those media.

**Environmental Law** means all applicable laws, statutes, regulations, secondary

legislation, byelaws, common law, directives, treaties and other measures, judgments and decisions of any court or tribunal, codes of practice and guidance notes in so far as they relate to or apply to the Environment.

**Equipment** means (i) all equipment supplied by JHUK or such other supplier as may be approved by the Lender, which is purchased or to be purchased by JFS using the proceeds of a Loan, as more particularly described in the Loan Schedule for such Loan (including any component parts of those assets from time to time held by JFS (whether or not attached to those assets)); and (ii) all equipment supplied on lease by the Lender to JFS pursuant to the MASL, in each case together with all additions, alterations, substitutions, replacements, renewals or modifications of or to those assets from time to time, and all accessories to those assets from time to time (including maintenance and other records, manuals, handbooks, data, drawings and schematics relating to those assets or documents relating to warranties and patent indemnities given by manufacturers or suppliers of those assets).

**Event of Default** has the meaning given to that expression in the MLA.

**Insolvency Event** means each of the events specified in clauses 16.4 (*Insolvency*), 16.5 (*Creditors Process*) or 16.6 (*Cessation of business*) of the MLA.

**Master Agreements** means the master loan agreement as amended by the Amendment Agreement between, *inter alios*, JFS and the Lender dated on or around the date of this deed (the “**MLA**”) and the master agreement sale and lease back between, *inter alios*, JFS and the Lender dated 30 November 2006 (the “**MASL**”) as amended from time to time.

**Lease** means each lease, hire purchase or rental agreement in respect of the Equipment which incorporates the terms of the MASL.

**Loan** means a loan made or to be made by the Lender to JFS under the Master Agreement or the principal amount outstanding for the time being of that loan.

**Loan Schedule** means a loan schedule entered into between JFS and the Lender pursuant to and incorporating the terms of the MLA, pursuant to which the Lender advances a Loan to JFS.

**LPA 1925** means the Law of Property Act 1925.

**Receiver** means a receiver, manager or receiver and manager of any or all of the Charged Property.

**Related Rights** means in relation to the Equipment (or any item thereof)

- (a) The benefit of each Relevant Agreement (including, without limitation, the right to receive payments thereunder);
- (b) The proceeds of sale and/or other realisation of such Equipment (or any part thereof or interest therein);
- (c) Any insurance proceeds received in respect of the Equipment;
- (d) The benefit of all other contracts, guarantees, appointments, warranties relating to the Equipment and other documents to which JFS is a party, which are in its favour or of which it has the benefit (including, in each case, but without limitation, the right to demand and receive all monies whatsoever payable to or for its benefit under or arising from any of them, all remedies provided for in any of them or available at law or in equity in relation to any of them, the right to compel performance of any of them and all other

rights, interests and benefits whatsoever accruing to or for its benefit arising from any of them); and

- (e) All authorisations (statutory or otherwise) held or required in connection with the use of any Charged Property, and all rights in connection with them.

**Relevant Agreement** means:

- (a) any agreement between JFS and certain Customers in respect of the hiring, hire purchase, leasing or possession by the customers of the Equipment (“**Leases**”);
- (b) all guarantees, indemnities and other securities, assurances and benefits of whatever nature from time to time held by JFS in respect of all or any of the Leases or the Equipment; and
- (c) each agreement for the maintenance, repair or upkeep of the Equipment and any guarantee, warranty or security for the performance of any such agreement to which JFS is a party or from which JFS obtains a benefit or right. Secured Liabilities means all present and future monies, obligations and liabilities owed by JFS to the Lender, whether actual or contingent and whether owed jointly or severally, as principal or surety or in any other capacity, under or in connection with the Master Agreements or this deed (including, without limitation, those arising under clause 19.3(b) of the MLA), together with all interest (including, without limitation, default interest) accruing in respect of such monies or liabilities.

**Security** means any mortgage, charge (whether fixed or floating, legal or equitable), pledge, lien, assignment by way of security or other security interest securing any obligation of any person, or any other agreement or arrangement having a similar effect.

**Security Period** means the period starting on the date of this deed and ending on the date on which the Lender is satisfied that all the Secured Liabilities have been unconditionally and irrevocably paid, being discharged in full and no further Secured Liabilities are capable of being outstanding.

## 1.2 Interpretation

In this deed:

- (a) reference to a statute, statutory provision or subordinate legislation is a reference to it as it is in force for the time being, taking account of any amendment or re-enactment or extension and includes any former statute, statutory provision or subordinate legislation which it amends or re-enacts;
- (b) unless the context otherwise requires, a reference to one gender shall include a reference to the other genders;
- (c) unless the context otherwise requires, words in the singular include the plural and in the plural include the singular;
- (d) a reference to a clause or Schedule is to a clause of, or Schedule to, this deed and references to paragraphs are to paragraphs of the relevant Schedule, unless the context otherwise requires;
- (e) a reference to “continuing” in relation to an Event of Default means an Event of Default which has not been remedied or waived;
- (f) a reference to “this deed” (or any provision of it) or any other document shall be construed as a reference to this deed, that provision or that document as it is in force for the time being and as amended in accordance with its terms or with the agreement of the relevant parties;

- (g) a reference to a “person” shall include a reference to an individual, firm, company, corporation, partnership, unincorporated body of persons, or any state or any agency of any person;
- (h) a reference to an “amendment” includes a novation, re-enactment, supplement or variation (and “amended” shall be construed accordingly);
- (i) a reference to “assets” includes present and future properties, undertakings, revenues, rights and benefits of every description;
- (j) a reference to an “authorisation” includes an approval, authorisation, consent, exemption, filing, licence, notarisation, registration and resolution;
- (k) a reference to a “regulation” includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, inter-governmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;
- (l) a reference to “determines” or “determined” means, unless the contrary is indicated, a determination made at the discretion of the person making it;
- (m) clause, schedule and paragraph headings shall not affect the interpretation of this deed; and
- (n) where any statement is qualified by the expression “so far as a party is aware or to a party’s knowledge” or any similar expression, that statement shall be deemed to include an additional statement that it has been made after due and careful enquiry.

### **1.3 Claw-back**

If the Lender considers that an amount paid by JFS in respect of the Secured Liabilities is capable of being avoided or otherwise set aside on the liquidation or administration of JFS or otherwise, then that amount shall not be considered to have been irrevocably paid for the purposes of this deed.

### **1.4 Third-party rights**

A third party (being any person other than JFS, the Lender and its permitted successors and assigns, any Receiver and any Delegate) has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce, or enjoy the benefit of, any term of this deed.

### **1.5 Perpetuity period**

If the rule against perpetuities applies to any trust created by this deed, the perpetuity period shall be 125 years (as specified by section 5(1) of the Perpetuities and Accumulations Act 2009).

### **1.6 Schedules**

The schedules form part of this deed and shall have effect as if set out in full in the body of this deed. Any reference to this deed includes the schedules.

## **2. COVENANT TO PAY**

JFS covenants with the Lender that it will perform its obligations under and in accordance with the Master Agreements and each Loan Schedule and each Lease and shall pay to the Lender and discharge the Secured Liabilities when they become due or otherwise on demand by the Lender.

### **3. GRANT OF SECURITY**

#### **3.1 Fixed charge**

As a continuing security for the payment and discharge of the Secured Liabilities, JFS with full title guarantee charges to the Lender by way of first fixed charge:

- (a) All of the Equipment (other than any Equipment which is owned by the Lender);
- (b) If not effectively assigned by way of security pursuant to clause 3.2, all the Related Rights.

#### **3.2 Assignment**

As a continuing security for the payment and discharge of the Secured Liabilities, JFS with full title guarantee (subject to the rights of any Customer under a Customer Agreement) assigns to the Lender, subject to a proviso for reassignment on irrevocable discharge in full of the Secured Liabilities, all its right title and interest in the Related Rights.

#### **3.3 Floating Charge**

As further security for the discharge of the Secured Liabilities, JFS charges with full title guarantee (subject to the rights of the Customer under any Customer Agreement) in favour of the Lender by way of first floating charge any and all such Equipment (other than any Equipment which is owned by the Lender) and Related Rights as may not be charged by way of first fixed charge under clause 3.1 (*Fixed Charge*) (*"Floating Charge Assets"*).

#### **3.4 Conversion of a Floating Charge by Notice**

If:

- (a) An Event of Default has occurred and is continuing; or
- (b) The Lender is of the view (acting reasonably) that any legal process or execution is being enforced against any Floating Charge Asset or that any Floating Charge Asset is in danger of being seized, sold or otherwise in jeopardy,

The Lender may, by notice to JFS, convert the floating charge created under this Deed into a fixed charge as regards the Equipment specified in that notice. JFS shall promptly, following such request by the Lender, execute a fixed charge over such Equipment in such form as the Lender may require.

#### **3.5 Automatic conversion of a floating charge**

If:

- (a) Either JFS or any Customer, without the prior consent of the Lender, creates any security over all or any of the Charged Property or attempts to do so;
- (b) Any person levies or attempts to levy any distress, attachment, execution or other legal process against any of the Charged Property;
- (c) An Insolvency Event occurs in respect of JFS,

then the floating charge created by this Deed over the Floating Charge Assets will automatically, without notice, be converted into a fixed charge as soon as such event occurs. JFS will take all further action requested by JFS to give effect



to the fixed charge created pursuant to this clause 3.5.

#### **4. LIABILITY OF JFS**

##### **4.1 Liability not discharged**

JFS' liability under this deed in respect of any of the Secured Liabilities shall not be discharged, prejudiced or affected by:

- (a) any security, guarantee, indemnity, remedy or other right held by, or available to, the Lender that is or becomes wholly or partially illegal, void or unenforceable on any ground;
- (b) the Lender renewing, determining, varying or increasing any facility or other transaction in any manner or concurring in, accepting or varying any compromise, arrangement or settlement, or omitting to claim or enforce payment from any other person; or
- (c) any other act or omission, which but for this clause 4.1 might have discharged, or otherwise prejudiced or affected, the liability of JFS.

##### **4.2 Immediate recourse**

JFS waives any right it may have to require the Lender to enforce any security or other right, or claim any payment from, or otherwise proceed against, any other person before enforcing this deed against JFS.

#### **5. REPRESENTATIONS AND WARRANTIES**

##### **5.1 Representations and warranties**

JFS makes the representations and warranties set out in this clause 5 to the Lender.

##### **5.2 Ownership of Charged Property**

JFS is the legal and beneficial owner of, and has good, valid and marketable title to the Charged Property.

##### **5.3 No Security**

The Charged Property is free from any Security other than the Security created by this deed or otherwise in favour of the Lender.

##### **5.4 No adverse claims**

JFS has not received, or acknowledged notice of, any adverse claim by any person in respect of the Charged Property or any interest in it.

##### **5.5 No fixing**

None of the Equipment (or any part of them) is or will be treated as being fixed to any land, premises or other property.

##### **5.6 Avoidance of security**

No Security expressed to be created under this deed is liable to be avoided, or otherwise set aside, on the liquidation or administration of JFS or otherwise.

**5.7 No prohibitions**

There is no prohibition on assignment in any Relevant Agreement, and the entry into this deed by JFS does not and will not constitute a breach of any Relevant Agreement or any other agreement, instrument or obligation binding on JFS or its assets.

**5.8 Enforceable security**

This deed constitutes and will constitute the legal, valid, binding and enforceable obligations of JFS and is and will continue to be effective security over all and every part of the Charged Property in accordance with its terms.

**5.9 Times for making representations and warranties**

The representations and warranties set out in this deed are made by JFS on the date of this deed are deemed to be repeated on each day of the Security Period with reference to the facts and circumstances existing at the time of repetition.

**6. COVENANTS**

**6.1 Negative pledge and disposal restrictions**

JFS shall not at any time, except with the prior written consent of the Lender:

- (a) create, purport to create or permit to subsist any Security on, or in relation to, any Charged Property other than any Security created by this deed or otherwise in favour of the Lender;
- (b) create or grant (or purport to create or grant) any interest in any Charged Property in favour of a third party,

except as permitted under the Master Agreements.

**6.2 Preservation of Charged Property**

JFS shall not do, or permit to be done, any act or thing that would or might depreciate, jeopardise or otherwise prejudice the security held by the Lender or diminish the value of any of the Charged Property (except for expected fair wear and tear) or the effectiveness of the security created by this deed.

**6.3 JFS' waiver of set-off**

JFS waives any present or future right of set-off it may have in respect of the Secured Liabilities (including sums payable by JFS under this deed).

**6.4 Compliance with laws and regulations**

JFS:

- (a) shall not, without the Lender's prior written consent, use or permit the Charged Property to be used in any way contrary to law;
- (b) shall:
  - (i) comply with the requirements of any law and regulation relating to or affecting the Charged Property or the use of it or any part of it;
  - (ii) obtain, and promptly renew from time to time, and comply with the terms of all authorisations that are required in connection with the Charged Property or its use or that are necessary to preserve, maintain or renew any Charged Property; and

- (iii) promptly effect any maintenance, modifications, alterations or repairs that are required by any law or regulation to be effected on or in connection with the Charged Property.

#### **6.5 Enforcement of rights**

JFS shall use its best endeavours to:

- (a) procure the prompt observance and performance of the covenants and other obligations imposed on the JFS' counterparties; and
- (b) enforce any rights and institute, continue or defend any proceedings relating to any of the Charged Property that the Lender may require from time to time.

#### **6.6 Notice of misrepresentations and breaches**

JFS shall, promptly on becoming aware of any of the same, notify the Lender in writing of:

- (a) any representation or warranty set out in clause 5 which is incorrect or misleading in any material respect when made or deemed to be repeated; and
- (b) any breach of any covenant set out in this deed.

#### **6.7 Notices to be given by JFS**

JFS shall:

- (a) Upon the occurrence of an Event of Default which is continuing:
  - (i) give notice to the other parties to each Relevant Agreement of the assignment of JFS' rights and interest in and under that Relevant Agreement pursuant to clause 3.2 and procure that each addressee of such notice will promptly provide an acknowledgement of the Lender's interest to the Lender; and
  - (ii) give notice to the other parties to each other contract, guarantee, appointment, warranty or authorisation relating to the Equipment and any other document to which JFS is a party of the assignment of JFS' rights and interest in and under it pursuant to clause 3.2 and procure that each addressee of such notice will promptly provide an acknowledgement of the Lender's interest to the Lender.
- (b) obtain the Lender's prior approval of the form of any notice or acknowledgement to be used under this clause 6.7.

#### **6.8 Information**

JFS shall:

- (a) give the Lender such information concerning the location, condition, use and operation of the Charged Property as the Lender may require;
- (b) permit any persons designated by the Lender and any Receiver to enter on its premises and inspect and examine any Charged Property located at its premises, and the records relating to the Charged Property, at all reasonable times and on reasonable prior notice.

## **6.9 Annexation**

- (a) JFS shall not, without the Lender's prior written consent, annex, fix or otherwise secure or allow any such annexation, fixing or securing of any Equipment to any premises, land or buildings if the result of such action or omission is that the Equipment, or any part of it, would or might become a fixture or fitting.
- (b) JFS shall, if required by the Lender, in the case of any Charged Property located on leasehold premises, obtain or procure that a Customer obtains evidence in writing from any lessor of such premises that it waives absolutely all and any rights it may have now or at any time over any such Charged Property.

## **6.10 Registration restrictions**

JFS shall procure that no person shall be registered as proprietor of any Equipment without the prior written consent of the Lender.

## **6.11 Environment**

JFS shall, in respect of each Equipment:

- (a) comply with all the requirements of Environmental Law both in the conduct of its general business and in the management, possession or use of that Equipment; and
- (b) obtain and comply with all authorisations, permits and other types of licences necessary under Environmental Law.

## **7. FURTHER ASSURANCE**

JFS shall, at its own expense, take whatever action the Lender or any Receiver may reasonably require for:

- (a) creating, perfecting or protecting the security intended to be created by this deed;
- (b) facilitating the realisation of any of the Charged Property; or
- (c) facilitating the exercise of any right, power, authority or discretion exercisable by the Lender or any Receiver in respect of any of the Charged Property, including, without limitation, if the Lender or Receiver thinks it expedient, the execution of any transfer, conveyance, assignment or assurance of all or any of the assets forming part of, or intended to form part of, the Charged Property (whether to the Lender or to its nominee) and the giving of any notice, order or direction and the making of any registration.

## **8. POWERS OF THE LENDER**

### **8.1 Power to remedy**

- (a) The Lender shall be entitled (but shall not be obliged) to remedy, at any time, a breach by JFS of any of its obligations contained in this deed.
- (b) JFS irrevocably authorises the Lender and its agents to do all such things as are necessary or desirable for that purpose.
- (c) Any monies expended by the Lender in remedying a breach by JFS of its obligations contained in this deed, shall be reimbursed by JFS to the Lender on a full indemnity basis and shall carry interest in accordance with clause 15.1.

## **8.2 Exercise of rights**

The rights of the Lender under clause 8.1 are without prejudice to any other rights of the Lender under this deed.

## **8.3 Lender has Receiver's powers**

To the extent permitted by law, any right, power or discretion conferred by this deed on a Receiver may, after the security constituted by this deed has become enforceable, be exercised by the Lender in relation to any of the Charged Property notwithstanding the appointment of a Receiver.

## **8.4 New accounts**

- (a) If the Lender receives, or is deemed to have received, notice of any subsequent Security, or other interest, affecting all or part of the Charged Property, the Lender may open a new account for JFS in the Lender's books. Without prejudice to the Lender's right to combine accounts, no money paid to the credit of JFS in any such new account shall be appropriated towards, or have the effect of discharging, any part of the Secured Liabilities.
- (b) If the Lender does not open a new account immediately on receipt of the notice, or deemed notice, under clause 8.4(a), then, unless the Lender gives express written notice to the contrary to JFS, all payments made by JFS to the Lender shall be treated as having been credited to a new account of JFS and not as having been applied in reduction of the Secured Liabilities, as from the time of receipt of the relevant notice by the Lender.

## **8.5 Lender's set-off rights**

If the Lender has more than one account for JFS in its books, the Lender may at any time after:

- (a) the security constituted by this deed has become enforceable; or
- (b) the Lender has received, or is deemed to have received, notice of any subsequent Security or other interest affecting all or any part of the Charged Property,

transfer, without prior notice, all or any part of the balance standing to the credit of any account to any other account which may be in debit. After making any such transfer, the Lender shall notify JFS of that transfer.

## **8.6 Indulgence**

The Lender may, at its discretion, grant time or other indulgence or make any other arrangement, variation or release with any person not being a party to this deed (whether or not such person is jointly liable with JFS) in respect of any of the Secured Liabilities or of any other security for them without prejudice either to this deed or to the liability of JFS for the Secured Liabilities.

# **9. WHEN SECURITY BECOMES ENFORCEABLE**

## **9.1 Security becomes enforceable on Event of Default**

The security constituted by this deed shall be immediately enforceable if an Event of Default occurs.

## **9.2 Discretion**

After the security constituted by this deed has become enforceable, the Lender may, in its absolute discretion, enforce all or any part of that security at the times, in the manner and on the terms it thinks fit.

## **10. ENFORCEMENT OF SECURITY**

### **10.1 Enforcement powers**

- (a) The power of sale and other powers conferred by section 101 of the LPA 1925 (as varied or extended by this deed) shall, as between the Lender and a purchaser from the Lender, arise on and be exercisable at any time after the execution of this deed, but the Lender shall not exercise such power of sale or other powers until the security constituted by this deed has become enforceable under clause 9.1.
- (b) Section 103 of the LPA 1925 (restricting the power of sale) does not apply to the security constituted by this deed.

### **10.2 Access on enforcement**

- (a) At any time after the occurrence of an Event of Default JFS will allow the Lender or its Receiver, without further notice or demand, immediately to exercise all its rights, powers and remedies.
- (b) At all times, JFS must use its best endeavours to allow the Lender or its Receiver access to any of its premises for the purpose of clause 10.2(a) (including obtaining any necessary consents or permits of other persons) and ensure that its employees and officers do the same.

### **10.3 Prior Security**

At any time after the security constituted by this deed has become enforceable, or after any powers conferred by any Security having priority to this deed shall have become exercisable, the Lender may:

- (a) redeem such or any other prior Security;
- (b) procure the transfer of that Security to it; and
- (c) settle and pass any account of the holder of any prior Security.

The settlement and passing of any such account shall, in the absence of any manifest error, be conclusive and binding on JFS. All monies paid by the Lender to an encumbrancer in settlement of such an account shall, as from its payment by the Lender, be due from JFS to the Lender on current account and shall bear interest and be secured as part of the Secured Liabilities.

### **10.4 Protection of third parties**

No purchaser, mortgagee or other person dealing with the Lender, any Receiver or Delegate shall be concerned to enquire:

- (a) whether any of the Secured Liabilities have become due or payable, or remain unpaid or undischarged;
- (b) whether any power the Lender, a Receiver or Delegate is purporting to exercise has become exercisable or is properly exercisable; or
- (c) how any money paid to the Lender, any Receiver or any Delegate is to be applied.

## **10.5 Privileges**

Each Receiver and the Lender is entitled to all the rights, powers, privileges and immunities conferred by the LPA 1925 on mortgagees and receivers.

## **10.6 Conclusive discharge to purchasers**

The receipt of the Lender or any Receiver or Delegate shall be a conclusive discharge to a purchaser and, in making any sale or other disposal of any of the Charged Property or in making any acquisition in the exercise of their respective powers, the Lender, every Receiver and Delegate may do so for such consideration, in such manner and on such terms as it or he thinks fit.

## **11. RECEIVER**

### **11.1 Appointment**

At any time after the security constituted by this deed has become enforceable, or at the request of JFS, the Lender may, without further notice, appoint by way of deed, or otherwise in writing, any one or more person or persons to be a receiver, or a receiver and manager, of all or any part of the Charged Property.

### **11.2 Removal**

The Lender may, without further notice, (subject to section 45 of the Insolvency Act 1986), from time to time, by way of deed, or otherwise in writing, remove any Receiver appointed by it and may, whenever it thinks fit, appoint a new Receiver in the place of any Receiver whose appointment may for any reason have terminated.

### **11.3 Remuneration**

The Lender may fix the remuneration of any Receiver appointed by it without the restrictions contained in section 109 of the LPA 1925, and the remuneration of the Receiver shall be a debt secured by this deed, which shall be due and payable immediately on its being paid by the Lender.

### **11.4 Power of appointment additional to statutory powers**

The power to appoint a Receiver conferred by this deed shall be in addition to all statutory and other powers of the Lender under the Insolvency Act 1986, the LPA 1925 or otherwise, and shall be exercisable without the restrictions contained in sections 103 and 109 of the LPA 1925 or otherwise.

### **11.5 Power of appointment exercisable despite prior appointments**

The power to appoint a Receiver (whether conferred by this deed or by statute) shall be, and remain, exercisable by the Lender despite any prior appointment in respect of all or any part of the Charged Property.

### **11.6 Agent of JFS**

Any Receiver appointed by the Lender under this deed shall be the agent of JFS and JFS shall be solely responsible for the contracts, engagements, acts, omissions, defaults, losses and remuneration of that Receiver and for liabilities incurred by that Receiver. The agency of each Receiver shall continue until JFS goes into liquidation and after that the Receiver shall act as principal and shall not become the agent of the Lender.

## **12. POWERS OF RECEIVER**

### **12.1 General**

- (a) Any Receiver appointed by the Lender under this deed shall, in addition to the powers conferred on him by statute, have the powers set out in clause 12.2 to clause 12.19.
- (b) If there is more than one Receiver holding office at the same time, each Receiver may (unless the document appointing him states otherwise) exercise all of the powers conferred on a Receiver under this deed individually and to the exclusion of any other Receiver.
- (c) Any exercise by a Receiver of any of the powers given by clause 12 may be on behalf of JFS, the directors of JFS or himself.

#### **12.2 Repair and improve Charged Property**

A Receiver may undertake or complete any works or repairs, alterations, additions, replacements or other acts for the protection or improvement of the Charged Property as he thinks fit.

#### **12.3 Grant or surrender leases**

A Receiver may grant, or accept surrenders of, any leases, lettings or hire affecting any of the Equipment on such terms and subject to such conditions as he thinks fit.

#### **12.4 Employ personnel and advisers**

A Receiver may provide services and employ, or engage such managers, officers, servants, contractors, workmen, agents, other personnel and professional advisers on such terms and subject to such conditions as he thinks fit. A Receiver may discharge any such person or any such person appointed by JFS.

#### **12.5 Remuneration**

A Receiver may charge and receive such sum by way of remuneration (in addition to all costs, charges and expenses incurred by him) as the Lender may prescribe or agree with him.

#### **12.6 Realise Charged Property**

A Receiver may collect and get in the Charged Property or any part of it in respect of which he is appointed, and make such demands and take such proceedings as may seem expedient for that purpose, and take possession of the Charged Property with like rights.

#### **12.7 Remove Charged Property**

A Receiver may enter any premises where any Charged Property is located and sever, dismantle and remove any Charged Property from the premises without JFS' consent.

#### **12.8 Manage Charged Property**

A Receiver may do all such things as may be necessary for the ownership, management or operation of the Charged Property.

#### **12.9 Dispose of Charged Property**

A Receiver may grant options and licences over all or any part of the Equipment, sell, assign, lease and accept surrenders of leases of (or concur in selling, assigning, leasing or accepting surrenders of leases of), all or any of the Charged Property in respect of which he is appointed in such manner (including, without limitation, by public auction or private sale) and generally on such terms and conditions as he thinks



fit. Any such sale may be for such consideration as the Receiver thinks fit and a Receiver may promote, or concur in promoting, a company to purchase the Charged Property to be sold.

**12.10 Valid receipts**

A Receiver may give valid receipt for all monies and execute all assurances and things which may be proper or desirable for realising any of the Charged Property.

**12.11 Make settlements**

A Receiver may make any arrangement, settlement or compromise between JFS and any other person which he may think expedient.

**12.12 Bring proceedings**

A Receiver may bring, prosecute, enforce, defend and abandon all actions, suits and proceedings in relation to any of the Charged Property as he thinks fit.

**12.13 Insurance**

A Receiver may, if he thinks fit, but without prejudice to the indemnity in clause 15, effect with any insurer any policy of insurance either in lieu or satisfaction of, or in addition to, such insurance.

**12.14 Powers under LPA 1925**

A Receiver may exercise all powers provided for in the LPA 1925 in the same way as if he had been duly appointed under the LPA 1925, and exercise all powers provided for an administrative receiver in Schedule 1 to the Insolvency Act 1986.

**12.15 Borrow**

A Receiver may, for any of the purposes authorised by this clause 12, raise money by borrowing from the Lender (or from any other person) either unsecured or on the security of all or any of the Charged Property in respect of which he is appointed on such terms as he thinks fit (including, if the Lender consents, terms under which such security ranks in priority to this deed).

**12.16 Redeem prior Security**

A Receiver may redeem any prior Security and settle and pass the accounts to which the Security relates. Any accounts so settled and passed shall be, in the absence of any manifest error, conclusive and binding on JFS, and the monies so paid shall be deemed to be an expense properly incurred by the Receiver.

**12.17 Delegation**

A Receiver may delegate his powers in accordance with this deed.

**12.18 Absolute beneficial owner**

A Receiver may, in relation to any of the Charged Property, exercise all powers, authorisations and rights he would be capable of exercising, and do all such acts and things, as an absolute beneficial owner could exercise or do in the ownership and management of the Charged Property or any part of the Charged Property.

**12.19 Incidental powers**

A Receiver may do all such other acts and things:

- (a) as he may consider desirable or necessary for realising any of the Charged

Property;

- (b) as he may consider incidental or conducive to any of the rights or powers conferred on a Receiver under or by virtue of this deed or law; or
- (c) which he lawfully may or can do as agent for JFS.

### **13. DELEGATION**

#### **13.1 Delegation**

The Lender or any Receiver may delegate (either generally or specifically) by power of attorney or in any other manner to any person any right, power, authority or discretion conferred on it by this deed (including the power of attorney granted under clause 16.1).

#### **13.2 Terms**

Any delegation may be made on such terms and conditions (including the power to sub-delegate) as the Lender or any Receiver may think fit.

#### **13.3 Liability**

Neither the Lender nor any Receiver shall be in any way liable or responsible to JFS for any loss or liability arising from any act, default, omission or misconduct on the part of any Delegate.

### **14. APPLICATION OF PROCEEDS**

#### **14.1 Order of application of proceeds**

All monies received by the Lender, a Receiver or a Delegate pursuant to this deed after the security constituted by this deed has become, shall (subject to the claims of any person having prior rights and by way of variation of the LPA 1925) be applied in the following order of priority:

- (a) in or towards payment of or provision for all costs, charges and expenses incurred by or on behalf of the Lender (and any Receiver, Delegate, attorney or agent appointed by it) under or in connection with this deed, and of all remuneration due to any Receiver under or in connection with this deed;
- (b) in or towards payment of or provision for the Secured Liabilities in such order and manner as the Lender determines; and
- (c) in payment of the surplus (if any) to JFS or other person entitled to it.

#### **14.2 Appropriation**

Neither the Lender, any Receiver nor any Delegate shall be bound (whether by virtue of section 109(8) of the LPA 1925, which is varied accordingly, or otherwise) to pay or appropriate any receipt or payment first towards interest rather than principal or otherwise in any particular order between any of the Secured Liabilities.

#### **14.3 Suspense account**

All monies received by the Lender, a Receiver or a Delegate under this deed:

- (a) may, at the discretion of the Lender, Receiver or Delegate, be credited to any suspense or securities realised account;
- (b) shall bear interest at such rate, if any, as may be agreed in writing between

the Lender and JFS; and

- (c) may be held in such account for so long as the Lender, Receiver or Delegate thinks fit.

## **15. COSTS AND INDEMNITY**

### **15.1 Costs**

JFS shall pay to, or reimburse, the Lender and any Receiver on demand, on a full indemnity basis, all costs, charges, expenses, taxes and liabilities of any kind (including, without limitation, legal, printing and out-of-pocket expenses) incurred by the Lender, any Receiver or any Delegate in connection with:

- (a) this deed or the Charged Property;
- (b) taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) any of the Lender's, a Receiver's or a Delegate's rights under this deed; or
- (c) taking proceedings for, or recovering, any of the Secured Liabilities,

together with interest, which shall accrue and be payable (without the need for any demand for payment being made) from the date on which the relevant cost or expense arose until full discharge of that cost or expense (whether before or after judgment, liquidation, winding up or administration of JFS) at the rate and in the manner specified in the Master Agreements.

### **15.2 Indemnity**

JFS shall indemnify the Lender, each Receiver and each Delegate, and their respective employees and agents, on a full indemnity basis against any cost, charge, expense, tax, loss, liability or damage incurred by any of them as a result of:

- (a) the exercise or purported exercise of any of the rights, powers, authorities or discretions vested in them under this deed or by law in respect of the Charged Property;
- (b) taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) the security constituted by this deed; or
- (c) any default or delay by JFS in performing any of its obligations under this deed.

Any past or present employee or agent may enforce the terms of this clause 15.2 subject to and in accordance with the provisions of the Contracts (Rights of Third Parties) Act 1999.

## **16. POWER OF ATTORNEY**

### **16.1 Appointment of attorneys**

By way of security, JFS irrevocably appoints the Lender, every Receiver and every Delegate separately to be the attorney of JFS and, in its name, on its behalf and as its act and deed, to execute any documents and do any acts and things which:

- (a) JFS is required to execute and do under this deed; and/or
- (b) any attorney deems proper or desirable in exercising any of the rights, powers, authorities and discretions conferred by this deed or by law on the

Lender, any Receiver or any Delegate.

**16.2 Ratification of acts of attorneys**

JFS ratifies and confirms, and agrees to ratify and confirm, anything which any of its attorneys may do in the proper and lawful exercise, or purported exercise, of all or any of the rights, powers, authorities and discretions referred to in clause 16.1.

**17. RELEASE**

Subject to clause 19.3, on the expiry of the Security Period (but not otherwise), the Lender shall, at the request and cost of JFS, take whatever action is necessary to release the Charged Property from the security constituted by this deed.

**18. ASSIGNMENT AND TRANSFER**

**18.1 Assignment by Lender**

- (a) At any time, without the consent of JFS, the Lender may assign or transfer the whole or any part of the Lender's rights and/or obligations under this deed to any person.
- (b) The Lender may disclose to any actual or proposed assignee or transferee such information about JFS, the Charged Property and this deed as the Lender considers appropriate.

**18.2 Assignment by JFS**

JFS may not assign any of its rights, or transfer any of its obligations, under this deed or enter into any transaction that would result in any of those rights or obligations passing to another person.

**19. FURTHER PROVISIONS**

**19.1 Independent security**

This deed shall be in addition to, and independent of, every other security or guarantee which the Lender may hold for any of the Secured Liabilities at any time. No prior security held by the Lender over the whole or any part of the Charged Property shall merge in the security created by this deed.

**19.2 Continuing security**

This deed shall remain in full force and effect as a continuing security for the Secured Liabilities, despite any settlement of account, or intermediate payment, or other matter or thing, unless and until the Lender discharges this deed in writing.

**19.3 Discharge conditional**

Any release, discharge or settlement between JFS and the Lender shall be deemed conditional on no payment or security received by the Lender in respect of the Secured Liabilities being avoided, reduced or ordered to be refunded pursuant to any law relating to insolvency, bankruptcy, winding up, administration, receivership or otherwise. Despite any such release, discharge or settlement:

- (a) the Lender or its nominee may retain this deed and the security created by or pursuant to it, including all certificates and documents relating to the whole or any part of the Charged Property, for such period as the Lender deems necessary to provide the Lender with security against any such avoidance, reduction or order for refund; and
- (b) the Lender may recover the value or amount of such security or payment from JFS subsequently as if such release, discharge or settlement had not occurred.

#### **19.4 Certificates**

A certificate or determination by the Lender as to any amount for the time being due to it from JFS shall be, in the absence of any manifest error, conclusive evidence of the amount due.

#### **19.5 Rights cumulative**

The rights and remedies of the Lender conferred by this deed are cumulative, may be exercised as often as the Lender considers appropriate, and are in addition to its rights and remedies under the general law.

#### **19.6 Variations and waivers**

Any waiver or variation of any right or remedy (whether arising under this deed or under the general law), or any consent given under this deed, is only be effective if it is in writing and signed by the waiving, varying or consenting party, and applies only in the circumstances for which it was given, and shall not prevent the party giving it from subsequently relying on the relevant provision.

#### **19.7 Further exercise of rights**

No act or course of conduct or negotiation by or on behalf of the Lender shall, in any way, preclude the Lender from exercising any right or remedy under this deed or constitute a suspension or variation of any such right or remedy.

#### **19.8 Delay**

No delay or failure to exercise any right or remedy under this deed shall operate as a waiver.

#### **19.9 Single or partial exercise**

No single or partial exercise of any right or remedy under this deed shall prevent any further or other exercise of that right or remedy, or the exercise of any other right or remedy under this deed.

#### **19.10 Consolidation**

The restriction on the right of consolidation contained in section 93 of the LPA 1925 shall not apply to this deed.

#### **19.11 Partial invalidity**

The invalidity, unenforceability or illegality of any provision (or part of a provision) of this deed under the laws of any jurisdiction shall not affect the validity, enforceability or legality of the other provisions. If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with any modifications necessary to give effect to the commercial intention of the parties.

## **19.12 Counterparts**

This deed may be executed and delivered in any number of counterparts, each of which is an original and which together have the same effect as if each party had signed the same document.

## **20. NOTICES**

### **20.1 Service**

Each notice or other communication required to be given under or in connection with this deed shall be:

(a) in writing, delivered personally or sent by pre-paid first-class letter or fax;  
and

(b) sent:

(i) to JFS at:

Jungheinrich Financial Services Limited  
Sherbourne House, Sherbourne Drive  
Tilbrook, Milton Keynes  
Buckinghamshire  
MK7 8HX

Fax:

Attention: the Directors

(ii) to the Lender at:

De Lage Landen Leasing Limited  
Building 7, Croxley Park  
Hatters Lane  
Watford  
WD18 8YN

Fax:

Attention: the Directors

or to such other address or fax number as is notified in writing by one party to the other from time to time.

### **20.2 Receipt by JFS**

Any notice or other communication that the Lender gives shall be deemed to have been received:

- (a) if sent by fax, when received in legible form;
- (b) if given by hand, at the time of actual delivery; and
- (c) if posted, on the second Business Day after the day it was sent by pre-paid

first-class post.

A notice or other communication given as described in clause 20.2(a) or clause 20.2(b) on a day which is not a Business Day, or after normal business hours, in the place it is received, shall be deemed to have been received on the next Business Day.

**20.3 Receipt by Lender**

Any notice or other communication given to the Lender shall be deemed to have been received only on actual receipt.

**21. GOVERNING LAW AND JURISDICTION**

**21.1 Governing law**

This deed and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

**21.2 Jurisdiction**

The parties to this deed irrevocably agree that, subject as provided below, the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this deed or its subject matter or formation (including non-contractual disputes or claims). Nothing in this clause shall limit the right of the Lender to take proceedings against JFS in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdictions, whether concurrently or not, to the extent permitted by the law of such other jurisdiction.

**21.3 Other service**

JFS irrevocably consents to any process in any proceedings under clause 21.2 being served on it in accordance with the provisions of this deed relating to service of notices. Nothing contained in this deed shall affect the right to serve process in any other manner permitted by law.

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

**Executed as a deed by JUNGHEINRICH FINANCIAL SERVICES LIMITED**

Signature:



/ Print Name Arne Rosenkranz  
Date



Print Name Christian Hanke  
Date

~~In the presence of the following witness~~

~~Signature: \_\_\_\_\_~~

~~Print name of witness \_\_\_\_\_~~

~~Address and Occupation of witness \_\_\_\_\_~~

~~Date \_\_\_\_\_~~

**Executed as a deed by DE LAGE LANDEN LEASING LIMITED**

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

Director  
Print  
Name  
Date

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

Director  
Print  
Name  
Date



**Executed as a deed by JUNGHEINRICH FINANCIAL SERVICES LIMITED**

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

Director

Print Name

Date

In the presence of the following witness:

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

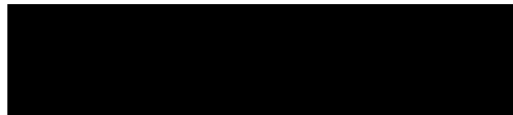
Print name of witness

Address and Occupation of witness

Date

**Executed as a deed by DE LAGE LANDEN LEASING LIMITED**

Signature:



Print

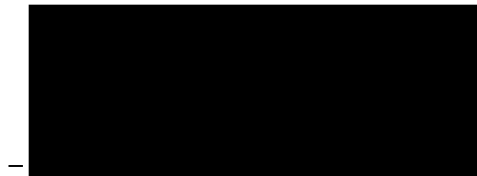
Name

Vijay Shah

Date

23rd December 2021

Signature:



Director

Print

Name

Simon Trudgeon

Date

23rd December 2021