



**Registration of a Charge**

Company name: **MARKETSCAN HOLDINGS LIMITED**

Company number: **12954670**



X9HYDU5U

Received for Electronic Filing: **16/11/2020**

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**Details of Charge**

Date of creation: **30/10/2020**

Charge code: **1295 4670 0001**

Persons entitled: **ROGER NEIL DAWSON  
JULIE ANN KNIGHT  
SUZANNE CAROL STOCK**

Brief description:

**Contains fixed charge(s).**

**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:

**LEGAL CLARITY LIMITED**



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

Company number: 12954670

Charge code: 1295 4670 0001

The Registrar of Companies for England and Wales hereby certifies that a charge dated 30th October 2020 and created by MARKETSCAN HOLDINGS LIMITED was delivered pursuant to Chapter A1 Part 25 of the Companies Act 2006 on 16th November 2020 .

Given at Companies House, Cardiff on 17th November 2020

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



**Companies House**



THE OFFICIAL SEAL OF THE  
REGISTRAR OF COMPANIES

DATED

30/10/

2020

- (1) MARKETSCAN HOLDINGS LIMITED
- (2) ROGER DAWSON, JULIE KNIGHT, SUZANNE STOCK

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CHARGE OVER SHARES

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SOLICITORS

Legal Clarity Limited, First Floor, Charles House, 148 - 149 Great Charles Street, Birmingham B3 3HT  
T: 08456 800 727 F: 08456 800 729

*X*  
**THIS DEED** is dated

*30th October*

*✓ Date*  
2020

## **PARTIES**

- (1) **MARKETSCAN HOLDINGS LIMITED** incorporated and registered in England and Wales with company number 12954670 whose registered office is at 8 Dukes Court, Bognor Road, Chichester, West Sussex PO19 8FX ("**Borrower**"); and
- (2) **ROGER DAWSON** of **KNIGHT** of **STOCK** of **JULIE SUZANNE** (together the "**Lender**").

## **BACKGROUND**

- (A) The Borrower has issued the Loan Notes (as defined below) to the Lender on or around the date of this deed.
- (B) Under this deed, the Borrower provides security to the Lender for its payment obligations in respect of the Loan Notes.

## **AGREED TERMS**

### **1. Definitions and interpretation**

#### **1.1 Definitions**

The following definitions apply in this deed:

**Business Day:** a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

**Delegate:** any person appointed by the Lender or any Receiver pursuant to clause 12, and any person appointed as attorney of the Lender, Receiver or Delegate.

**Event of Default:** has the meaning given in the Loan Note Instrument.

**Financial Collateral:** has the meaning given to that expression in the Financial Collateral Regulations.

**Financial Collateral Regulations:** the Financial Collateral Arrangements (No. 2) Regulations 2003 (*SI 2003/3226*).

**Loan Notes:** the £375,000 secured loan notes 2020 issued by the Borrower to the Lender, as constituted by the Loan Note Instrument.

**Loan Note Instrument:** the loan note instrument dated on or around the date of this deed executed by the Borrower constituting the Loan Notes.

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

**Related Rights:** any:

- a) dividend, interest or other distribution paid or payable in relation to any Share; and
- b) right, money or property accruing, offered or issued at any time in relation to any Share by way of redemption, substitution, exchange, conversion, bonus, preference or otherwise, under option rights or otherwise.

**Receiver:** a receiver, receiver and manager or administrative receiver appointed by the Lender under clause 10.

**Secured Assets:** all the assets, property and undertaking of the Borrower which are, or are expressed to be, subject to any Security created by, or pursuant to, this deed (and references to the Secured Assets shall include references to any part of them).

**Secured Liabilities:** all present and future obligations and liabilities of the Borrower to the Lender in respect of the Loan Notes and pursuant to or in connection with the Loan Note Instrument, whether actual or contingent.

**Security Financial Collateral Arrangement:** has the meaning given to that expression in the Financial Collateral Regulations.

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

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

**Shares:** all issued shares held by the Borrower in the capital of Marketscan Limited (and **Share** shall be construed accordingly).

**SPA:** the share purchase agreement dated on or around the date of this deed for the transfer of the shares in the capital of Marketscan Limited from the Lender to the Borrower.

## **1.2 Interpretation**

In this deed:

- (a) clause, Schedule and paragraph headings shall not affect the interpretation of this deed;
- (b) a reference to a **person** shall include a reference to an individual, firm, company, corporation, partnership, unincorporated body of persons, trust,

joint venture or consortium (whether or not having separate legal personality) and that person's personal representatives, successors, permitted assigns and permitted transferees;

- (c) unless the context otherwise requires, words in the singular shall include the plural and vice versa;
- (d) unless the context otherwise requires, a reference to one gender shall include a reference to the other genders;
- (e) a reference to a party shall include that party's successors, permitted assigns and permitted transferees and this deed shall be binding on, and enure to the benefit of, the parties to this deed and their respective personal representatives, successors, permitted assigns and permitted transferees;
- (f) a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time;
- (g) a reference to a statute or statutory provision shall include all subordinate legislation made under that statute or statutory provision;
- (h) an obligation on a party not to do something includes an obligation not to allow that thing to be done;
- (i) a reference to **this deed** (or any provision of it) or to any other agreement or document referred to in this deed is a reference to this deed, that provision or such other agreement or document as amended (in each case, other than in breach of the provisions of this deed) from time to time;
- (j) unless the context otherwise requires, a reference to a clause or Schedule is to a clause of, or Schedule to, this deed and a reference to a paragraph is to a paragraph of the relevant Schedule;
- (k) any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms;
- (l) a reference to **assets** includes present and future properties, undertakings, revenues, rights and benefits of every description;
- (m) a reference to **continuing** in relation to an Event of Default means an Event of Default that has not been remedied or waived;
- (n) a reference to a **regulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, inter-governmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation.

### 1.3 Clawback

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

#### **1.4 Perpetuity period**

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

### **2. Covenant to pay**

#### **2.1 Covenant to pay**

The Borrower shall, on demand, pay to the Lender and discharge the Secured Liabilities when they become due.

### **3. Grant of security**

#### **3.1 Fixed charge**

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

- (a) all the Shares owned by it; and
- (b) all Related Rights.

### **4. Liability of the Borrower**

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

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

- (a) any security, guarantee, indemnity, remedy or other right held by, or available to, the Lender that is or becomes wholly or partially illegal, void or unenforceable on any ground; or
- (b) any other act or omission, that, but for this clause 4.1, might have discharged, or otherwise prejudiced or affected, the liability of the Borrower.

#### **4.2 Immediate recourse**

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



## **5. Covenants**

### **5.1 Negative pledge and disposal restrictions**

The Borrower shall not at any time, except with the prior written consent of the Lender;

- (a) create, purport to create or permit to subsist any Security on, or in relation to, any Secured Asset other than any Security created by this deed;
- (b) sell, assign, transfer, part with possession of or otherwise dispose of in any manner (or purport to do so) all or any part of, or any interest in, the Secured Assets; or
- (c) create or grant (or purport to create or grant) any interest in the Secured Assets in favour of a third party.

### **5.2 Preservation of Secured Assets**

The Borrower shall not do, or permit to be done, any act or thing that would or might depreciate, jeopardise or otherwise prejudice the security held by the Lender, or diminish the value of any of the Secured Assets or the effectiveness of the security created by this deed.

### **5.3 Compliance with laws and regulations**

The Borrower shall comply with the requirements of any law or regulation relating to or affecting the Secured Assets or the use of them or any part of them.

### **5.4 Enforcement of rights**

The Borrower shall use all reasonable endeavours to enforce any rights and institute, continue or defend any proceedings relating to any of the Secured Assets which the Lender may require from time to time.

### **5.5 Title to Secured Assets**

The Borrower shall, on the execution of this deed or at any later time requested by the Lender, deposit with the Lender, or as the Lender may direct:

- (a) all share certificates and other documents of title or evidence of ownership of the Secured Assets;
- (b) a stock transfer form relating to the Secured Assets duly completed and executed by or on behalf of the Borrower but with the name of the transferee, the consideration and the date left blank; and
- (c) any other documents (in each case duly completed and executed by or on behalf of the Borrower) that the Lender may request to enable it, or any of its nominees, or any purchaser or transferee, to be registered as the owner

of, or otherwise obtain legal title to, or to perfect its security interest in any of the Secured Assets,

so that the Lender may, at any time and without notice to the Borrower, complete and present that stock transfer form and those other documents to the issuer of the Secured Assets for registration.

#### **5.6 Pre-emption rights and restrictions on transfer**

The Borrower shall:

- (a) obtain all consents, waivers, approvals and permissions that are necessary, under the articles of association (or otherwise) of Marketscan Limited, for the transfer of the Secured Assets to the Lender or its nominee, or to a purchaser on enforcement of the security constituted by this deed; and
- (b) procure the amendment of the share transfer provisions (including, but not limited to, deletion of any pre-emption provisions) under the articles of association, other constitutional document or otherwise of Marketscan Limited in any manner that the Lender may require in order to permit the transfer of the Secured Assets to the Lender or its nominee, or to a purchaser on enforcement of the security constituted by this deed.

#### **5.7 Changes to rights**

- (a) The Borrower shall not take, or allow the taking of, any action on its behalf which may result in the rights attaching to, or conferred by, all or any of the Secured Assets being altered.
- (b) The Borrower shall not cause or permit:
  - (i) any of the Secured Assets to be consolidated, sub-divided or converted; or
  - (ii) any further shares in the share capital of Marketscan Limited to be issued.

#### **6. Voting rights and dividends**

After the security constituted by this deed has become enforceable, the Lender may at its discretion (in the name of the Borrower and without any further consent or authority and irrespective of any direction given):

- (a) exercise or refrain from exercising (or direct its nominee to exercise or refrain from exercising) all voting rights and any other powers or rights in respect of the Secured Assets, and the Borrower shall comply, or procure compliance, with any directions the Lender may give, in its absolute discretion, in respect of the exercise of those voting and other rights and powers;

- (b) retain and apply in accordance with this clause all dividends, interest or other monies paid or payable in respect of the Secured Assets and, if any such dividends, interest or other monies are received by or on behalf of the Borrower, the Borrower shall hold all such dividends, interest and other monies on trust for the Lender and shall immediately pay them to the Lender or as he may direct;
- (c) complete all instruments of transfer held by him in relation to the Secured Assets in favour of himself or such other person as he may select and have the Secured Assets transferred into his name or the name of his nominee or, as applicable, into an account in his own name or the name of his nominee; and
- (d) in addition to any other power created under this deed, exercise or refrain from exercising (or direct his nominee to exercise or refrain from exercising) all the powers and rights conferred on or exercisable by the legal or beneficial owner of the Secured Assets.

## **7. Powers of the Lender**

### **7.1 Power to remedy**

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

### **7.2 Exercise of rights**

- (a) The rights of the Lender under clause 7.1 are without prejudice to any other rights of the Lender under this deed.
- (b) The exercise of any rights of the Lender under this deed shall not make the Lender liable to account as a mortgagee in possession or otherwise pursuant to any insolvency related laws or regulations.

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

To the extent permitted by law, any right, power or discretion conferred by this deed (either expressly or impliedly) or by law on a Receiver may, after the security constituted by this deed has become enforceable, be exercised by the Lender in relation to any of the Secured Assets whether or not it has taken possession of any

Secured Assets and without first appointing a Receiver or notwithstanding the appointment of a Receiver.

#### **7.4 Indulgence**

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

### **8. When security becomes enforceable**

#### **8.1 Event of Default**

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

#### **8.2 Discretion**

After the security constituted by this deed has become enforceable, the Lender may, in his absolute discretion, enforce all or any part of that security at the times, in the manner and on the terms he thinks fit, and take possession of and hold or dispose of all or any part of the Secured Assets.

### **9. Enforcement of security**

#### **9.1 Enforcement powers**

- (a) For the purposes of all powers implied by statute, the Secured Liabilities are deemed to have become due and payable on the date of this deed.
- (b) The power of sale and all other applicable powers conferred by section 101 of the LPA 1925 (as varied or extended by this deed) or otherwise by statute or regulation shall be immediately exercisable at any time after the security constituted by this deed has become enforceable.
- (c) Section 103 of the LPA 1925 (restricting the power of sale) does not apply to the security constituted by this deed.

#### **9.2 Protection of third parties**

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

- (a) whether any of the Secured Liabilities have become due or payable, or remain unpaid or undischarged;
- (b) whether any power the Lender, a Receiver or Delegate is purporting to exercise has become exercisable or is being properly exercised; or

- (c) how any money paid to the Lender, any Receiver or any Delegate is to be applied.

### **9.3 Privileges**

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

### **9.4 No liability as mortgagee in possession**

Neither the Lender nor any Receiver or Delegate shall be liable to account as mortgagee in possession in respect of all or any of the Secured Assets, nor shall any of them be liable for any loss on realisation of, or for any act, default or omission for which a mortgagee in possession might be liable.

### **9.5 Conclusive discharge to purchasers**

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

### **9.6 Right of appropriation**

- (a) To the extent that:

- (i) the Secured Assets constitute Financial Collateral; and
- (ii) this deed and the obligations of the Borrower under it constitute a Security Financial Collateral Arrangement,

the Lender shall have the right, at any time after the security constituted by this deed has become enforceable, to appropriate all or any of those Secured Assets in or towards the payment and discharge of the Secured Liabilities in any order that the Lender, in his absolute discretion, may from time to time determine.

- (b) The value of any Secured Assets appropriated in accordance with this clause 9.6 shall be determined by any method that the Lender may select, including independent valuation.
- (c) The Borrower agrees that the method of valuation provided for in this clause 9.6 is commercially reasonable for the purposes of the Financial Collateral Regulations.

## **10. Receiver**

### **10.1 Appointment**

At any time after the security constituted by this deed has become enforceable, or at the request of the Borrower, the Lender may, without further notice, appoint by way of deed, or otherwise in writing, any one or more persons to be a Receiver of all or any part of the Secured Assets.

#### **10.2 Removal**

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

#### **10.3 Remuneration**

The Lender may fix the remuneration of any Receiver appointed by it without the restrictions contained in section 109 of the LPA 1925, and the remuneration of the Receiver shall be a debt secured by this deed, to the extent not otherwise discharged.

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

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

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

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

#### **10.6 Agent of the Borrower**

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

## **11. Powers of Receiver**

### **11.1 General**

- (a) Any Receiver appointed by the Lender under this deed shall, in addition to the powers conferred on it by statute, have the rights, powers and discretions set out in clause 11.2 to clause 11.14.
- (b) A Receiver has all the rights, powers and discretions conferred on a receiver (or a receiver and manager) under the LPA 1925, and shall have those rights, powers and discretions conferred on an administrative receiver under the Insolvency Act 1986 whether it is an administrative receiver or not.
- (c) If there is more than one Receiver holding office at the same time, each Receiver may (unless the document appointing it states otherwise) exercise all of the powers conferred on a Receiver under this deed individually and to the exclusion of any other Receiver.
- (d) Any exercise by a Receiver of any of the powers given by clause 11 may be on behalf of the Borrower or itself.

### **11.2 Employ personnel and advisers**

- (a) A Receiver may provide services and employ, or engage any managers, officers, servants, contractors, workmen, agents, other personnel and professional advisers on any terms, and subject to any conditions, that it thinks fit.
- (b) A Receiver may discharge any such person or any such person appointed by the Borrower.

### **11.3 Remuneration**

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

### **11.4 Possession**

A Receiver may take immediate possession of, get in and realise any Secured Asset.

### **11.5 Dispose of Secured Assets**

A Receiver may sell, exchange, convert into money and realise all or any of the Secured Assets in respect of which it is appointed in any manner (including, without limitation, by public auction or private sale) and generally on any terms and conditions as it thinks fit. Any sale may be for any consideration that the Receiver

thinks fit and a Receiver may promote, or concur in promoting, a company to purchase the Secured Assets to be sold.

#### **11.6 Valid receipts**

A Receiver may give a valid receipt for all monies and execute all assurances and things that may be proper or desirable for realising any of the Secured Assets.

#### **11.7 Make settlements**

A Receiver may settle, adjust, refer to arbitration, compromise and arrange any claim, account, dispute, question or demand with or by any person who claims to be a creditor of the Borrower or relating in any way to any Secured Asset.

#### **11.8 Legal action**

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

#### **11.9 Subsidiaries**

A Receiver may form a subsidiary of the Borrower and transfer to that subsidiary any Secured Asset.

#### **11.10 Borrow**

A Receiver may, for whatever purpose it thinks fit, raise and borrow money either unsecured or on the security of all or any of the Secured Assets in respect of which it is appointed on any terms that it thinks fit (including, if the Lender consents, terms under which that security ranks in priority to this deed).

#### **11.11 Redeem prior Security**

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

#### **11.12 Delegation**

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

#### **11.13 Absolute beneficial owner**



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

#### **11.14 Incidental powers**

A Receiver may do any other acts and things that it:

- (a) may consider desirable or necessary for realising any of the Secured Assets;
- (b) may consider incidental or conducive to any of the rights or powers conferred on a Receiver under or by virtue of this deed or law; or
- (c) lawfully may or can do as agent for the Borrower.

### **12. Delegation**

#### **12.1 Delegation**

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

#### **12.2 Terms**

The Lender and each Receiver may delegate on any terms and conditions (including the power to sub-delegate) that it thinks fit.

#### **12.3 Liability**

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

### **13. Application of proceeds**

13.1 All monies received or recovered by the Lender, a Receiver or a Delegate under this deed or in connection with the realisation or enforcement of all or part of the security constituted by this deed, shall (subject to the claims of any person having prior rights) be applied in the following order of priority (but without prejudice to the Lender's right to recover any shortfall from the Borrower):

- (a) in or towards payment of all costs, liabilities, charges and expenses incurred by or on behalf of the Lender (and any Receiver, Delegate, attorney or agent

appointed by him) under or in connection with this deed, and of all remuneration due to any Receiver under or in connection with this deed;

- (b) in or towards payment of the Secured Liabilities in any order and manner that the Lender determines; and
- (c) in payment of the surplus (if any) to the Borrower or other person entitled to it.

## **14. Costs and indemnity**

### **14.1 Costs**

The Borrower shall, on demand, pay to, or reimburse, the Lender and any Receiver on a full indemnity basis, all costs, charges, expenses, taxes and liabilities of any kind incurred by the Lender, or any Receiver or Delegate in connection with:

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

### **14.2 Indemnity**

- (a) The Borrower shall indemnify the Lender, each Receiver and each Delegate against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by any of them arising out of or in connection with:
  - (i) the exercise or purported exercise of any of the rights, powers, authorities or discretions vested in them under this deed or by law in respect of the Secured Assets;
  - (ii) taking, holding, protecting, perfecting, preserving or enforcing (or attempting to do so) the security constituted by this deed; or
  - (iii) any default or delay by the Borrower in performing any of its obligations under this deed.

## **15. Further assurance**

### **15.1 Further assurance**

The Borrower shall promptly, at its own expense, take whatever action the Lender or any receiver may reasonably require for:

- (a) creating, perfecting or protecting the security created or intended to be created by this deed;
- (b) facilitating the realisation of any of the Secured Assets; or
- (c) facilitating the exercise of any right, power, authority or discretion exercisable by the Lender or any Receiver in respect of any of the Secured Assets,

including, without limitation, the execution of any mortgage, transfer, conveyance, assignment or assurance of all or any of the assets forming part of (or intended to form part of) the Secured Assets (whether to the Lender or to his nominee) and the giving of any notice, order or direction and the making of any filing or registration which, in any such case, the Lender may consider necessary or desirable.

## **16. Power of attorney**

### **16.1 Appointment of attorneys**

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

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

### **16.2 Ratification of acts of attorneys**

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

## **17. Assignment and transfer**

### **17.1 Assignment by Lender**

- (a) At any time, without the consent of the Borrower, the Lender may assign or transfer all or any of his rights and obligations under this deed.
- (b) The Lender may disclose to any actual or proposed assignee or transferee any information in his possession that relates to the Borrower, the Secured Assets and this deed that the Lender considers appropriate.

### **17.2 Assignment by Borrower**

The Borrower may not assign any of its rights, or transfer any of its rights or obligations, under this deed.

## **18. Amendments, waivers and consents**

### **18.1 Amendments**

No amendment of this deed shall be effective unless it is in writing and signed by, or on behalf of, each party (or its authorised representative).

### **18.2 Waivers and consents**

- (a) A waiver of any right or remedy under this deed or by law, or any consent given under this deed, is only effective if given in writing by the waiving or consenting party and shall not be deemed a waiver of any other breach or default. It only applies in the circumstances for which it is given and shall not prevent the party giving it from subsequently relying on the relevant provision.
- (b) A failure or delay by a party to exercise any right or remedy provided under this deed or by law shall not constitute a waiver of that or any other right or remedy, prevent or restrict any further exercise of that or any other right or remedy or constitute an election to affirm this deed. No single or partial exercise of any right or remedy provided under this deed or by law shall prevent or restrict the further exercise of that or any other right or remedy. No election to affirm this deed by the Lender shall be effective unless it is in writing.

### **18.3 Rights and remedies**

The rights and remedies provided under this deed are cumulative and are in addition to, and not exclusive of, any rights and remedies provided by law.

## **19. Severance**

If any provision (or part of a provision) of this deed is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision (or part of a provision) shall be deemed deleted. Any modification to or deletion of a provision (or part of a provision) under this clause shall not affect the legality, validity and enforceability of the rest of this deed.

## **20. Counterparts**

- (a) This deed may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute one deed.

- (b) No counterpart shall be effective until each party has executed and delivered at least one counterpart.

## **21. Further provisions**

### **21.1 Continuing security**

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

### **21.2 Discharge conditional**

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

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

### **21.3 Certificates**

A certificate or determination by the Lender as to any amount for the time being due to it from the Borrower under this deed and in respect of the Loan Notes shall be, in the absence of any manifest error, conclusive evidence of the amount due.

## **22. Governing law and jurisdiction**

### **22.1 Governing law**

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

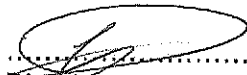
### **22.2 Jurisdiction**


Each party irrevocably agrees that, subject as provided below, the courts of England and Wales shall have exclusive jurisdiction over any dispute or claim (including non-

contractual disputes or claims) arising out of or in connection with this deed or its subject matter or formation.

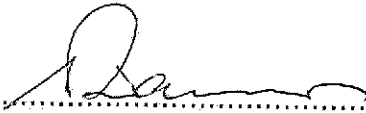
This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

Executed as a deed by **MARKETSCAN HOLDINGS LIMITED** acting by  
ADAM GROSS, a director and  
ALEXANDER MUSTICH, a director


  
.....  
Director

  
.....  
Director

Signed as a deed by **ROGER DAWSON** in  
the presence of:

  
.....

Witness signature:

  
.....

Witness name: (block capitals)

..MATTHEW ROBINSON

Witness address:

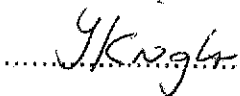
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Witness occupation:

.

Signed as a deed by **JULIE KNIGHT** in the  
presence of:

  
.....

Witness signature:

  
.....

Witness name: (block capitals)

..MATTHEW ROBINSON

Witness address:

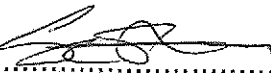
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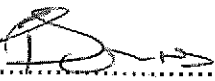
Witness occupation:

..

Signed as a deed by **SUZANNE STOCK** in  
the presence of:

  
.....

Witness signature:

  
.....

Witness name: (block capitals)

..MATTHEW ROBINSON

Witness address:

Witness occupation: