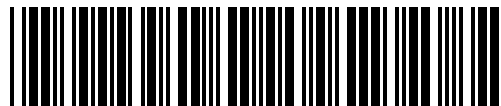




**Registration of a Charge**

Company Name: **AVO DISTRIBUTION GROUP LTD.**

Company Number: **12922585**



Received for filing in Electronic Format on the: **18/03/2022**

XB00SLC3

**Details of Charge**

Date of creation: **18/03/2022**

Charge code: **1292 2585 0001**

Persons entitled: **PULSE CASHFLOW FINANCE LTD**

Brief description: **1. BY WAY OF LEGAL MORTGAGE: 1.1 ON THE PROPERTIES (IF ANY) SPECIFIED IN SCHEDULE 2 TO THE DEBENTURE; 1.2 ON ALL PROPERTIES (OTHER THAN ANY PROPERTIES SPECIFIED IN SCHEDULE 2 TO THE DEBENTURE) NOW OWNED BY THE COMPANY OR IN WHICH THE COMPANY HAS AN INTEREST; 2. BY WAY OF FIXED CHARGE ON ALL OF THE FOLLOWING ASSETS, WHETHER NOW OR IN FUTURE BELONGING TO THE COMPANY: 2.1 THE FREEHOLD AND LEASEHOLD PROPERTIES OF THE COMPANY NOT EFFECTIVELY MORTGAGED UNDER PARAGRAPHS 1.1 AND 1.2 INCLUDING SUCH AS MAY THEREAFTER BE ACQUIRED; 2.2 ALL FIXTURES IN, ON OR ATTACHED TO THE PROPERTY SUBJECT TO THE LEGAL MORTGAGES UNDER PARAGRAPHS 1.1 AND 1.2 AND ALL SPARE PARTS, REPLACEMENTS, MODIFICATIONS AND ADDITIONS FOR OR TO THE SAME; 2.3 ANY OTHER FREEHOLD AND LEASEHOLD PROPERTY WHICH THE COMPANY SHALL OWN TOGETHER WITH ALL FIXTURES AND FITTINGS (INCLUDING TRADE FIXTURES AND FITTINGS) AND FIXED PLANT AND MACHINERY IN, ON OR ATTACHED TO SUCH PROPERTY AND ALL SPARE PARTS, REPLACEMENTS, MODIFICATIONS AND ADDITIONS FOR OR TO THE SAME; 2.4 ALL THE COMPANY'S INTELLECTUAL PROPERTY - ALL PATENTS (INCLUDING APPLICATIONS, IMPROVEMENTS, PROLONGATIONS, EXTENSIONS AND RIGHT TO APPLY THEREFOR) DESIGNS (WHETHER REGISTERED OR UNREGISTERED) COPYRIGHTS, DESIGN RIGHTS, TRADEMARKS AND SERVICE MARKS (WHETHER REGISTERED OR UNREGISTERED) UTILITY MODELS, TRADE AND BUSINESS NAMES, KNOW-HOW, FORMULAE, INVENTIONS, CONFIDENTIAL INFORMATION, TRADE SECRETS AND COMPUTER SOFTWARE PROGRAMS AND SYSTEMS (INCLUDING THE BENEFIT OF ANY LICENCES OR CONSENTS RELATING TO ANY OF THE ABOVE) AND**

**ALL FEES, ROYALTIES OR OTHER RIGHTS DERIVED THEREFROM OR INCIDENTAL THERETO IN ANY PART OF THE WORLD.**

**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 THE ELECTRONIC COPY INSTRUMENT DELIVERED AS PART OF THIS APPLICATION FOR REGISTRATION IS A CORRECT COPY OF THE ORIGINAL INSTRUMENT.**

Certified by: **PULSE CASHFLOW FINANCE LTD**



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

Company number: 12922585

Charge code: 1292 2585 0001

The Registrar of Companies for England and Wales hereby certifies that a charge dated 18th March 2022 and created by AVO DISTRIBUTION GROUP LTD. was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 18th March 2022 .

Given at Companies House, Cardiff on 21st March 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**

We hereby certify this to be a  
true copy of the Original

  
.....  
Pulse Cashflow Finance Limited

DATED 18<sup>th</sup> MARCH 2022 ~~2021~~

**AVO DISTRIBUTION GROUP LTD** (1)

and

**PULSE CASHFLOW FINANCE LIMITED** (2)

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**ALL ASSETS DEBENTURE**

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**PARTIES**

- (1) The person (the "Client") described in Section 1 of Schedule 1;
- (2) **PULSE CASHFLOW FINANCE LIMITED** (Company Number 07940254) whose registered office is LEVEL 1, Network House, Basing View, Basingstoke, Hampshire, RG21 4HG ("Pulse")

This Debenture is made on the date referred to immediately after Schedule 4 hereto by the Client in favour of the Factor.

**IT IS AGREED THAT:**

**1 DEFINITIONS AND INTERPRETATION**

1.1 In this deed any words whose meaning is defined in the Financing Agreement shall have the same meaning.

1.2 In this deed the following words shall have the meaning set out after each of them:

"Act of Default" - in relation to the Client - any event set out in clause 7.1;

"Administrator" - any person appointed under Schedule B1 of the Insolvency Act 1986 to manage the Client's affairs, business and property.

"Associated Rights" - has the same meaning as in the Financing Agreement.

"Charged Assets" - the subject matter of the mortgages and charges (or any or any part of them, if the context so allows) created by this deed and set out at clause 3.

"Debt" - all and any Debts title to which is purported to be assigned or transferred to the Factor under the Financing Agreement.

"Encumbrance" - any mortgage, charge, pledge, lien, assignment, hypothecation, security interest, title retention, flawed asset agreement, preferential right, trust arrangement or other security arrangement, whether by law or agreement.

"Enforcement Date" - the date on which:

- (a) the Factor receives from any person notice of intention to appoint an Administrator; or
- (b) the Client requests the Factor to appoint an Administrator or any Receiver in respect of the Client; or
- (c) a petition is filed for the appointment of an Administrator in respect of the Client; or
- (d) an application is made for the appointment of an Administrator in respect of the Client; or
- (e) an application is made for an administration order in respect of the Client; or
- (f) an Administrator is appointed in relation to the Client; or

- (g) a winding up order has been made or a resolution for winding up has been passed or a provisional liquidator has been appointed in respect of the Client.

**"Environmental Laws"** - all laws, directions and regulations and all codes of practice, circulars and guidance notes issued by any competent authority or agency (whether in the United Kingdom or elsewhere and whether or not having the force of law) concerning the protection of the environment or human health, including without limitation the conservation of natural resources, the production, storage, transportation, treatment, recycling or disposal of any waste or any noxious, offensive or dangerous substance or the liability of any person, whether civil or criminal, for any damage to or pollution of the environment or the rectification thereof or any related matters.

**"Environmental Licence"** - any permit, licence, authorisation, consent or other approval required by any Environmental Law.

**"Equipment"** - means machinery, equipment, furniture, furnishings, fittings and fixtures and other tangible personal property (other than Inventory), including, without limitation, data processing hardware and software, motor vehicles, aircraft, dies, tools, jigs and office equipment, together with all present and future additions thereto, replacements or upgrades thereof, components and auxiliary parts and supplies used or to be used in connection therewith and all substitutes for any of the foregoing, and all manuals, drawings, instructions, warranties and rights with respect thereto wherever any of the foregoing is located and any other asset which would be treated as a fixed asset under GAAP.

**"Factor"** - Pulse and where the context permits includes its officers, agents and representatives.

**"Financing Agreement"** - the Factoring Agreement (if any) for the sale and purchase of Debts and/or a conditional sale agreement and/or any other type of agreement between the Client and the Factor, details of which are set out in Part 2 of Schedule 1 and any amendments or alterations to it or them and any replacement of it or them which may be agreed between the parties.

**"Fixtures"** - means, in relation to a Property, all fixtures and fittings (including trade fixtures and fittings), fixed plant and machinery and other items attached to that Property, whether or not constituting a fixture at law.

**"GAAP"** - means accounting principles and practices which are for the time being generally acceptable in the United Kingdom.

**"Group"** - in relation to any company, that company, the company and its Subsidiaries, its holding company (as defined in Section 1159 of the Companies Act 2006) and the Subsidiaries of that holding company.

**"Insolvent"** - the happening of any of the following events in relation to the Client:

- (a) a distress or execution being levied on or issued against any of the Charged Assets;
- (b) entering or seeking to enter into any formal scheme of arrangement of its affairs or composition in satisfaction of its debts with its creditors in accordance with the Insolvency Act 1986;
- (c) the Client taking any action for its winding up, dissolution or re-organisation (otherwise than for the purposes of an amalgamation or reconstruction while solvent on terms previously approved in writing by the Factor) or for the appointment of a Receiver,

Administrative Receiver, Administrator, trustee or similar officer to in respect of it or all or any part of its revenue or assets;

- (d) a petition being presented or an order being made for the winding up of the Client;
- (e) an administration order being made or applied for;
- (f) a court application being made for the appointment of a Receiver or such a Receiver being appointed;
- (g) a notice of intention to appoint an Administrator being given by an person or an Administrator being appointed;
- (h) a meeting of creditors being called for winding up the Client or for any other purpose referred to in the Insolvency Act 1986;
- (i) a statutory demand under the Insolvency Act 1986 being served;
- (j) an encumbrancer taking possession of any part of the undertaking or property of the Client;
- (k) entering into any informal arrangement or composition with or for the benefit of the Client's general body of creditors;
- (l) being unable to pay its debts as they become due;
- (m) being deemed insolvent under the Insolvency Act 1986;
- (n) taking any steps towards a Moratorium.

**"Intellectual Property"** - all patents (including applications, improvements, prolongations, extensions and right to apply therefor) designs (whether registered or unregistered) copyrights, design rights, trade marks and service marks (whether registered or unregistered) utility models, trade and business names, know-how, formulae, inventions, confidential information, trade secrets and computer software programs and systems (including the benefit of any licences or consents relating to any of the above) and all fees, royalties or other rights derived therefrom or incidental thereto in any part of the world.

**"Moratorium"** - a moratorium coming into effect pursuant to Schedule A1 of the Insolvency Act 1986 or pursuant to paragraph 1A of Schedule 1 to the Insolvent Partnerships Order 1994.

**"Non-Vesting Debts"** - all or any Debts of the Client purported to be purchased by the Factor pursuant to the Financing Agreement but which fail to vest absolutely and effectively in the Factor for any reason, together with the Associated Rights to such Debts.

**"Other Debts"** - all sums due and owing or accruing due and owing to the Client whether or not on account of its trading both present and future except:

- (a) Non-Vesting Debts; and
- (b) any Debts whilst they remain absolutely and effectively vested in or held on trust for the Factor under the Financing Agreement and whether such vesting results from a legal or equitable assignment.



**"Property"** - means freehold and leasehold property wherever situate (other than any heritable property in Scotland), and includes all liens, charges, options, agreements, rights and interests in or over such property or the proceeds of sale of such property and all buildings and Fixtures thereon and all rights, easements and privileges appurtenant to, or benefiting, the same and **"Properties"** means all or any of the same, as the context requires.

**"Receiver"** - includes a receiver and/or manager not being an administrative receiver (as defined in Section 29(2) of the Insolvency Act 1986) of the Receivership Property.

**"Receivership Property"** - such part or parts of the Charged Assets not being the whole or substantially the whole of the Client's property and assets within the meaning of section 29(2) of the Insolvency Act 1986.

**"Remittances"** - cash, cheques, bills of exchange, negotiable and non-negotiable instruments, letters of credit, orders, drafts, promissory notes, electronic payments and any other instruments, methods or forms of payment or engagement.

**"Secured Liabilities"** - both the Secured Monies and the obligations and liabilities in clause 2.1(b).

**"Secured Monies"** - all the monies which now or at any time in future may be owing due and/or payable (but remaining unpaid) by the Client to the Factor in any manner and for any reason on any account; Secured Monies include all such monies due by the Client, either alone or jointly with any other person or on any partnership account (even though the whole of any part of such monies is represented or secured by any mortgages, guarantees, trust receipts, bills of exchange, leasing, hire or conditional sale agreements, assignments, agreements for discounting or factoring of debts or any other agreements or securities) and whether or not any of them have or has fallen due or become payable and whether or not default shall have been made in respect thereof; Secured Monies also means any of the following items, whether now or in the future:

- (a) all monies due or payable by the Client under the Financing Agreement (if any) or any other agreement between the Client and the Factor or by virtue of any guarantee or Indemnity given by the Client to the Factor;
- (b) all advances which the Factor has made or shall make to the Client to the extent repayable by the Client to the Factor under the terms of the Financing Agreement;
- (c) any indebtedness now or hereafter to be incurred by the Factor for or at the request of the Client, including all monies which the Factor shall pay or become liable to pay for or on account of the Client or any other person at the request or order of the Client or under its authority, either alone or jointly with any other person and whether or not by any of the following:
  - (i) the Factor making direct advances to the extent repayable by the Client to the Factor under the terms of the Financing Agreement; or
  - (ii) the Factor drawing, accepting, endorsing, paying or discounting any Remittance to the extent repayable by the Client to the Factor under the terms of the Financing Agreement; or
  - (iii) the Factor entering into any bond, guarantee, indemnity or letter of credit; or
  - (iv) the Factor confirming orders; or

- (v) the Factor otherwise accepting any other liability for or on behalf of the Client;
- (d) all monies which the Factor can charge to the Client and all costs charges and expenses incurred by the Factor following default in payment of any such monies or of breach by the Client of any of the provisions of this deed;
- (e) the charges of surveyors and/or solicitors instructed by the Factor in connection with any part of the Charged Assets;
- (f) all costs and charges and expenses which the Factor may from time to time incur in:
  - (i) stamping, perfecting, registering or enforcing this security; or
  - (ii) the negotiations for the preparation and execution of this deed, and the Financing Agreement or any guarantee, indemnity, priority arrangement, waiver or consent in respect of them; or
  - (iii) obtaining payment or discharge of Secured Monies; or
  - (iv) paying any rent, rates, taxes or outgoings for the Charged Assets; or
  - (v) insuring, repairing, maintaining, managing or realising any part of the Charged Assets; or
  - (vi) the preservation or exercise of any rights under or in connection with this deed or any attempt to do so; or
  - (vii) giving a discharge or release of this security; or
  - (viii) dealing with or obtaining advice about any other matter or question arising out of or in connection with this deed with the intention that the Factor shall be afforded a full complete and unlimited indemnity against all costs, charges and expenses paid or incurred by it and whether arising directly or indirectly in respect of this security or of any other security held by the Factor for the Secured Monies;
- (g) all monies expended by any attorney appointed under clause 6.3 in exercising his powers;
- (h) Interest on all monies due and owing to the Factor at such rate as may from time to time be payable pursuant to any agreement or arrangement relating thereto.

**"Securities"** - all stocks, shares, bonds and securities of any kind whatsoever and whether marketable or otherwise and all other interests (including but not limited to loan capital) both present and future held by the Client in any person and includes all allotments, rights, benefits and advantages whatsoever at any time accruing, offered or arising in respect of or incidental to the same and all money or property offered at any time by way of dividend, conversion, redemption, bonus, preference, option or otherwise in respect thereof.

**"Subsidiary" -**

- (a) a subsidiary within the meaning of Section 1159 of the Companies Act 2006; and
- (b) unless the context otherwise requires, a subsidiary undertaking within the meaning of Sections 1162 of the Companies Act 2006 as substituted by Section 21 of the Companies Act 1989.

**1.3 In the construction and interpretation of this deed:**

- (a) the singular shall include the plural and vice versa; reference to one gender shall include a reference to any other genders;
- (b) references to persons shall be treated as including individuals, firms, partnerships, corporations, organs of government, whether local, national or supra national and any other entity recognised by law;
- (c) references to any Act of Parliament shall be treated as including each Act as amended, modified or re-enacted from time to time and all rules, regulations, orders and subordinate legislation made in accordance with it;
- (d) references to clauses and to schedules are to those in this deed;
- (e) where the Client has an obligation to carry out an act then it shall be fully responsible for the costs and expenses of doing so;
- (f) where the Factor acts in accordance with this deed the Client will indemnify the Factor against all costs and expenses incurred;
- (g) where any discretion is vested in a Receiver or the Factor it shall be treated as an absolute discretion;
- (h) each of the provisions of this deed shall be severable and distinct from one another;
- (i) references to this deed and other documents referred to in it includes any supplemental or collateral document to each of them or which is entered into pursuant to each of them and any document varying, supplementing, novating or replacing the same from time to time;
- (j) references to charges shall be treated as references to mortgages and charges created by this deed;
- (k) references to this security shall be treated as references to the security created by this deed;
- (l) any powers given in this deed to an administrator shall apply to the fullest extent permitted by the Insolvency Act 1986;
- (m) headings to clauses are for reference only and shall not affect the interpretation of this deed;
- (n) the meaning of general words introduced by the word other or the word otherwise shall not be limited by reference to any preceding word or enumeration indicating a particular class of acts, matters or things.

## **2 COVENANT TO PAY**

### **2.1 The Client agrees with the Factor:**

- (a) to pay the Secured Monies, which are now or shall be due, owing and payable to the Factor, in accordance with the terms of the transaction, security, instrument or other obligation giving rise to the Client's indebtedness to the Factor, including those under the Financing Agreement; and
- (b) to discharge all obligations and liabilities, whether actual, accruing or contingent, now or in future due, owing or incurred to the Factor by the Client, in whatever currency denominated and on whatever account and howsoever arising, whether alone or jointly and in whatever style, name or form and whether as principal or surety.

## **3 CHARGING PROVISIONS**

### **3.1 As security for the payment of the Secured Monies, the Client with full title guarantee now gives the following mortgages and charges in favour of the Factor namely:**

- (a) **a legal mortgage** on the Properties (if any) specified in the Schedule 2 to this deed;
- (b) **a legal mortgage** on all Properties (other than any Properties specified in Schedule 2) now owned by the Client or in which the Client has an interest;
- (c) **a fixed charge** on all of the following assets, whether now or in future belonging to the Client:
  - (i) the freehold and leasehold properties of the Client not effectively mortgaged under clauses 3.1(a) and (b) including such as may hereafter be acquired;
  - (ii) all Fixtures in, on or attached to the property subject to the legal mortgages under clauses 3.1(a) and (b) and all spare parts, replacements, modifications and additions for or to the same;
  - (iii) any other freehold and leasehold property which the Client shall own together with all fixtures and fittings (including trade fixtures and fittings) and fixed plant and machinery in, on or attached to such property and all spare parts, replacements, modifications and additions for or to the same;
  - (iv) all Equipment (if any) listed in Schedule 4 and the benefit of all contracts and warranties relating to the same;
  - (v) all Equipment, (other than Equipment specified in Schedule 4), and the benefit of all contracts and warranties relating to the same;
  - (vi) all goodwill, unpaid and/or uncalled capital of the Client;
  - (vii) all the Client's Intellectual Property;
  - (viii) all the Client's Securities;
  - (ix) all loan capital, indebtedness or liabilities on any account or in any manner owing to the Client from any Subsidiary of the Client or a member of the Client's Group;

- (x) all amounts realised by an administrator or liquidator of the Client, upon enforcement or execution of any order of the Court under Part IV of the Insolvency Act 1986;
- (d) a fixed charge upon all or any of the following assets, whether now in existence or coming into existence in future:
  - (i) all documents of title to any item of property which at any time and for any purpose has been or may be deposited with the Factor;
  - (ii) the assets mentioned in the title documents referred to in the immediately preceding sub-paragraph;
  - (iii) any account in the name of the Client under the control of or operated in accordance with the directions of the Factor;
- (e) a fixed charge on all the Client's Non-Vesting Debts, present and future;
- (f) a fixed charge on the Client's Other Debts, present and future;
- (g) the Client, with full title guarantee, hereby charges to the Factor by way of first floating charge as a continuing security for the payment and discharge of the Secured Monies its undertaking and all its property, assets and rights whatsoever and wheresoever both present and future other than any property or assets from time to time effectively charged by way of legal mortgage or fixed charge or assignment pursuant to clauses 3.1(a) to (f) (inclusive) above or otherwise pursuant to this deed but including (without limitation and whether or not so effectively charged) any of its property and assets situated in Scotland.

3.2 The provisions of paragraph 14 of Schedule B1 to the Insolvency Act 1986 apply to the floating charge in clause 3.1(g) which shall be enforceable at time on or after the Client failing to meet any demand made under clause 7 of this deed or, if earlier, on the Enforcement Date, save that nothing in this deed shall cause any charge to become enforceable whilst the Client is subject to a Moratorium.

3.3 If the Factor shall enforce any of the above charges then the floating charges created by this deed shall immediately and without further formality become fixed charges.

3.4 This deed shall take effect subject to the provisions of the prior Encumbrances over the Client's assets detailed in Schedule 3, except as otherwise varied by any separate deed.

3.5 So far as permitted by law and notwithstanding anything expressed or implied in this deed, if the Client:

- (a) creates or attempts to create any Encumbrance over all or any of the Charged Assets without the prior written consent of the Factor, or
- (b) If any person levies or attempts to levy any distress, execution, sequestration or other process or does or attempts to do any diligence in execution against any of the Charged Assets,

the floating charge created by clause 3.1(g) over the property or asset concerned shall thereupon automatically without notice be converted into a fixed charge.

3.6 So far as permitted by law and notwithstanding anything expressed or implied in this deed, upon the occurrence of any event described at:

(a) clause 7.1(e); or

(b) clause 7.1(m),

the floating charges created by this deed shall, unless otherwise agreed by the Factor in writing, automatically and without notice be converted into fixed charges.

3.7 Notwithstanding anything expressed or implied in this deed but without prejudice to clauses 3.5 and 3.6, the Factor shall be entitled at any time by giving notice in writing to that effect to the Client to convert the floating charge over all or any part of the Charged Assets into a fixed charge as regards the assets specified in such notice.

#### **4 COMPANY'S OBLIGATIONS**

4.1 The Client agrees with the Factor that, whilst this security exists, it:

- (a) will deal with the Non-Vesting Debts and their Associated Rights as if they were Debts and their Associated Rights purchased by the Factor under the Financing Agreement and in particular will not bank or deal with Remittances in respect of them except by dealing with them in accordance with the Financing Agreement;
- (b) will not sell, transfer, lease, licence or dispose of the Charged Assets subject to the floating charges herein, except by way of sale at full value in the ordinary course of its business now being carried on;
- (c) will not sell, transfer, lease, license or dispose of the Charged Assets subject to the fixed charges herein without the prior written consent of the Factor but such restriction shall not prohibit the modification, repair and/or maintenance of such assets;
- (d) will collect the Client's Other Debts in the ordinary course of its business as agent for the Factor in a proper and efficient manner and pay into such account as the Factor may from time to time specify all moneys which it may receive in respect of the Other Debts forthwith on receipt, the Client acknowledging that it may not, without the prior written consent of the Factor, withdraw any such moneys from such account or compromise, compound, vary, discharge, postpone or release any of the Other Debts or waive its right of action in connection therewith or do or omit to do anything which may delay or prejudice the full recovery thereof;
- (e) will execute an assignment of the Client's Other Debts in favour of the Factor in such form as the Factor requires, whenever the Factor so demands;
- (f) will not, charge, sell, discount, factor, dispose of or, except in accordance with this deed, otherwise deal with its Other Debts unless it has the prior written consent of the Factor;
- (g) will authorise its bankers from time to time to provide copy statements and full particulars of all the Client's accounts and facilities with them whenever requested by the Factor;
- (h) will provide such other information, as the Factor may reasonably request regarding the Client's affairs;

- (i) will, immediately it becomes aware, provide the Factor with details of any present or future litigation, arbitration or administrative proceedings in progress, pending or, to the knowledge of the Client, threatened against it which might have a material adverse effect on the Client's ability to perform its obligations under this deed;
- (j) will permit the Factor free access at all reasonable times to inspect and take copies of and extracts from the books, accounts and records of the Client and such other documents as the Factor may require and will provide the Factor with all information and facilities which it may require;
- (k) will grant the Factor or its solicitors on request all reasonable facilities to enable it or them to carry out, at the Client's expense, such investigation of title to the Charged Assets and enquiries about it as would be carried out by a prudent mortgagee;
- (l) will use its best endeavours to detect any infringement of its rights to the Intellectual Property; if aware of such infringement, will immediately give the Factor all information available to it about such infringement and will commence and diligently prosecute (or permit the Factor in the name but at the expense of the Client to commence and prosecute) all proceedings necessary to prevent such infringement or to recover damages;
- (m) will do everything needed to ensure that the Intellectual Property, to which the Client is or may become entitled, is valid and subsisting and remains owned by the Client and will take all such actions and proceedings as are necessary to protect such Intellectual Property; if any such Intellectual Property shall at any time lapse or become void, will do everything necessary to restore such Intellectual Property to the Client;
- (n) will comply in all material respects with all laws concerning the Charged Assets and every notice, order, direction, licence, consent, permission lawfully made or given in respect of it and likewise with the requirements of any competent authority;
- (o) will duly and promptly pay all monies which may become due in respect of any of the Securities; (it being acknowledged by the Client that the Factor shall not incur any liability whatsoever for such monies);
- (p) forthwith upon the execution of this deed will deposit with the Factor all certificates or documents of title in respect of the Securities, together as appropriate with duly executed instruments of transfer or assignments thereof in blank; (it being acknowledged that the Factor shall at any time be entitled to have any of the Securities registered either in the name of the Factor or nominees selected by the Factor);
- (q) will ensure the delivery or payment to the Factor of all stocks, shares, Securities, rights, monies or other property accruing, offered or issued at any time by way of bonus, redemption, exchange, purchase, substitution, conversion, preference, option or otherwise in respect of any Securities or the certificates or other documents of title to or representing the same, together with executed instruments of transfer or assignments in blank; (it being acknowledged that the Factor may arrange for any of them to be registered either in the name of the Factor or nominees selected by the Factor);
- (r) will conduct and carry on its business and procure that each of its Subsidiaries conducts and carries on its business so that its centre of main interest for the purposes of Council Regulations (EC) No 1346/2000 of 29 May 2000 on Insolvency Proceedings including, but not limited to, its headquarter functions is located at all times within England and Wales and not move its centre of main interest to any other jurisdiction without the prior

written consent of the Factor at the Factor's sole discretion or otherwise reduce in or divert from England and Wales the substantive management and control of its business or any of its properties;

- (s) (without prejudice to clauses 4.1(b) and 4.1(c)) will not sell, transfer, lease licence, part with possession or dispose of or grant any interest in or relating to its goodwill including (without limitation) diverting or encouraging the diversion of any sales following orders from customers, to any of its Subsidiaries or its holding company (as defined in section 1159 of the Companies Act 2006) or any of its associates (as defined in section 435 of the Insolvency Act 1986) or any other party.

## **5 ADDITIONAL OBLIGATIONS OF THE COMPANY**

**5.1** The Client agrees that, at all times during the continuance of this security, it:

- (a) will carry on the Client's business in a proper and efficient manner and will not make any material alteration to the Client's business, constituting a change from that carried on at the date hereof;
- (b) will maintain proper and up to date books of account of its business; will keep such books of account and all other documents relating to the affairs of the Client at the Client's registered office or at such other place where the same ought to be kept and will promptly provide copies thereof to the Factor upon request;
- (c) will deliver to the Factor the copies of its audited financial statements and any reports and notes accompanying them within 6 months of each year end;
- (d) will punctually pay all its debts and liabilities becoming due and payable and which would, on the winding up of the Client, have priority over the charges created by this deed;
- (e) will punctually pay all outgoing payments payable in respect of the Charged Assets and will promptly produce the receipts for them to the Factor upon request;
- (f) will keep all the Client's freehold and leasehold property in good and substantial repair and will allow the Factor free access, at all reasonable times, to view the state and condition of any such property, but without the Factor becoming liable to account as a mortgagee in possession;
- (g) will observe and perform all the lessee's covenants in any lease under which any of the Charged Assets may be held and will take no action which might lead to such lease being surrendered or forfeited;
- (h) will allow the Factor, at the expense of the Client, to carry out repairs or take any action which the Factor shall reasonably consider necessary should the Client fail to observe or perform its obligations as a lessee;
- (i) will not exercise the powers of leasing or accepting surrenders of leases, conferred on a mortgagee in possession by Sections 99 and 100 of the Law & Property Act 1925, or any other powers of leasing or accepting surrenders of leases, without the prior written consent of the Factor;



- (j) will make sure that an order of the Court is obtained, under Section 38(4) of the Landlord and Tenant Act 1954, excluding the security of tenure provisions of that Act, before granting any lease;
- (k) will insure and keep insured those parts of the Charged Assets as are of an insurable nature against loss or damage by fire and other risks usually insured against and such other risks that the Factor shall reasonably require to their full insurable value with insurers approved by the Factor;
- (l) will make sure that, if required by the Factor, all the Client's Insurance policies will be endorsed with notice of the interest of the Factor in them and will produce to the Factor the receipts for each current premium within fifteen days of its becoming due; failing such production the Factor may effect or renew any such Insurance as the Factor shall think fit at the Client's expense;
- (m) will observe and perform all restrictive and other covenants and stipulations for the time being affecting the Charged Assets or its use or enjoyment;
- (n) will not do or allow anything to be done on the Client's freehold or leasehold property which shall be treated as a development or a change of use within the meaning of the Town and Country Planning Acts unless the prior written consent of the Factor has been obtained;
- (o) will not infringe the Town and Country Planning Acts in any way which prejudices the Factor's security over the Charged Assets;
- (p) will deposit with the Factor all deeds and documents of title relating to the Client's freehold and leasehold property and the insurance policies relating to the same, (subject only to the requirements of any prior Encumbrance or of the Client's landlord);
- (q) will not permit any person to become entitled to any proprietary right or interest which might affect the value of the assets subject to the fixed charges herein.

5.2 If the Client holds property as a tenant or lessee and shall be required by the landlord either to insure or to reimburse the Client's landlord for any insurance premium paid by him then the Client shall be treated as having complied with its insuring obligation under this deed if it duly and promptly complies with such requirements. However this shall not affect the right of the Factor to require the Client to produce satisfactory evidence that the Client has complied with the landlord's requirements.

## **6 FURTHER ASSURANCE AND POWER OF ATTORNEY**

6.1 At the Factor's request, the Client will at the Client's cost immediately sign, seal, execute, deliver and perfect all deeds and instruments and do all such other acts and things as the Factor or any Receiver appointed hereunder may require in order to perfect or enforce this security or to use the powers given to each of them in this deed or to enforce the obligations of the Client and/or the rights of the Factor under this deed.

6.2 The Client will, if called upon by the Factor, execute a legal or equitable assignment of any part of the Charged Assets, in such terms as the Factor may require. The Client will then give notice of such assignment to such persons as the Factor may specify and take such other steps as the Factor may require to perfect such assignment.

6.3 The Client by way of security hereby irrevocably appoints the Factor and any Receiver severally to be its attorney and in its name and on its behalf:

- (a) to execute and complete any documents or Instruments which the Factor or such Receiver may require for perfecting the title of the Factor to all or any part of the Charged Assets or for vesting the same in the Factor, its nominees or any purchaser;
- (b) to sign, execute, seal and deliver and otherwise perfect any further security document referred to in clause 6.1; and
- (c) otherwise generally to sign, seal, execute and deliver all deeds, assurances, agreements and documents and to do all acts and things which may be required for the full exercise of all or any of the powers conferred on the Factor or a Receiver under this deed or which may be deemed expedient by the Factor or a Receiver in connection with any disposition, realisation or getting in by the Factor or a Receiver or in connection with any other exercise of any power under this deed and including, but not limited to, a power in favour of any Receiver to dispose for value of any of the assets of the Client over which such Receiver may not have been appointed and which are located at real property over which he has been appointed, without being liable for any losses suffered by the Client.

## **7 ENFORCEMENT**

7.1 The Factor shall be entitled to make demand for payment of the Secured Monies at any time on or after the Enforcement Date or at any time after the occurrence of any of the following events and if such demand is not met in full, (or on or after the Enforcement Date without any demand) the Factor shall be entitled to enforce (in whole or in part) the charges created by this deed (save where a Moratorium is applied for or is in force, when no demand shall be made until any application is rejected or upon the expiry of such Moratorium):

- (a) the Client breaching any of its obligations under this deed or in the Financing Agreement or any other agreement with the Factor or an occurrence of a Termination Event pursuant to the Financing Agreement;
- (b) the Client defaulting in paying any of the Secured Monies as and when they become due;
- (c) the Client failing to give the Factor such information as may reasonably be requested as to the business, affairs or assets of the Client;
- (d) any representation, warranty or undertaking at any time made by the Client to the Factor is or was, in the reasonable opinion of the Factor, incorrect or misleading in any respect or, being on an undertaking, shall not be complied with by the Client;
- (e) the Client disposing or attempting to dispose of its principal undertaking or a substantial part of it, without the prior written approval of the Factor;
- (f) the Client becoming Insolvent;
- (g) the Client suspending or threatening to suspend a substantial part of its business or the Factor receiving information, from the Client or any responsible third party, whether orally or in writing, that the Client is contemplating or is likely to suspend a substantial part of its business;

- (h) the Client commencing negotiations with any of its creditors with a view to the general readjustment or rescheduling of the Client's indebtedness;
- (i) the Client defaulting under any of the following with any party:
  - (i) a trust deed;
  - (ii) a loan agreement;
  - (iii) an Encumbrance;
  - (iv) any other agreement or obligation relating to borrowing or financing (including all liabilities in respect of accepting, endorsing or discounting any notes or bills and all liabilities under debt purchase, factoring, discounting and similar agreements);
  - (v) any guarantee or indemnity;
- (j) any borrowing or any other money payable by the Client:
  - (i) becoming payable or is capable of being declared payable prior to its stated date of maturity; or
  - (ii) is not paid when due;
- (k) any Encumbrance created by the Client in favour of another party becoming enforceable;
- (l) any guarantee, indemnity or other security for any of the Secured Liabilities failing or ceasing in any respect to have full force and effect or to be continuing or is terminated or disputed or is the opinion of the Factor in jeopardy, invalid or unenforceable;
- (m) if any governmental authority permits, or procures, or threatens any reorganisation, transfer or appropriation (whether with or without compensation) of a substantial part of the business or assets of the Client;
- (n) the Client, without the prior written consent of the Factor, changing the nature of its business or trading in any way which the Factor considers prejudicial to this security;
- (o) if it is unlawful for the Client to perform or comply with any of its obligations under this deed or under any other agreement between the Client and the Factor or such obligations of the Client are not or cease to be legally valid, binding and enforceable;
- (p) if, after the date of this deed, control (as defined in Section 435 of the Insolvency Act 1986) or the power to take control of the Client changes, without prior written consent of the Factor; or
- (q) if, in the opinion of the Factor, a material adverse change occurs in the financial condition, results of operations or business of the Client.

**7.2** At any time after any Act of Default the Factor may exercise in the name of the Client any voting rights attached to the Securities and all powers given to trustees by Sections 10(3) and (4) of the Trustee Act 1925 (as amended by Section 9 of the Trustee Investments Act 1961) in respect of securities, property subject to a trust and any powers or rights exercisable by the registered

holder of any of the Securities or by the bearer thereof. The Factor will not then need any consent or authority from the Client.

## **8 POWER OF POSSESSION AND SALE**

- 8.1 At any time after this security shall become enforceable, the Factor and/ or any Receiver appointed under this deed may, in their discretion, enter upon and take possession of the Receivership Property or any part of it. They may also at their discretion, when exercising their powers given in this deed, sell, call in, collect and convert into monies the Receivership Property or any part of it. By way of extension of these powers such sale, calling in and conversion may be done for such consideration as the Factor or any Receiver shall consider sufficient. It is irrelevant whether the consideration shall consist of cash, shares or debentures in some other company or any other property or partly of one and partly of some other type of consideration. Such consideration may be immediately payable or payable by instalments or deferred. Instalment or deferred payments may be with or without security and on such other terms as the Factor or the Receiver shall think fit.

## **9 APPOINTMENT OF RECEIVER AND HIS POWERS**

- 9.1 Section 109 of the Law of Property Act 1925 (restricting the power to appoint a receiver) shall not apply to this deed. At any time after an Act of Default or after any other event, as a result of which this security shall become enforceable or, if the Client at any time so requests in writing, the Factor may without further notice to the Client appoint any person to be a Receiver of the Receivership Property. Any such appointment may be made subject to such qualifications, limitations and/or exceptions (either generally or in relation to specific assets or classes of asset) as may be specified in the instrument effecting the appointment. A Receiver shall have the power to do or omit to do on behalf of the Client anything which the Client itself could do or omit to do if the Receiver had not been appointed, notwithstanding the liquidation of the Client. In particular, (but without limitation) a Receiver shall have power to:

- (a) enter upon, take possession of, collect and get in the Receivership Property and have possession of all records, correspondence and other documents relating to the Receivership Property and, for that purpose, to take such proceedings as may seem to him expedient;
- (b) do all acts which the Client might do for the protection or improvement of the Receivership Property or for obtaining income or returns from it;
- (c) allow the whole or any part of the sale monies of the Receivership Property to remain outstanding on mortgage of the property sold or on any other security or even without any security and without being responsible for any loss caused and with full power to buy in and rescind or vary any contract for sale and to resell without being responsible for loss;
- (d) let or let on hire, lease or surrender and accept surrenders of the Receivership Property;
- (e) exercise or permit the Client or any nominee of the Client to exercise any powers or rights incidental to the ownership of the Receivership Property, in such manner as he may think fit;
- (f) give complete discharges in respect of all monies and other assets which may come into the hands of the Receiver in the exercise of his powers;

- (g) carry out and enforce specific performance of or obtain the benefit of all the Client's contracts or those entered into in exercise of the powers or authorities conferred by this deed;
- (h) demand and get in all rents and other income, whether accrued before or after the date of his appointment;
- (i) exercise the powers conferred on a landlord or a tenant under the Landlord and Tenant Acts 1927 and 1954 but without liability for powers so exercised;
- (j) do all things necessary to make sure that the Client performs or observes all of its obligations to the Factor;
- (k) delegate to any person, for such time as the Factor shall approve, any of the powers conferred upon the Receiver;
- (l) have access to and make use of the premises, plant, equipment and accounting and other records of the Client and the services of its staff in order to exercise his powers and duties;
- (m) sell or otherwise dispose of the Receivership Property for cash or on credit, in one lot or in parcels by public auction or private auction or private contract or, in Scotland, to sell, feu, hire out or otherwise dispose of the Receivership Property by public roup or private bargain;
- (n) raise or borrow money and grant security therefor over the Receivership Property;
- (o) appoint a solicitor or accountant or other professionally qualified person to assist him in the performance of his functions;
- (p) bring or defend any action or other legal proceedings in the name and on behalf of the Client;
- (q) refer to arbitration any question affecting the Client;
- (r) effect and maintain insurances in respect of the business and properties of the Client;
- (s) use the Client's seal;
- (t) do all acts and to execute in the name and on behalf of the Client any deed, receipt or other document;
- (u) draw, accept, make and endorse any bill of exchange or promissory note in the name and on behalf of the Client;
- (v) appoint any agent to do any business which he is unable to do himself or which can more conveniently be done by an agent and have the power to employ and dismiss employees, agents and/or advisors at such salaries or remuneration and on such terms of service as the Receiver in his discretion may think fit;
- (w) do all such things (including the carrying out of works) as may be necessary for or incidental or conducive to the realisation of the Receivership Property;
- (x) make any payment which is necessary or incidental to the performance of his functions;

- (y) carry on or permit the carrying on of the business of the Client;
- (z) establish Subsidiaries of the Client;
- (aa) transfer to Subsidiaries of the Client the whole or any part of the business or Receivership Property;
- (bb) grant or accept a surrender of a lease or tenancy of any of the Receivership Property, and take a lease or tenancy of any properties required or convenient for the business of the Client;
- (cc) make any arrangement or compromise on behalf of the Client in respect of the Receivership Property;
- (dd) call up, or require the directors of the Client to call up, any uncalled capital of the Client;
- (ee) rank and claim in the bankruptcy, insolvency, sequestration or liquidation of any person indebted to the Client and to receive dividends, and to accede to trust deeds for the creditors of any such person.

He shall also have all powers from time to time conferred on receivers by statute without, in the case of powers conferred by the Law of Property Act 1925, the restrictions contained in Section 103 of that Act.

- 9.2 The Factor may from time to time determine the remuneration of any Receiver and section 109(6) Law of Property Act 1925 shall be varied accordingly. A Receiver shall be entitled to remuneration appropriate to work and responsibilities involved upon the basis of charging from time to time adopted by the Receiver in accordance with the current practice of his firm.
- 9.3 The Factor may remove any Receiver (except an administrative receiver). In case of such removal or the retirement or death of any Receiver, the Factor may appoint another in his place. At the time of his appointment (or at any time afterwards) the Factor may fix the remuneration of the Receiver on such basis as the Factor shall determine. This may include a fixed fee or an hourly rate or a commission.
- 9.4 The Factor may appoint more than one person to act as the Receiver. Where more than one person shall be appointed to act as Receiver, those so appointed shall carry out their duties, exercise their rights, and be subject to their obligations jointly as well as severally. References in this deed to the Receiver shall be to each and all of them as appropriate.
- 9.5 Any appointment, or fixing of the remuneration of the Receiver or any such removal shall be made in writing and be signed by any director or authorised officer of the Factor.
- 9.6 Any Receiver appointed under this deed shall be the agent of the Client. He shall be in the same position as a Receiver appointed under the Law of Property Act 1925. The Client shall be solely responsible for his acts, omissions, losses, misconduct, defaults and remuneration. The Factor shall not in any way be liable or responsible either to the Client or to any other person for any of them.
- 9.7 The Factor may at any time give up possession of any part of the Receivership Property and/or withdraw from the receivership.

- 9.8 Whether or not a Receiver shall be appointed under this deed, the Factor may at any time after this security shall have become enforceable and without giving notice, exercise all or any of the powers, authorities and discretions conferred on a Receiver as set out above.

## **10 ADDITIONAL POWERS**

- 10.1 In addition to the powers of leasing or accepting surrenders of leases conferred on mortgagees by Sections 99 and 100 of the Law of Property Act 1925, it shall be lawful for the Factor or any Receiver without the restrictions contained in those Sections:

- (a) to grant any lease of all or any part of the Charged Assets upon such terms as the Factor or the Receiver shall in its absolute and unfettered discretion think fit; and
- (b) to accept a surrender of any lease of all or any part of the Charged Assets on such terms as the Factor or the Receiver in its or his discretion shall think fit.

- 10.2 Section 103 of the Law of Property Act 1925 (restricting the power of sale) shall not apply. However the power of sale and the other powers conferred on mortgagees by that Act shall apply to this security but without the Act's restrictions as to giving notice or otherwise. Accordingly for the purposes of a sale or other exercise of any such powers the whole of the Secured Monies shall be treated as due and payable immediately upon the execution and delivery of this document.

- 10.3 The restrictions on the right of consolidating mortgage securities, which are contained in Section 93 of the Law of Property Act, shall not apply to this security.

- 10.4 The Factor may, at any time without discharging or in any other way affecting this security or any remedy that the Factor may have, grant to the Client (or to any other person) time or indulgence or abstain from perfecting or enforcing any remedies, securities, guarantees or rights which the Factor may now or afterwards have from or against the Client or any other person.

- 10.5 If the Factor receives or is treated as having received notice of any subsequent mortgage or charge affecting any of the Charged Assets then the Factor may open a new account with the Client. If it does not open a new account, it shall nevertheless be treated as if it had done so at the time when it received or was treated as having received such notice. From that time all payments made by the Client to the Factor shall be credited or be treated as having been credited to the new account. Such payments shall not operate to reduce the amount secured by this deed when the Factor received or was treated as having received such notice.

## **11 APPLICATION OF MONIES**

- 11.1 All monies received by the Factor or by the Receiver under or by virtue of this deed shall be applied in the following order;

- (a) in the discharge of all liabilities having priority to the Secured Monies;
- (b) in payment of all costs, charges and expenses incurred in or incidental to the exercise or performance (or attempted exercise or performance) of any of the powers or authorities conferred by or in any other way connected with this deed;
- (c) in payment to the Receiver of his remuneration fixed in accordance with clause 9 of this deed;
- (d) any sums due to any person under any applicable statute;

- (e) in payment to the Factor of the Secured Monies due to the Factor in such order as the Factor in its absolute discretion thinks fit; and then
  - (f) In payment to the Client of any surplus.
- 11.2 Any surplus shall not carry interest. The Receiver or the Factor may pay any surplus into any of the Client's bank accounts including an account opened specifically for such purpose. The Factor shall then have no further liability for such surplus.
- 11.3 Following the enforcement of this security, any monies received by the Factor may be appropriated by the Factor in its discretion in or towards the payment and discharge of any part of the Secured Monies.
- 11.4 The Factor or the Receiver may credit any monies to a suspense account for so long and in such manner as the Factor may from time to time determine. The Receiver may retain the same for such period as the Receiver and the Factor consider expedient.
- 11.5 All monies received by the Client under any insurance policy on the Charged Assets shall be treated as part of the Charged Assets subject only to any rights of third parties having priority and to the requirements of any lease of the Charged Assets. They shall be applied at the discretion of the Factor either in reducing the Secured Monies or towards making good the loss or damage for which the monies became payable. Any monies received by the Client under any insurance on the Charged Assets shall be held on trust for payment to the Factor pending such application.
- 12 PROTECTION OF THIRD PARTIES**
- 12.1 No person paying or handing over monies to the Receiver and obtaining a discharge shall have any responsibility or liability to see to their correct application.
- 12.2 No person dealing with the Factor or the Receiver need enquire:
  - (a) whether any event has happened giving either the Factor or the Receiver the right to exercise any of his powers;
  - (b) as to the propriety or regularity of any act purporting or intending to be an exercise of such powers;
  - (c) as to the validity or regularity of the appointment of any Receiver purporting to act or to have been appointed as such; or
  - (d) whether any money remains owing upon this security.
- 12.3 All the protection to purchasers contained in Sections 104 and 107 of the Law of Property Act 1925 shall apply to any person purchasing from or dealing with the Receiver or the Factor as if the Secured Monies had become due and the statutory power of sale and appointing a receiver in relation to (to the extent permitted by law) had arisen on the date of this deed.
- 12.4 No person dealing with the Factor or the Receiver shall be affected by express notice that any act is unnecessary or improper.



### **13 LAND REGISTRY**

13.1 The Client will notify the Factor of any freehold or leasehold property which it now owns or which it may own after the date of this deed and will, at any time, meet any cost of registering this deed against any property which the Client may now, or in the future, own at the Land Registry.

- (a) The Client hereby consents to the Factor's application to the Chief Land Registrar in Form RX1 for the registration of the following restriction against each of the registered titles specified in Schedule 2 (and against any title to any unregistered Property specified in Schedule 2 which is or ought to be the subject of a first registration of title at the Land Registry at the date of this deed):

["RESTRICTION:

No disposition of the registered estate by the proprietor of the registered estate is to be registered without a written consent signed by the proprietor for the time being of the charge dated ( ) in favour of Pulse Cashflow Finance Limited (company number 07310799) referred to in the charges register or, if appropriate signed on such proprietor's behalf by its attorney, directors and/or secretary."]\*

["RESTRICTION:

No disposition of the registered estate by the proprietor of the registered estate is to be registered without a written consent signed by the proprietor for the time being of the charge dated ( ) in favour of Pulse Cashflow Finance Limited (company number 07940254 referred to in the charges register or, if appropriate signed on such proprietor's behalf by its attorney, directors and/or secretary."]\*

*(\*delete as applicable)*

- (b) In respect of any Property charged pursuant to this deed title to which is registered at the Land Registry, the Client hereby represents and warrants that the security created by this deed does not contravene any of the provisions of the memorandum and articles of association or any other constitutional documents of the Client.

### **14 CONTINUING AND ADDITIONAL SECURITY**

14.1 This security is a continuing security. It shall apply to all the Secured Monies despite any interim settlement of account until a final discharge of this security shall be given by the Factor to the Client.

14.2 This security is in addition to and shall not merge or otherwise prejudice or affect any other right or remedy of the Factor or any assignment, bill, note, guarantee, mortgage or other security now or in future in favour of the Factor or held by or available to the Factor, whether created by the Client or any third party.

14.3 This security shall not in any way be prejudiced or affected by:

- (a) any guarantee, mortgage or other security now or in future held by or available to the Factor or by the invalidity of any of them or by the Factor now or afterwards dealing with, exchanging, releasing, modifying or abstaining from perfecting or enforcing any of them or any rights which it may now or afterwards have; or

- (b) by the Factor giving time for payment or indulgence or compounding with the Client or any other persons.

## **15 CURRENCY INDEMNITY**

- 15.1 For the purpose of or pending the discharge of any of the Secured Liabilities secured by this deed the Factor or any Receiver appointed hereunder may convert any monies received, recovered or realised under this deed (including the proceeds of any previous conversion) from their existing currency into such other currency as the Factor or such Receiver may think fit. Any such conversion shall be effected at the then prevailing spot selling rate of exchange, of the Factor's bankers, for such other currency against the existing currency.
- 15.2 The Client will indemnify the Factor against any shortfall between:
  - (a) any amount received or recovered by the Factor in respect of any of the Secured Liabilities which is converted in accordance with clause 15.1 into the currency in which such liability was payable; and
  - (b) the amount payable to the Factor under this deed in the currency of such liability.

## **16 DISCHARGE**

- 16.1 Upon payment and complete discharge and performance of all the Secured Liabilities and of all costs, charges and expenses incurred by the Factor under or in relation to this deed, the Factor shall, at the request (in accordance with Clause 16.4) and cost of the Client, duly discharge this security and any further security given in accordance with its terms. The Factor will also transfer to the Client any of the Charged Assets which have been assigned or transferred to the Factor.
- 16.2 The right of the Factor to recover the Secured Monies or to enforce the terms of this deed shall not be affected by any payment or any act or thing which may be avoided or adjusted under the laws relating to bankruptcy or insolvency or under Part VI of the Insolvency Act 1986. Any release or discharge given or settlement made by the Factor relying on any such payment, act or thing shall be void and of no effect.
- 16.3 Without prejudice to clauses 16.1 and/or 16.2 above, the Client hereby irrevocably and unconditionally confirms in favour of the Factor that it shall not and shall procure that no other person shall file or register with any person any Companies House form 403(a) or form 403(b) or any Land Registry form DS1 or any other document to the intent or having the effect of discharging this security whether in whole or in part until such time as the Factor shall have given the discharge referred to in clause 16.1 without the Factor's prior written consent.
- 16.4 Without prejudice to Clause 16.1, when the Client requests the discharge of the Security in accordance with Clause 16.1 it shall do so in writing in accordance with Clause 17 and such notice shall only be a valid request if it also contains an irrevocable waiver by the Client of all and any claims against the Factor.

## **17 SERVICE OF NOTICES AND PROCESS**

- 17.1 All notices or other communications to be given by the Factor to the Client and any proceedings issued by the Factor requiring service on the Client may be given or served in writing delivered to the Client's registered office, the Client's principal place of business, or address, fax or email address last known to the Factor.
- 17.2 A notice or other communication served in accordance with clause 17.1 will be deemed to have

been received by the Client:

- (a) In the case of a letter delivered by hand, on the day of delivery, provided that day is a Business Day or if it is not a Business Day on the first Business Day falling after that day;
- (b) In the case of a letter posted by first class, prepaid mail, at 10am on the second Business Day after the day on which it is posted;
- (c) In the case of second class prepaid mail, at 10am on the third Business Day after posting; and
- (d) If sent by facsimile or e-mail at the time of transmission following receipt of the appropriate successful transmission activity report;
- (e) If sent by facsimile or e-mail outside normal business hours at 10 a.m. on the Business Day following receipt of the appropriate successful transmission activity report;
- (f) If made available for viewing upon the Factor's website at the time at which it was made available to be viewed by the Client;

17.3 All notices or other communications to be given by the Client to the Factor hereunder must be given in writing, by registered post or by hand. Any such notice shall take effect at the time it is received by the Factor at its registered office or at such other address as the Factor may advise in writing to the Client for this purpose.

## **18 JURISDICTION**

18.1 This deed shall be interpreted and shall be governed by the laws of England. The Client will accept the non-exclusive jurisdiction of the English Courts in connection with any matter arising under this deed.

## **19 REPRESENTATIONS, WARRANTIES AND UNDERTAKINGS BY COMPANY**

19.1 The Client certifies that the execution of this deed has been duly authorised by a resolution of the Client's Board of Directors and that it does not break any of the provisions of the Client's Memorandum and Articles of Association or of any other Encumbrance, security or agreement entered into prior to the date of this deed or the laws of any jurisdiction applying to the Client.

19.2 The Client represents and warrants to the Factor that:

- (a) it is and will at all times be the sole beneficial owner with full title guarantee of all the Charged Assets and that no Encumbrances affect it except the Encumbrances (if any) set out in Schedule 3 and general liens in the ordinary course of business;
- (b) it has and will at all times have the necessary power to enter into and perform its obligations under this deed;
- (c) this deed constitutes its legal, valid, binding and enforceable obligations and is an effective security over all and every part of the Charged Assets in accordance with its terms;
- (d) all necessary authorisations and consents to enable or entitle it to enter into this deed have been obtained and these will remain in full force and effect during the existence of this security;

- (e) the Client has acquired, maintained and complied with all Environmental Licences (if any) needed for its use or occupation of the Charged Assets or for the conduct of its current business;
- (f) the Client has complied with all other applicable Environmental Laws and has not done or permitted any act or omission whereby its Environmental Licences (if any) could be varied or revoked;
- (g) so far as the Client is aware there has been no discharge, spillage, release or emission of any prescribed, dangerous, noxious or offensive substance or any controlled waste on, into or from any of the Charged Assets or any premises adjoining any part of it; and no such substances or any controlled waste have been stored or disposed of on or in any part of the Charged Assets or, so far as the Client is aware, in any adjoining premises except in accordance with the requirements of the applicable Environmental Laws;
- (h) the Client is not in breach of and has not incurred or become subject to any civil or criminal liability under any Environmental Laws or the terms of any Environmental Licence;
- (i) the Client has obtained and maintained all such Insurance policies as would be maintained by prudent companies carrying on business of the type carried on by the Client at all relevant times and has complied in all material respects with the terms and conditions of such policies.

19.3 The Client undertakes that no Encumbrances (other than a general lien in the ordinary course of business) will arise after the date of this deed over the Charged Assets, save with the prior written consent of the Factor.

## **20 TRANSFERS AND DISCLOSURES**

20.1 This deed is freely transferable by the Factor. References in this deed to the Factor shall include its successors, assignees and transferees.

20.2 The Client may not assign or transfer any of its obligations under this deed. Nor may the Client enter into any transaction which would result in any such obligations passing to another person.

20.3 The Factor may disclose any information about the Client and any member of the Client's Group and any other person connected or associated with it to any member of the Factor's Group and/or to any person to whom it is proposing to transfer or assign or has transferred or assigned this deed. The Client represents and warrants that it has and (so far as permitted by law) will maintain any necessary authority by or on behalf of any such persons to agree to the provisions of this clause.

## **21 MISCELLANEOUS**

21.1 No delay or omission on the part of the Factor in exercising any right or remedy under this deed shall impair that right or remedy or operate as or be taken to be a waiver of it. Any single, partial or defective exercise of any such right or remedy shall not prevent the further exercise of that or any other right or remedy.

21.2 The Factor's rights under this deed are cumulative. They are not exclusive of any rights provided by law. They may be exercised from time to time and as often as the Factor sees fit.

- 21.3 Any waiver by the Factor of any terms of this deed or any consent or approval given by the Factor under it shall only be effective if given in writing. Such consent and approval shall then only apply for the purpose stated and be subject to any written terms and conditions imposed by the Factor.
- 21.4 If at any time any one or more of the provisions of this deed is or becomes illegal, invalid or unenforceable in any respect under the laws of any jurisdiction then neither the legality, validity or enforceability of the remaining provisions of this deed nor the legality, validity or enforceability of such provision under the law of any other jurisdiction shall be in any way affected or impaired as a result.
- 21.5 Any certificate signed by a director or authorised officer of the Factor as to the amount of the Secured Monies at the date of such certificate shall, in the absence of manifest error, be conclusive evidence of such amount and be binding on the Client.
- 21.6 This deed may be executed in any number of counterparts. It will then be as effective as if all signatures on the counterparts were on a single copy of this deed.
- 21.7 The paper on which this deed is written is, and will remain at all times, the property of the Factor, even after the discharge of this security.

## **SCHEDULE 1**

### **Part 1**

#### **The Client**

Avo Distribution Group Ltd, a company incorporated under the laws of England and Wales with registered number 12922585 and whose registered office is at 53 Witham Road, Black Notley, Braintree, CM77 8LQ and its successors in title and permitted assigns.

### **Part 2**

#### **Financing Agreement**

The Factoring Agreement entered into between the Client and the Factor dated on or about the date hereof

## **SCHEDULE 2**

### **Property**

- 1** Land Registered at the Land Registry
- 2** London Borough/County and District
- 3** Title Numbers and Description

**SCHEDULE 3**

**Encumbrances**

Encumbrances to which this security is subject.



## **SCHEDULE 4**

### **Equipment**

IN WITNESS whereof the parties have executed and delivered this deed on the day and year stated above:

SIGNED and Delivered as a Deed by )  
PULSE CASHFLOW FINANCE LIMITED )

acting by:

\*\* N. HALLET )

a director / a duly authorised attorney,  
in the presence of:

N. McCalla Director / Attorney on behalf of  
Pulse Cashflow Finance Limited

Witness signature:

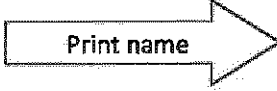

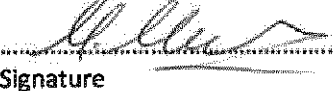
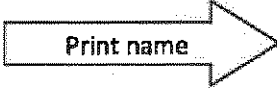


Name:

Address:

Occupation:

\* *Delete as appropriate*

\*\* *Full names*

Companies		Limited Liability Partnerships	
This Deed can be signed by either: 1) Two directors; 2) One director and company secretary; or 3) One director and a witness.		This Deed can be signed by either: 1) Two members; or 2) One member and a witness.	
<b>SIGNED and DELIVERED</b> as a deed on behalf of <b>AVO DISTRIBUTION GROUP LTD</b> acting by:			
Print name 	Michael Mulvaney Director/Member* (delete as applicable)		
Sign here 	 Signature		
Print name 	..... Director/Company Secretary/Member* (delete as applicable)		
Sign here 	..... Signature		
<b>WITNESS (only required if one signature above)</b>			
In the presence of:			
Witness Signature:	 .....		
Witness Name:	Lee Andrews.....(Please print)		
Witness Address:	235 Mill Park Drive / CH71TA .....		
Witness Occupation:	Carpenter .....		