



**Registration of a Charge**

Company name: **PRESTIGE CARS NORTHUMBERLAND LIMITED**

Company number: **08853766**



X51V4OMI

Received for Electronic Filing: **01/11/2016**

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**Details of Charge**

Date of creation: **31/10/2016**

Charge code: **0885 3766 0004**

Persons entitled: **GMAC UK PLC**

Brief description: **NO SPECIFIC ASSETS OF THIS TYPE ARE DETAILED IN THE CHARGE INSTRUMENT.**

**Contains fixed charge(s).**

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

**Contains negative pledge.**

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**Authentication of Form**

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

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**Authentication of Instrument**

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

**FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL  
INSTRUMENT.**

Certified by:

**BOND DICKINSON LLP**



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

Company number: 8853766

Charge code: 0885 3766 0004

The Registrar of Companies for England and Wales hereby certifies that a charge dated 31st October 2016 and created by PRESTIGE CARS NORTHUMBERLAND LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 1st November 2016 .

Given at Companies House, Cardiff on 2nd November 2016

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



**DEBENTURE**

**between**

**PRESTIGE CARS NORTHUMBERLAND LIMITED**

**and**

**GMAC UK PLC**

**dated** 31 OCTOBER 2016

THIS DEBENTURE is made on the

31

day of

OCTOBER

2016

BETWEEN

Name:

PRESTIGE CARS NORTHUMBERLAND LIMITED

("the Company")

Registered in England and Wales with number:

08853766

Registered office:

13 Freeman Way,  
North Seaton Industrial Estate,  
Ashington,  
Northumberland NE63 0YB

Fax number:

and **GMAC UK PLC** (registered in England and Wales with number 275607) whose registered office is at Heol Y Gamlas, Parc Nantgarw, Treforest Industrial Estate, Treforest, Cardiff CF15 7QU ("GMAC").

#### TERMS OF THIS DEBENTURE

##### 1. Definitions and interpretation

- 1.1 In this Deed the following words and expressions shall have the following meanings:

**Bank** means the Company's principal clearing banker as identified in Schedule 5 and as replaced from time to time by such other clearing bank as the Company may notify to GMAC from time to time;

**Book Debts** means the Fixed Charge Debts and the Floating Charge Debts;

**Charged Property** means all the undertaking, property, assets and rights mortgaged, assigned or charged under this Deed and shall include all Vehicles and any part of or interest in such undertaking, property, assets and rights;

**Demonstrator Vehicles** means motor vehicles acquired by the Company from time to time for use as (or which are used as) demonstrators;

**Environmental Matters** has the meaning given to such expression in Clause 6.13;

**Excluded Property** means as described in Clause 3.11;

**Expenses** means all expenses (including legal fees) from time to time paid or incurred by GMAC, any Receiver or their respective agents and employees at any time in connection with the Charged Property, the recovery of amounts owing to GMAC or in taking, perfecting, defending, preserving or enforcing this Deed and all security and rights created by this Deed and in obtaining advice on any matter relating to this Deed or the Charged Property (including all costs and expenses payable to GMAC or any Receiver under any other Clause of this Deed) or in exercising any right or power arising under or because of this Deed or otherwise, in each case on a full indemnity basis;

**Finance Agreement** means each and any loan, revolving credit, lease, hire purchase, conditional sale, stocking or other finance agreement of whatsoever kind entered into at any time between GMAC and the Company;

**Fixed Charge Debts** has the meaning given in Clause 3.4 and includes each and every book debt and other monetary debt or claim (whether actual or contingent) separately referred to in such clause;

**Floating Charge Debts** means all book and other debts and monetary claims due, owing or incurred to the Company from time to time apart from the Fixed Charge Debts;

**GMAC Funded Demonstrator Vehicles** means Demonstrator Vehicles the purchase or acquisition of which by the Company is funded by GMAC or any Associate of GMAC on terms which require that such Demonstrator Vehicles be used as demonstrators for a specified period (or minimum period) and that the Demonstrator Vehicles then be sold and the proceeds of sale to be paid to GMAC or its Associate to repay such funding;

**GMAC Funded Hire Vehicles** means Hire Vehicles the purchase or acquisition of which by the Company is funded by GMAC or any Associate of GMAC on terms which require that such Hire Vehicles be used for lease or hire for a specified period (or minimum period) and that the Hire Vehicles then be sold and the proceeds of sale be paid to GMAC or its Associate to repay such funding;

**Hire Contracts** means all hire or lease contracts entered into by the Company with its customers in respect of the GMAC Funded Hire Vehicles;

**Hire Vehicles** means motor vehicles acquired by the Company from time to time for use as (or which are used as) vehicles which are available to customers for hire or lease (both on a short term and/or long term basis);

**Mortgaged Chattel Assets** means (without prejudice to the fixed charges created by Clause 3.6) each of the assets itemised in Schedule 2 (if any);

**Personal Data** has the same meaning as given to such term in the Data Protection Act 1998;

**Prior Security** means the security (if any) described in Schedule 4;

**Principal Bank Accounts** means all of the Company's bank accounts from time to time maintained with or at any branch of the Bank and which are not designated as accounts opened for the benefit of GMAC or any Associate of GMAC or to receive monies mortgaged or charged by way of fixed charge (whether originally or following crystallisation of any floating charge) in favour of GMAC or its Associate and which are not opened after demand has been made for payment of the Secured Obligations;

**Real Property** means all freehold and leasehold property (or the interest of the Company in any of the same) as mortgaged or charged under this Deed and includes any part thereof;

**receiver** includes a manager, a receiver and manager and/or an administrative receiver;

**Receiver** means a receiver appointed under this Deed pursuant to statutory powers or otherwise and includes joint receivers and any substituted receiver;

**Requisite Consent** means the previous consent in writing of GMAC (and then only to the extent that such consent permits and in accordance with any conditions attached to such consent);

**Secured Obligations** means all of the monies, obligations and liabilities referred to in Clause 2.1;

**Securities** has the meaning given to such expression in Clause 3.7;

**Security Interest** means any mortgage, assignment, lien, charge, hypothecation, pledge, conditional sale, or other title retention agreement, trust arrangement or any other agreement or arrangement the economic or commercial effect of which is similar to the creation of security or any other security interest whatsoever (but shall not include any of the same arising solely by operation of law or a title retention agreement or arrangement securing amounts not more than 90 days overdue and in each case entered into in the ordinary course of day to day trading); and

**Vehicle** means all of the right, title and interest of the Company in or to any motor vehicle and/or the proceeds of sale of any such vehicle.

1.2 The expression **GMAC**, where the context admits, will include its transferees, successors and assigns whether immediate or derivative and all delegates or sub-delegates.

1.3 Reference to an "Associate" of GMAC is to a company which is a holding company or a subsidiary of GMAC, or a subsidiary of such a holding company.

1.4 In this Deed:

1.4.1 references to a **business day** are references to a day which is not a Saturday, Sunday or a generally accepted public holiday in England;

1.4.2 references to any agreement or document refer to the document as amended, supplemented or replaced (whether before today or later);

1.4.3 any power which may be exercised or any determination which may be made under this Deed by GMAC may (save as otherwise provided) be exercised or made in its discretion and it shall not be obliged to give reasons therefore;

1.4.4 any consent or approval of GMAC required under this Deed must be obtained before the act to which it applies is carried out and shall only be effective once given in writing;

1.4.5 references to Clauses and Schedules are (unless otherwise stated) to clauses of, and schedules to, this Deed;

1.4.6 references to a **person** include any individual, firm, company, government, state or agency of a state or any joint venture, association or partnership (whether or not having a separate legal personality);

1.4.7 unless the context otherwise requires, words denoting the singular number only include the plural and vice versa;

1.4.8 references to any provision of an enactment are treated as referring to:

(a) the provision as amended (whether before today or later); and

(b) any provision which replaces it (unchanged or amended) after today;

1.4.9 **written**, in relation to a communication under this Deed, includes sent by fax;

1.4.10 **property** means property, assets, interests and rights of every description, wherever situated;

1.4.11 **land** has the meaning given in schedule 1 to the Interpretation Act 1978;

1.4.12 **expenses** includes costs, charges, fees and expenses of every description and includes time costs of internal management, legal or other resource levied on such basis as GMAC may from time to time determine is appropriate to charge for such resources when applied to assist GMAC in enforcing the terms of this Deed and all VAT charged thereon;

1.4.13 **agreement** includes any commitment, scheme, arrangement or understanding, whether legally binding or not, oral or written, and references to being party to an agreement shall be construed accordingly;

1.4.14 the expressions **holding company** and **subsidiary** have the meaning given on the date of this Deed by Section 1159 Companies Act 2006; and

1.4.15 references to **value added tax** (or VAT) will include any similar tax which may be imposed in substitution from time to time for the present such tax and any reference to a rate of VAT (express or implicit) will be to the prevailing rate at the time payment is due.

1.5 This Deed incorporates by reference (for the purposes only of section 2 of the Law of Property (Miscellaneous Provisions) Act 1989) the terms, where relevant, of the Finance Agreement. In the event of any direct inconsistency the express terms of this Deed take precedence save in relation to matters effecting the terms of repayment of (or the payment of interest or finance charges on) amounts advanced or outstanding under any such Finance Agreement.

1.6 Paragraph 14 of Schedule B1 to the Insolvency Act 1986 (incorporated by Schedule 16 to the Enterprise Act 2002) shall apply to any floating charge created pursuant to this Deed.

## 2. Agreement to pay

2.1 The Company covenants that it will on demand pay to GMAC without deduction or set off:-

2.1.1 all monies and discharge all obligations and liabilities whether actual or contingent now or at any time due, owing or incurred to GMAC and/or any Receiver by the Company (whether alone or jointly and in whatever style, name or form and whether incurred as principal or surety) when the same are due;

2.1.2 interest on all amounts demanded to the date of payment at such rates as may from time to time be agreed or, in the absence of agreement, at the rate of 4 per cent per annum above the published Base Rate of Lloyds TSB Bank plc from time to time; and

2.1.3 all Expenses on a full indemnity basis.

2.2 The Company will pay interest at the rate referred to above to the date of payment upon such days as GMAC may from time to time determine (but being no more frequently than monthly) and such interest shall be compounded with rests on such days until paid (although without prejudice to GMAC's right to require payment of such interest).

2.3 All interest payable under this Deed will accrue both before and after judgment, liquidation or the administration of the Company on a daily basis and assuming a year of 365 days.

3. **Property and assets charged**
- 3.1 The Company grants the mortgages, charges and other securities set out in this Clause 3 with full title guarantee and to the intent that the securities created by this Deed shall rank as continuing securities for the payment when due of the Secured Obligations and all other obligations and liabilities of the Company (if any) arising under this Deed.
- 3.2 The Company separately charges by way of legal mortgage each of the following:
  - 3.2.1 all of the freehold and/or leasehold land now vested in the Company including (but not limited to) the land short particulars of which is or are set out in Schedule 1 (if any);
  - 3.2.2 all buildings and fixtures (including trade fixtures, tenant's fixtures and fixed plant and machinery) on such land;
  - 3.2.3 all presently held vendor's liens, mortgages, charges, options, agreements and rights, titles and other legal interests in or over land of whatever description; and
  - 3.2.4 all rents, licence fees, service charges or ground rents payable in respect of such land.
- 3.3 The Company separately charges by way of fixed charge each of the following:
  - 3.3.1 all estates or interests in any freehold and/or leasehold land of whatever kind (whether legal or equitable) not effectively mortgaged by Clause 3.2 now or at any time during the continuance of the security created by this Deed belonging to or mortgaged or charged to the Company and all proceeds of sale derived therefrom;
  - 3.3.2 the benefit of all licences or agreements relating to any land to which the Company may be party or to which the Company may be entitled;
  - 3.3.3 all buildings and fixtures (including trade fixtures, tenant's fixtures and fixed plant and machinery) owned by the Company from time to time in or on any freehold or leasehold land charged under this Deed;
  - 3.3.4 all vendor's liens, mortgages, charges, options, agreements, titles and other interests in or over land acquired by the Company at any time in the future; and
  - 3.3.5 all rents, licence fees, service charges or ground rents payable in respect of such land.
- 3.4 The Company separately charges by way of fixed charge each of the following:
  - 3.4.1 all the right, title and interest of the Company to and in any policies of insurance or assurance (including key-man cover) and the proceeds of any claim made or capable of being made under such policies;
  - 3.4.2 all present and future rights to rebate, repayment or reclaim of taxes or custom duties paid by the Company or any other person where the right is asserted or the claim made, the entitlement to a rebate arises or the rebate becomes payable either outside of the ordinary course of trading or after the Company has ceased to trade or after demand has been made by GMAC for repayment of any part of the Secured Obligations;
  - 3.4.3 all claims to which the Company is entitled or may be or become entitled to damages or compensation relating to the Charged Property or the return to the Company of its assets or property (including if recovered by a liquidator or administrator of the Company under statutory or other powers);
  - 3.4.4 all rights to bank deposits, credit balances and bank or other accounts in each case not comprised in (or standing to the credit of) the Principal Bank Accounts;
  - 3.4.5 (without prejudice to the legal mortgage or fixed equitable charge created over land by the earlier parts of this Clause 3 and all rights of GMAC as mortgagee or fixed chargee to rents arising thereunder) all rent, licence fees or hire charges receivable in respect of any leasing or hiring of any of the Charged Property not consented to in advance by GMAC and so carried out in breach of the terms of this Deed; and
  - 3.4.6 all rights to any rebate of rentals or refund of purchase price in respect of assets hired, leased or sold to the Company by GMAC or an Associate of GMAC,  
(together the **Fixed Charge Debts** and individually a **Fixed Charge Debt**).
- 3.5 The Company assigns absolutely to GMAC all of its right, title and interest in the Mortgaged Chattel Assets and the full benefit of all warranties, guarantees and contracts relating to the same. Upon GMAC being satisfied that all of the obligations and liabilities described in Clause 2 have been irrevocably paid and discharged in full it will, at the cost and request of the Company, reassign to the Company the Mortgaged Chattel Assets.
- 3.6 The Company separately charges by way of fixed charge each of the following:
  - 3.6.1 all plant, machinery and equipment which is accounted for as fixed assets with an individual value in excess of £15,000 and which will not, ordinarily, be expected to be replaced within twelve months of its purchase or acquisition by the Company, together with the benefit of all warranties and contracts relating to the same;
  - 3.6.2 all GMAC Funded Demonstrator Vehicles, together with the benefit of all warranties and contracts relating to the same and all proceeds of sale;
  - 3.6.3 all GMAC Funded Hire Vehicles, together with the benefit of all warranties and contracts relating to the same and all proceeds of sale;
  - 3.6.4 all of the Company's right title and interest in all Hire Contracts and all monies payable or to become payable thereunder;
  - 3.6.5 all of the Company's rights and interest in all other Demonstrator Vehicles and/or Hire Vehicles; and
  - 3.6.6 all other plant, machinery, computers and other equipment of the Company both present and future together with the full benefit of all warranties and contracts (including the benefit of contracts for hire or lease, to the extent capable of being charged) relating to the same (although excluding the Company's stock in trade and all Vehicles).
- 3.7 The Company separately charges by way of fixed charge each of the following (being the **Securities**):
  - 3.7.1 all the shares listed in Schedule 3 (if any);
  - 3.7.2 all other stocks, shares and/or securities legally and/or beneficially owned by the Company or any nominee from time to time; and
  - 3.7.3 all dividends, rights, distributions, accretions and benefits relating to the shares stocks and securities referred to in this Clause 3.7 or paid or payable in respect of them (including by way of preference, bonus, redemption or otherwise).

- 3.8 The Company separately charges by way of fixed charge each of the following:
- 3.8.1 the uncalled capital, goodwill (which shall include all brand names), licences, trademarks and service marks, patents, patent applications, designs, copyrights, confidential information, know-how, computer software and all other intellectual or intangible property or rights now and from time to time belonging to the Company;
- 3.8.2 all of the Company's rights and benefits under all contracts entered into by the Company in the course of its business including all distributorship or similar agreements and all letters of credit issued in its favour and all bills of exchange and other negotiable instruments held by it from time to time; and
- 3.8.3 all amounts realised by an administrator or liquidator of the Company upon the enforcement or execution of any order of the Court under Part VI of the Insolvency Act 1986.
- 3.9 The Company charges by way of floating charge its undertaking and all its other property, assets and rights not effectively mortgaged or charged by way of fixed charge by this Deed whatsoever and wheresoever situate present and future including all heritable property located in Scotland and all Floating Charge Debts and all other book and other monetary debts and claims not effectively charged by fixed charge under this Deed, the proceeds thereof and all rights relating to the same and all things in action which give rise or may give rise to a Floating Charge Debt or such a book or monetary debt or claim, all credit balances from time to time on the Principal Bank Accounts and all Vehicles (not being Demonstrator Vehicles or Hire Vehicles charged by Clause 3.6).
- 3.10 All the mortgages and charges created or agreed to be created by this Deed are, or in the case of future property shall be, first ranking mortgages and charges subject to the Prior Security (if any).
- 3.11 Until any necessary consents shall have been obtained there shall be excluded from the mortgages and fixed charges created by Clause 3.2 and 3.3 above any leasehold property held by the Company under a lease the terms of which either:
- 3.11.1 preclude absolutely the Company from creating any mortgage or charge over its leasehold interest in such property; or
- 3.11.2 require the consent of a landlord or other third party prior to the effective creation of such mortgage or charge if such consent has not been previously obtained.
- Such leasehold property is called the "**Excluded Property**" in Clauses 3.12 and 3.13 below.
- 3.12 With regard to the Excluded Property the Company undertakes:
- 3.12.1 to use its best endeavours to obtain the consent of the landlord to the creation of the security envisaged by this Deed as soon as possible in respect of any lease which provides that the landlord will not unreasonably withhold the giving of its consent for this purpose;
- 3.12.2 to use all reasonable endeavours to obtain such consent as soon as possible in respect of all other leases; and
- 3.12.3 to keep GMAC informed of the progress of its negotiations with the landlord.
- 3.13 Forthwith upon receipt of the landlord's consent as described in Clause 3.12:
- 3.13.1 the Excluded Property shall stand charged by fixed charge to GMAC pursuant to the terms of this Deed; and
- 3.13.2 the Company shall, if required by GMAC, execute a legal mortgage in respect of the Excluded Property in such form as GMAC may require.
- 3.14 Each of the mortgages or fixed charges created by Clauses 3.2 - 3.8 above are to be construed as separate and individual charges as if each right and asset referred to were separately charged by fixed charge in its own independent clause such that if any individual right or asset is, as a matter of law, charged by only a floating charge this will not prejudice the fixed charge security over any other rights or assets mentioned in the same clause, sub-clause or paragraph.
4. **Registered land**
- 4.1 The Company hereby applies to the Chief Land Registrar for the registration against any registered land which is mortgaged or charged by this Deed including the registered titles (if any) specified in Schedule 1 (and any unregistered properties subject (or becoming subject) to first registration at the date of this Deed or at any time hereafter) of any restriction set out in any Form RX1 submitted by or on behalf of GMAC and/or the Company in support of the application to register this Deed at H M Land Registry.
- 4.2 In respect of such of the Real Property title to which is registered at HM Land Registry (or which becomes so registered), the Company certifies that the mortgages and charges created by this Deed do not contravene any of the provisions of the Memorandum and Articles of Association of the Company.
5. **Representations and warranties**
- 5.1 The Company represents and warrants to GMAC that:
- 5.1.1 the Company is a limited liability company duly incorporated and validly existing under English law, with the power and authority to own its assets and to carry on its business as now being conducted;
- 5.1.2 the Company is the sole legal and beneficial owner of all of the properties and assets listed in the Schedules to this Deed;
- 5.1.3 entry into this Deed and any related Finance Agreement with GMAC does not and will not breach any existing law or regulation or the Memorandum and Articles of Association of the Company or any limitation on the powers of its directors or breach or constitute an event of default under the terms of any mortgage, debenture charge, loan stock, agreement or restriction binding on the Company; and
- 5.1.4 the Company has not relied on the fact that GMAC has agreed to provide facilities to the Company taking account of a valuation of the subject matter of the securities to be given to GMAC, and acknowledges that the Company has not relied on any valuation or report obtained by GMAC, and that any professional adviser to GMAC does not owe a duty of care to the Company.
- 5.2 The Company shall be deemed to repeat the warranties contained in Clause 5.1 on each date on which GMAC enters into a Finance Agreement with, or advances money to the Company.
- 5.3 The effect of the warranties given in this Clause 5 will not be qualified or diminished by any matter disclosed by the Company to GMAC or known to GMAC prior to the date of this Deed unless accepted by GMAC in writing as being a formal disclosure made in respect of these warranties.
6. **Covenants by the Company**
- The Company covenants with and undertakes to GMAC as follows:-



## 6.1 Provide information relating to its affairs

- 6.1.1 From time to time as required by GMAC to give to GMAC, any adviser nominated by GMAC or any Receiver such information relating to the business of the Company and its subsidiaries and as to its or their property, assets and liabilities as GMAC or any Receiver may from time to time require;
- 6.1.2 The Company will permit such inspection of the books of account and other books and documents of the Company and its subsidiaries as may be necessary for the purpose of verification of such information;
- 6.1.3 Without prejudice to the generality of the above the Company will send to GMAC a copy of its directors' report and audited yearly accounts and those of each of its subsidiaries at the same time as they are issued to the shareholders entitled to them, and in any event, within 180 days of the relevant financial year end;
- 6.1.4 To notify GMAC immediately of:
  - (a) any change or prospective change in the ownership of the issued share capital of the Company or any part of such capital;
  - (b) of the issue of any further shares in the Company or any subsidiary of the Company from time to time; and
  - (c) of any change in its directors.

## 6.2 Negative pledge and restrictions on disposals

Not without the Requisite Consent:

- 6.2.1 To create or permit to arise or subsist any Security Interest in favour of anyone other than GMAC on the whole or any part of the Charged Property; or
- 6.2.2 To sell, assign, lease, lend or otherwise dispose of or part with possession of or surrender any interest in the Charged Property or attempt or agree to do so; except that the restrictions contained in this Clause 6.2.2 shall not apply to such of the Charged Property as is charged pursuant to Clause 3.9 only where the disposal is made in the ordinary course of trading as now carried on and for full value;
- 6.2.3 In particular, it will not, without the Requisite Consent, sell, assign, lease, lend or otherwise dispose of the Mortgaged Chattel Assets or any of the rights or assets specifically charged by way of a fixed charge by Clause 3.6 of this Deed. If any of the Mortgaged Chattel Assets or such other rights or assets shall be destroyed or lost then the Company agrees to replace the same and to execute such mortgage security over the replacement rights or asset(s) as GMAC may require;
- 6.2.4 In the case of the GMAC Funded Demonstrator Vehicles and/or the GMAC Funded Hire Vehicles such vehicles may be sold if permitted by the related Finance Agreement provided the proceeds of sale are applied to discharge amounts advanced under such related Finance Agreement.

## 6.3 Book Debts

- 6.3.1 To deal with its Floating Charge Debts in accordance with any directions from time to time given in writing by GMAC (subject to any rights of the Bank) and in default of any such directions to deal with the same only in the ordinary course of getting in and realising them;
- 6.3.2 To collect in the Floating Charge Debts and to pay into the Company's current account or other separate designated account at the Bank all monies which it

may receive in respect of the Floating Charge Debts and (subject to any rights of the Bank in respect thereof) to pay or otherwise deal with such monies standing to the credit of such account in accordance with any directions given from time to time by GMAC;

- 6.3.3 Prior to demand being made under this Deed and in the absence of any directions from GMAC any monies received by the Company and paid into the account with the Bank referred to in Clause 6.3.2 in respect of the Floating Charge Debts may be withdrawn and applied by the Company for the furtherance of its business in the ordinary course (provided that neither GMAC nor the Bank will have any responsibility to monitor such use);
- 6.3.4 To realise the Fixed Charge Debts and to pay to GMAC all monies received and pending such payment to hold such monies on trust for GMAC in a separate and designated trust account;
- 6.3.5 With immediate effect to give notice to the relevant debtor(s) in respect of each Fixed Charge Debt (when each Fixed Charge Debt first arises) of GMAC's interest and to direct that the debtor concerned makes payment directly to GMAC;
- 6.3.6 If called upon by GMAC to do so the Company will execute legal assignments of the whole or any part of the Book Debts to GMAC in such terms as GMAC may require, and if GMAC so requires, the Company will give notice of assignment in a form specified by GMAC to all of the relevant debtors or such particular debtors as GMAC shall from time to time specify and take such other steps as GMAC shall require to perfect such legal assignment;
- 6.3.7 Not without the prior written consent of GMAC to sell, factor, discount, release, exchange or voluntarily allow to be set off any of the Book Debts;
- 6.3.8 Not to withdraw any amounts standing to the credit of any bank account not being a Principal Bank Account save for the purpose of payment of the monies withdrawn to GMAC;
- 6.3.9 Permit the Bank to furnish directly to GMAC from time to time upon request full statements and particulars of all the Company's accounts with the Bank and such other financial statements and information respecting the assets and liabilities of the Company as are from time to time available to the Bank.

## 6.4 Insurance provisions

- 6.4.1 To insure and keep insured such parts of the Charged Property as are of an insurable nature against loss or damage by fire and other usual risks and such other risks as GMAC may from time to time require;
- 6.4.2 Such insurance must be:
  - (a) in the full amount of the reinstatement value of the Charged Property (due allowance being made for inflation during the period of insurance and reinstatement);
  - (b) with such insurers as GMAC shall in writing approve; and
  - (c) on terms requiring the insurers not to cancel the policy without giving at least 14 days' prior notice to GMAC;
- 6.4.3 The Company undertakes that:
  - (a) the Company will pay all premiums and money necessary for effecting and keeping up such

insurances on the first day on which they ought to be paid;

(b) the Company will have the interest of GMAC noted on any such policy or policies; and

(c) if required by GMAC, the Company will deliver to GMAC such policy or policies and the receipt (or other evidence of payment satisfactory to GMAC) for every premium payable in respect of such policy or policies;

#### **6.5 Application of insurance money**

To hold all money received on any insurance whatsoever in respect of loss or damage to the Charged Property whether pursuant to the covenant contained in Clause 6.4 above or otherwise on trust for GMAC and to pay it to GMAC (as proceeds of realisation of a Fixed Charge Debt) which GMAC may direct, in its discretion, be applied either:

6.5.1 in making good the loss or damage in respect of which the money is received; or

6.5.2 in or towards discharge of the Secured Obligations;

#### **6.6 Conduct of business**

To conduct and carry on its business in a proper and efficient manner and not make any substantial alteration in the nature of or mode of conduct of that business;

#### **6.7 State of repair**

To keep the Mortgaged Chattel Assets, all land and buildings mortgaged or charged by this Deed and all assets charged by fixed charge under Clause 3.6 in a good state of repair and in good working order and condition;

#### **6.8 Property covenants**

##### **6.8.1 Observe covenants in leases**

To pay the rents reserved by, and to observe and perform all the covenants on the part of the lessee contained in, the respective leases under which any leasehold properties for the time being comprised in the Real Property are held;

##### **6.8.2 Demolition or removal of buildings etc**

Not without the Requisite Consent to pull down or remove the whole or any part of the Charged Property consisting of buildings or other erections, fixed plant and machinery;

##### **6.8.3 Restriction on leasing and accepting surrenders**

Not to exercise any of the statutory or common law powers of leasing and/or accepting surrenders of leases conferred on mortgagors by Sections 99 and 100 of the Law of Property Act 1925 or otherwise without the Requisite Consent, although GMAC may grant or accept surrenders of leases without restriction;

##### **6.8.4 No licences**

Not to confer upon any person any licence, right or interest to occupy the Real Property or grant, suffer or permit to arise or subsist any overriding interest (as specified in Schedule 1 or 3 of the Land Registration Act 2002) over any of the same;

##### **6.8.5 Viewing of the Real Property**

To permit GMAC and its agents, employees and persons authorised by it to enter the Real Property at any time to view the state of repair and condition of it. Any of such persons may enter the Real Property and repair and make good any defects in the Real Property resulting from or which constitute a breach of covenant under this Deed by the Company. If GMAC acts under this provision it shall not be or be deemed to be a mortgagee in possession or accountable as such. The Company shall indemnify

GMAC in respect of any such expenditure on demand;

#### **6.8.6 Observe restrictions**

To observe and perform all covenants, conditions, agreements and stipulations from time to time affecting the Real Property or the mode of user or the enjoyment of the same and not enter into any onerous or restrictive obligations affecting the Real Property or, without the Requisite Consent, to do or suffer to be done on the Real Property anything which is "development" as defined in Section 55 of the Town and Country Planning Act 1990 nor to do or suffer or omit to be done any act, matter or thing whereby any provision of any Act of Parliament, order or regulation from time to time in force affecting the Real Property is infringed;

#### **6.8.7 Purchase of subsequent property**

To inform GMAC immediately on becoming bound to complete the purchase of any estate or interest in any freehold or leasehold property after the date of this Deed and (subject to any rights conferred by the Prior Security) to deposit with GMAC on receipt by the Company or its solicitor of all deeds and documents of title relating to such property and to all other Real Property;

#### **6.8.8 Charge over subsequent property**

To execute at any time upon request over all or any of the property referred to in Clause 6.8.7 above a charge by way of legal mortgage in favour of GMAC in such form as GMAC shall require;

#### **6.9 Covenants regarding the Securities**

6.9.1 To deposit with GMAC all stock and share certificates and documents of title from time to time held by the Company relating to the Securities together with instruments of transfer or assignment (as appropriate) thereof duly executed in blank. It is agreed that GMAC shall be entitled at any time to have all or any of the Securities registered in the name of GMAC and/or of such nominee(s) as GMAC may select;

6.9.2 To use its best endeavours to ensure that the Articles of Association of any company whose shares comprise part of the Securities do not entitle the directors of such company to refuse to register a transfer of the relevant Securities as made by GMAC or any Receiver under the powers conferred under or security created by this Deed;

6.9.3 To lodge with GMAC all documents at any time received by the Company in relation to any of the Securities including any notice of general meeting or any written resolution for signing by the members of the relevant company;

#### **6.10 Covenants relating to goodwill and intellectual property**

6.10.1 To preserve, maintain and renew as and when necessary all licences, patents, trademarks and all intellectual property and other rights required in connection with its business;

6.10.2 To register GMAC's security interest in all such licences, patents, trademarks and other intellectual property;

6.10.3 To conduct its business in such a way as not to endanger or lead to the curtailment, forfeiture or suspension of any such licences, patents, trademarks, intellectual property and other rights.

- 6.11 **Compliance with obligations**  
To comply with all the obligations on the part of the Company in respect of the Charged Property, whether express or implied;
- 6.12 **Compliance with laws**  
To comply with all laws, statutes, regulations and requirements of any government or quasi-government authority relating to the business(es) conducted by the Company;
- 6.13 **Environmental laws**  
6.13.1 To comply with or procure compliance with all environmental laws, regulations, directives and codes of practice relating to any pollution waste (as defined by the Environmental Protection Act 1990), emissions, substance or activity perceived as being harmful to man or other living organism or of damaging the environment or public health or welfare or relating to nuisance, noise, defective premises or health and safety (all such matters being referred to in this Deed as "**Environmental Matters**") applicable to all Real Property, any buildings or structures on such Real Property or any development or other works carried on at such Real Property;
- 6.13.2 To notify GMAC immediately on receipt or becoming aware of:
- (a) any notice of non-compliance (or alleged non-compliance) of any Environmental Matters or any remediation notice of any kind; and
  - (b) any notice which results or may result in any modification, suspension or revocation of any licence or permission given under or in respect of any Environmental Matters.
7. **Default by the Company regarding repair and insurance**
- 7.1 If at any time the Company shall default in keeping the Charged Property in such state of repair as specified in Clause 6 above, GMAC may put or keep the Charged Property in repair (with power to enter upon any land comprised within the Charged Property for that purpose).
- 7.2 If at any time the Company shall default in effecting or keeping up such insurances as specified in Clause 6 above or producing any such policy or policies or receipt (or other evidence as specified above) to GMAC, GMAC may insure and keep the Charged Property insured in any sum which GMAC may think expedient.
- 7.3 All costs incurred by GMAC under the provisions of this Clause 7 shall be deemed to be properly incurred by GMAC, the Company will reimburse such amounts to GMAC immediately upon demand and pending reimbursement it shall form part of the Secured Obligations.
- 7.4 If the Company shall have failed to deliver on demand as specified above the policy or policies or current premium receipt (or other evidence as specified above) in respect of any portion of the Charged Property GMAC shall be entitled to assume that the Company has made default in insuring it within the meaning of this Clause.
8. **Crystallisation and conversion of floating charge**
- 8.1 The floating charge created under Clause 3.9 above shall, unless and until GMAC determines otherwise in writing, crystallise immediately and automatically and without need for notice operate as a fixed charge, on the occurrence of any of the events specified in Clause 8.2 below.
- 8.2 The events referred to in Clause 8.1 above are:
- 8.2.1 the making of demand for payment by GMAC;
  - 8.2.2 the creation of any Security Interest without the Requisite Consent over the Charged Property in favour of any person other than GMAC; or
  - 8.2.3 the levy or the attempt to levy any distress, execution or sequestration or other process and the enforcement of any security given to any other person against or over any of the Charged Property,
- provided that the occurrence of the events referred to in Clauses 8.2.2 and 8.2.3 shall only result in the crystallisation of the floating charge over the relevant part of the Charged Property and the crystallisation events specified in this clause are in addition to any events which would have that effect at law in any case.
- 8.3 GMAC may at any time by notice in writing to the Company convert the floating charge created under Clause 3.9 above into a fixed charge with reference to any assets specified in such notice and appoint a receiver thereof. Following any such notice and by way of further assurance of such fixed charge the Company will promptly execute over such assets a fixed charge in favour of GMAC in such form as GMAC shall require.
9. **Enforcement**
- 9.1 The power of sale and other powers conferred on mortgagees by the Law of Property Act 1925 together with all powers conferred on the holder of a qualifying floating charge (as defined in, and by, the Insolvency Act 1986) as any of the same are varied or extend by this Deed, arise on the date of this Deed and the security created by this Deed shall become enforceable and all such power shall be immediately exercisable at any time after:
- 9.1.1 a notice demanding payment of and/or discharge for any monies secured by this Deed has been served by GMAC on the Company and the Company has failed to pay the amount demanded;
  - 9.1.2 the Company requests the appointment of a Receiver or administrator; or
  - 9.1.3 any step is taken (including without limitation, the making of an application or the giving of any notice) by the Company or any other person to appoint an administrator or liquidator in respect of the Company, to dissolve the Company or to appoint a trustee, Receiver or similar officer of the Company or any of its assets.
- 9.2 Section 103 of the Law of Property Act 1925 shall not apply to this Deed and any sale made in exercise of the powers conferred by statute or this Deed may be made on such terms as GMAC, any Receiver or administrator may think fit.
10. **Receivership and enforcement**
- 10.1 At any time after the security constituted by this Deed shall have become enforceable, GMAC may in writing appoint any person or persons to be:
- 10.1.1 a Receiver of the Charged Property (and may appoint separate Receivers over different parts of the Charged Property); and/or
  - 10.1.2 an administrator of the Company,
- in each case as permitted by applicable law.
- 10.2 Any Receiver will have and be entitled to exercise all of the powers conferred from time to time on receivers by statute (in the case of the powers conferred by the Law of Property Act 1925 or this Deed without the restrictions contained in section 103 of such Act and so that the powers set out in Schedule 1 to the Insolvency Act 1986 shall extend to the Receiver even though not appointed as an administrative receiver and without being restricted in any way by the remaining provisions of this Clause 10.2) and, in addition to the same, a Receiver will also have the following powers:

- 10.2.1 Forthwith to sell or concur in selling, exchange, let on hire, charter, licence, call in, collect and convert into money, or otherwise dispose of the Charged Property on such terms as the Receiver may think fit and to use the same for any purpose that the Receiver may think fit. In carrying out this power covenants and contractual obligations may be granted and assumed in the name of and so as to bind the Company. Any sale, lease or disposition may be for cash, shares, securities or other valuable consideration and be payable immediately or by instalments spread over such period as the Receiver shall think fit;
- 10.2.2 To carry on, manage the business of the Company or any part of it or concur in so doing, to perform any obligation of the Company relating to such matters, to exercise all rights, duties and powers of the Company in connection with the Charged Property, to institute and defend legal proceedings, to give and receive notices, to raise or borrow any money that may be required upon the security of the whole or any part of the Charged Property ranking in priority to the security created by this Deed or otherwise;
- 10.2.3 To exploit or make use of the Charged Property with a view to profit or gain;
- 10.2.4 To promote the formation of a subsidiary company or subsidiary companies of the Company with a view to such subsidiary company or companies purchasing the Charged Property on such terms as the Receiver may think fit and to arrange for such companies to trade or cease to trade;
- 10.2.5 To purchase or acquire any estate in land or any interest in or right over land and to develop, repair or improve any properties or other assets without being responsible for any loss or damage;
- 10.2.6 To appoint and dismiss managers, agents, officers, employees and workmen for the purposes described in this Clause 10.2 or to guard or protect the Charged Property at such salaries and commissions and for such periods as the Receiver may determine;
- 10.2.7 To make calls conditionally or unconditionally on the members of the Company in respect of its uncalled capital with such and the same power for that purpose of enforcing payment of any calls so made as are by the Articles of Association of the Company conferred upon the directors of the Company in respect of calls authorised to be made by them and in the names of the directors or in that of the Company or otherwise and to the exclusion of the directors' power in that behalf;
- 10.2.8 To do all such other acts and things as the Receiver may consider necessary or desirable in his absolute discretion for the realisation of any of the Charged Property, and to enter into any contract or arrangement whatever relating to the disposal of or other dealing with the Charged Property or any of it on such terms as GMAC or the Receiver as appropriate shall in its or his absolute discretion think fit;
- 10.2.9 Generally to use the name of the Company in the exercise of all or any of the powers conferred by this Deed; and
- 10.2.10 To do all such other acts and things as may be considered to be incidental or conducive to any of the matters or powers aforesaid and which the Receiver lawfully may or can do as agent for the Company or which GMAC lawfully may or can do as mortgagee.
- 10.3 Any monies received under the powers conferred by this Deed will, subject to the payment or repayment of any prior claims, be paid or applied in the following order of priority:-
- 10.3.1 FIRSTLY, in or towards satisfaction of all costs, charges and expenses incurred, and payments made, by GMAC and/or the Receiver or administrator including the remuneration of the Receiver or administrator;
- 10.3.2 SECONDLY in or towards satisfaction of the Secured Obligations in whatever order GMAC may require;
- 10.3.3 THIRDLY as to the surplus (if any) to the person(s) entitled to it,
- provided that the Receiver or administrator may retain any moneys in his hands for so long as he thinks fit, and GMAC may, without prejudice to any other rights GMAC may have at any time and from time to time, place and keep for such time as GMAC may think prudent any moneys received, recovered or realised under or by virtue of this Deed to or at a separate or suspense account to the credit either of the Company or of GMAC as GMAC thinks fit without any intermediate obligation on the part of GMAC to apply such moneys or any part of such moneys in or towards the discharge of the Secured Obligations.
- 10.4 Subject to Clause 10.3, any moneys received or realised by GMAC from the Company or a Receiver under this Debenture or any administrator may be applied by GMAC to any item of account or liability or transactions in such order or manner as GMAC may determine.
- 10.5 Any Receiver shall be deemed to be the agent of the Company and the Company shall be solely responsible for the Receiver's acts or defaults until the Company shall go into liquidation and thereafter the Receiver shall act as principal and shall not become the agent of GMAC.
- 10.6 GMAC may remove any Receiver appointed by it from all or any part of the Charged Property of which he is Receiver and at any time after any Receiver and has vacated office or ceased to act, appoint a further Receiver over all or any part of such Charged Property.
- 10.7 Subject to the terms on which any Receiver is appointed, a Receiver shall be entitled to remuneration for the Receiver's services and those of his firm at a rate or rates and in an amount or amounts as from time to time agreed with GMAC and, in default of agreement (or stipulation by GMAC in advance of appointment), at an appropriate rate having regard to the work and responsibilities involved upon the basis of charging from time to time adopted by the Receiver in accordance with the practice of the Receiver's firm at the time. The Receiver will not be limited by the maximum rate specified in section 109 (6) of the Law of Property Act 1925.
- 10.8 Neither GMAC nor any Receiver shall be under any obligation to do anything to enforce the obligations of any person, and shall not be liable to the Company for any loss or damage caused by any omission so to do.
- 10.9 If the Company shall receive any payment under or in respect of the Charged Property after demand has been made under this Deed then the Company shall immediately account to GMAC or any Receiver for it and in the meantime hold it in a separate trust account.
- 10.10 No purchaser or other person dealing with any Receiver or administrator appointed by GMAC (or by GMAC itself) shall be concerned to inquire whether any power exercised or purported to be exercised by the person concerned has become exercisable or whether any money is due on the security of this Deed or as to the propriety or regularity of any sale by or other dealing with such Receiver, administrator or GMAC but any such sale or dealing shall be

deemed to be within the powers conferred by this Deed and to be valid and effectual accordingly.

- 10.11 All of the powers of a Receiver under this Deed may be exercised by GMAC following demand whether as attorney of the Company or otherwise and whether or not any Receiver shall have been appointed. In the case of joint receivers, any power or right granted under this Deed or by statute to such receivers may be exercised jointly or severally.

- 10.12 If GMAC or any Receiver takes possession of the Charged Property GMAC or the Receiver may relinquish such possession at any time.

**11. Severance of plant and machinery**

In the exercise of the powers conferred by this Deed GMAC any Receiver or administrator may sever and sell any plant and machinery and other fixtures separately from the property to which they may be annexed on such terms as GMAC, such Receiver or administrator may think fit.

**12. Delegation**

GMAC may at any time and from time to time delegate by power of attorney or in any other manner to any person all or any of the powers, authorities and discretions which are for the time being exercisable by GMAC under this Deed in relation to the Charged Property and any such delegation may be made upon such terms and conditions (including power to sub-delegate) and subject to such regulations as GMAC may think fit and GMAC shall not be in any way liable or responsible to the Company for any loss or damage arising from any act, default, omission or misconduct on the part of any such delegate or sub-delegate.

**13. Power of attorney and covenant for further assurance**

- 13.1 As security for the performance of its obligations and liabilities under this Deed the Company irrevocably and individually appoints each of the persons specified in Clause 13.2 below severally to be the attorney of the Company and on its behalf and as its act and deed or otherwise:

13.1.1 to execute and deliver in the name of the Company all deeds, documents and/or notices which may be deemed appropriate to perfect GMAC's title to or for vesting the Charged Property in GMAC, its nominees or in any purchaser from GMAC or any Receiver or which the Company may have agreed under the terms of this Deed or otherwise to enter into or issue;

13.1.2 to do all such acts and things as may be required for the full exercise of the powers conferred under this Deed; and

13.1.3 to make any payments which the Company has covenanted to make under this Deed (which amounts will be immediately recoverable by GMAC from the Company and shall form part of the liabilities secured by this Deed),

to the intent that this appointment shall operate as a general power of attorney made under section 10 of the Powers of Attorney Act 1971.

- 13.2 The persons referred to in Clause 13.1 above are GMAC, any director of GMAC or person nominated in writing under the hand of any director or officer of GMAC or authorised to execute agreements on GMAC's behalf, and any Receiver or administrator appointed by GMAC.

- 13.3 The Company undertakes to:

13.3.1 execute such further legal mortgages, fixed or floating charge or assignments in favour of GMAC as GMAC may from time to time require over the Charged Property including, but not limited to, assets specified in any notice converting the floating charge created by this Deed into a fixed charge;

13.3.2 execute and (if appropriate) register such deeds and documents and perform such acts as GMAC or any Receiver may consider necessary or desirable for the purpose of vesting in GMAC or in any Receiver title to the Charged Property or otherwise perfecting the security of GMAC under this Deed; and

13.3.3 execute, in particular, a formal assignment of all or any of the Book Debts or Vehicles to GMAC on such terms and in such form as GMAC may require and to give such notice thereof to the debtors or any person liable in respect of any of the Book Debts or Vehicles and to do all such acts as GMAC may require to perfect such formal assignment or transfer of legal title to the Book Debts or Vehicles concerned to GMAC.

**14. Consolidation**

The restriction on the right of consolidation in Section 93 of the Law of Property Act 1925 shall not apply to this Deed or the security created by it.

**15. Notice of subsequent security**

If GMAC receives notice, whether actual or constructive, of any subsequent mortgage, charge or other interest in favour of any third party affecting any part of the Charged Property or the proceeds of sale thereof GMAC may (if it has a running or revolving account with the Company) open a new account with the Company. If GMAC does not open a new account it shall nevertheless be treated as if it had done so at the time when it received notice and as from that time all payments made by the Company to GMAC shall be credited or be treated as having been credited to the new account and shall not operate to reduce the amount due from the Company to GMAC at the time when it received notice as specified above.

**16. Continuing security**

16.1 The security created by this Deed shall be a continuing security and shall not be considered satisfied or discharged by any intermediate payment or satisfaction of the whole or any part of the monies owing or payable by the Company.

16.2 The security hereby created is in addition to any other security or securities which GMAC now holds or may from time to time acquire from the Company or any other person.

**17. Additional rights of GMAC**

17.1 If the Company shall have more than one account with GMAC then GMAC shall be entitled at any time and without prior notice to combine any two or more accounts into a single account with a single credit or debit balance.

17.2 GMAC will also be entitled (but not bound) to set off against any liability of the Company secured by this Deed any amount received or receivable by GMAC on behalf of the Company or payable by GMAC to the Company and, if appropriate, to debit any account of the Company held by GMAC with the amount of any liability of the Company to GMAC arising under this Deed.

17.3 The Company will at its own cost at any time if required by GMAC appoint an accountant or firm of accountants nominated by GMAC to investigate the financial affairs of the Company and that of its subsidiaries and report to GMAC. The Company authorises GMAC at any time to make such appointment without further authority being required and agrees that all fees and expenses incurred will be payable by the Company and may be paid by GMAC on the Company's behalf.

17.4 All rights, remedies and powers of GMAC under this Deed will be in addition to and shall not limit those conferred on GMAC by any other deed or agreement or implied by law.

- 18. Payments**
- 18.1 All payments to be made under this Deed shall be made in cleared funds on the due date, in the currency of the liability or obligation being discharged and without any set off, restriction or condition and without any deduction for any counterclaim.
- 18.2 Payments will also be made without any deduction or withholding on account of any tax unless the Company is required by law to make any such deduction or withholding.
- 18.3 If the Company is required by law to make any deduction or withholding on account of tax then the Company will immediately pay to GMAC such additional amount as will result in GMAC receiving the same amount as it would have received if the deduction or withholding had not been made.
- 18.4 If GMAC or any Receiver receives any amount under this Deed or in the exercise of the powers conferred by it in a currency other than the currency of the liability or obligations owed to GMAC then:-
- 18.4.1 GMAC or the Receiver may purchase at any time thereafter the currency of such liability or obligations with the amount received; and
- 18.4.2 GMAC or its Receiver will not be liable for any loss resulting from any fluctuation in exchange rates in the meantime.
- 18.5 A demand made under this Deed (or by reference to which this Deed is enforced) will be valid, for the purposes of this Deed, notwithstanding any inaccuracy it contains if and to the extent the Company does not pay the correct amount which should have been stated in the demand.
- 19. Indemnity**
- 19.1 The Company agrees to indemnify and keep indemnified GMAC, any Receiver and their respective employees and agents (as separate covenants with each such person) against:
- 19.1.1 all existing and future rents, rates, taxes, duties, charges and outgoings at any time payable in respect of the Charged Property or by the owner or occupier of it;
- 19.1.2 all costs, claims, demands, expenses, fines and other sums (and the consequences of any proceedings brought in respect of) any breach of any law or obligation by the Company including all Environmental Matters; and
- 19.1.3 all claims, actions, charges, damages, proceedings and other liabilities brought against or incurred by GMAC, any Receiver or their respective agents and employees in relation to this Deed or the exercise of the powers conferred by it or statute on such persons.
- 19.2 In addition, (and without prejudice to Clause 2.1.3) GMAC and every Receiver, attorney, manager, agent or other person appointed by GMAC under this Deed shall be entitled to be indemnified out of the Charged Property in respect of all liabilities and expenses incurred directly or indirectly by any of them in the execution or purported execution of any of the powers, authorities or discretions vested in them under this Deed and against all actions, proceedings, costs, claims and demands in respect of any matter or thing done or omitted in any way relating to the Charged Property and GMAC and any Receiver may retain and pay all sums in respect of such liabilities and expenses out of any money received under the powers conferred by this Deed.
- 20. Exclusion of liability**
- GMAC, its delegates and any Receiver shall not in any circumstances (including whether as mortgagee in possession or on any other basis whatsoever) be liable to account to the Company for anything except GMAC's and the Receiver's respective actual receipts or be liable to the Company for any loss or damage arising from any realisation by GMAC, its delegates or any Receiver of the Charged Property or any act or omission on relation to the Charged Property.
- 21. Indulgence**
- 21.1 GMAC and any Receiver may at any time without discharging or in any way affecting the security created by this Deed or the rights of GMAC against the Company under this Deed:
- 21.1.1 grant to the Company or to any other person any time or indulgence or come to any arrangement or composition with or agreement not to sue any other person, including any person for whose liability the Company is a surety; or
- 21.1.2 exchange, release, notify, deal with or abstain from perfecting or enforcing any securities or guarantees or other rights which it may now have or at any time acquire from or against the Company or any other person.
- 21.2 No delay or omission of GMAC to exercise any right or power granted by this Deed shall impair any such right or power or be construed as a waiver of or acquiescence in any default by the Company and no express waiver given by GMAC in relation to any default by the Company shall prejudice the rights of GMAC under this Deed. The granting of any consent by GMAC will not prejudice the right of GMAC to grant or withhold as it thinks fit its consent to anything similar.
- 22. Effect of transfer of GMAC's assets**
- 22.1 This Deed shall remain in effect and binding on the Company notwithstanding:
- 22.1.1 any amalgamation or merger that may be effected by GMAC with any other company or person; or
- 22.1.2 any reconstruction by GMAC involving the formation of transfer of the whole or any of GMAC's undertaking and assets; or
- 22.1.3 the sale or transfer of all or any part of GMAC's undertaking and assets to another company or person,
- whether the company or person with which GMAC amalgamates or merges or the company or person to which GMAC transfers all or any part of its undertaking and assets either on a reconstruction or sale or transfer as specified above shall or shall not differ from GMAC in its objects, character or constitution.
- 22.2 The Company confirms that it intends that:
- 22.2.1 the security granted by this Deed and the provisions contained in it shall remain valid and effectual in all respects in favour of, against and with reference to; and
- 22.2.2 the benefit of this Deed and all rights conferred upon GMAC by it may be assigned to and enforced by,
- any such company or person as is referred to in Clause 22.1 above and proceeded on in the same manner to all intents and purposes as if such company or person had been named in this Deed instead of or in addition to GMAC.
- 23. Service of notices**
- 23.1 A notice may be served by GMAC, any Receiver or administrator on the Company by leaving it at, or by sending it by first class pre-paid post or facsimile addressed to the Company:
- 23.1.1 at the address of the Company shown above; or
- 23.1.2 at the address of the Company's registered office as notified to the Registrar of Companies from time to time; or

- 23.1.3 in the case of service by facsimile, if sent to the Company on the fax number shown above or such other number as the Company may from time to time notify GMAC in writing.
- 23.2 Any notice served by post shall be deemed to have been served at 10.00 am on the second business day following that on which it is posted unless:
- 23.2.1 the notice shall be posted after the time at which the last post collection is made in which case it shall be deemed to be served at 10.00 am on the third business day following; or
- 23.2.2 there is a national or local suspension, curtailment or disruption of general postal services which affects the collection of the notice.
- A notice sent to the Company's registered office as notified to the Registrar of Companies at the relevant time will be deemed properly served even if it is returned as undelivered.
- 23.3 Any notice served personally on the Company in accordance with Clause 23.1 above will be deemed to be served at the time when it is left at such place as is described in Clause 23.1 and a notice served by facsimile will be deemed served at the moment of dispatch (unless despatched after 5.00 p.m. in which case it will be deemed served at 9.00 am on the following business day).
- 23.4 Any notice to be sent by the Company to GMAC must be sent by pre-paid post to GMAC at Heol Y Gamlas, Parc Nantgarw, Treforest Industrial Estate, Treforest, Cardiff CF15 7QU and marked for the attention of Commercial Lending or to such other address or person or department as GMAC may from time to time specify. Any notice sent to GMAC will not be deemed received until actually delivered to GMAC.
- 23.5 In this Clause 23 the expression "notice" includes any demand, consent or other communication made under or in relation to this Deed.
- 23.6 The methods of service described in this Clause 23 will not affect the validity of any other effective method of service.
24. **Miscellaneous**
- 24.1 If any provision (or part) of this Deed shall be found by a court or competent authority to be void or unenforceable, the invalidity or unenforceability of that provision (or the part concerned) shall not affect the other provisions of this Deed (including the part of the provision not affected) which shall remain in full force and effect.
- 24.2 Both of the parties to this document intend it to be a deed and the Company agrees to execute and deliver it as a deed. The Company gives authority to its solicitors to deliver it on behalf of the Company, and gives authority to the solicitors acting for GMAC to insert the date of delivery in this document.
- 24.3 This Deed may be executed in any number of counterparts and by the parties on separate counterparts, but all counterparts taken together shall constitute but one and the same instrument.
- 24.4 Nothing in this Deed excludes any liability for fraud.
25. **Data Protection**
- 25.1 GMAC will collect Personal Data about the Company and its respective owners, affiliates, guarantors, directors, shareholders and beneficiaries or other members of its organisation (**Financial Associates**). The Company must ensure that it has the agreement of its Financial Associates to disclose their information. This Personal Data may be collected from the Company or other sources such as credit reference agencies (**CRAs**), fraud prevention agencies (**FPAs**) (including those based outside of the EEA), their respective insurers, regulatory bodies and public registers including the electoral roll.
- 25.2 The Personal Data of the Company and its Financial Associates will be used by GMAC, General Motors Company and General Motors Financial Company Inc. and their world-wide subsidiaries (together the **GM group** or **we, us, our**) during the term of and after termination of this Deed, for the following purposes: performing and administering this Deed; transacting and analysing the business to which this Deed relates; verifying identity, for legal, regulatory and compliance obligations (including global anti-money laundering and counter terrorism requirements), detection or prevention of fraud or other crimes; account management; auditing; reporting and accounting functions; statistical analysis and market research; credit, market and operational risk management; for assignment purposes, or further to restructuring the GM group.
- 25.3 For the purposes listed in Clause 25.2 GMAC may transfer the Company's Personal Data to third parties such as: our service, system, support and outsource providers; our collection agents; our owner and affiliates; our insurers and financial or other institutions; vehicle manufacturers; regulatory bodies; and law enforcement bodies, CRAs and FPAs. These third parties may be in other locations world-wide, and the Company's Personal Data may be transferred outside of the EEA. Any party who receives Personal Data is required to have the appropriate security measures in place to keep the Company's Personal Data confidential and secure.
26. **Anti Corruption**
- 26.1 Each of the Company, its subsidiaries, agents, subcontractors and other persons connected with the Company warrants and represents that it shall comply with the provisions of the Bribery Act 2010 and all other applicable public and private anti-corruption laws, regulations, codes and guidance and will take no action or make or receive any payment or other advantage in breach of, or that might cause either party to be in violation of, any such laws, regulations, codes or guidance.
- 26.2 The Company further warrants that it will comply with all relevant laws applicable to the fulfilment of its obligations under this Deed and conducting its business relevant to the operation of this Deed.
27. **Applicable law and jurisdiction**
- 27.1 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.
- 27.2 The parties to this Deed irrevocably agree that, for the exclusive benefit of GMAC, the courts of England shall have jurisdiction to determine any dispute (including non-contractual disputes or claims) which may arise out of or in connection with this Deed its subject matter or formation. This agreement shall not limit the right of GMAC to bring any proceedings against the Company in any other court of competent jurisdiction whether concurrently or not.
- EXECUTED AND DELIVERED** as a deed by the Company and signed on behalf of GMAC on the date first written above.

**SCHEDULE 1**  
**Legally Mortgaged Property**  
(referred to in Clause 3.2)

**Registered titles**

Premises	Administrative area	Title number at HM Land Registry
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**Unregistered titles**

The freehold premises comprised in

**SCHEDULE 2**  
**Mortgaged Chattel Assets**  
(referred to in Clause 3.5)

**SCHEDULE 3**  
**Shares charged by fixed charge**  
(referred to in Clause 3.7)

**SCHEDULE 4**  
**Prior Security**  
(referred to in Clause 3.10)

**SCHEDULE 5**  
**The Bank**

**EXECUTED and DELIVERED as a DEED by**  
**THE COMPANY** acting by its authorised officers:

.....  
Director

.....  
Director/Company Secretary

Director's full name in block capitals: .....

GRAN BAXTER

Director's/Secretary's full name in  
block capitals: .....

DAVID STOREY

**SIGNED** for and on behalf of  
**GMAC UK PLC**

Signature: .....

Print Name and Position: .....