

# Amended and re-stated trust deed

REA Finance B.V.

and

R.E.A. Holdings plc

and

R.E.A. Services Limited

and

Capita Trust Company Limited

constituting £50,000,000 9.5 per cent. guaranteed sterling notes 2015/17 of REA Finance B.V. and an additional £40,000,000 8.75 per cent. guaranteed sterling notes 2020 of REA Finance B.V.

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**THIS AMENDED AND RE-STATEDE TRUST DEED** is made on 2 September 2015

**BETWEEN:**

- (1) **REA FINANCE B.V.** a private company with limited liability (*besloten vennootschap met beperkte aansprakelijkheid*) incorporated under the laws of the Netherlands and registered with the trade registry of the Chamber of Commerce and Industries in Amsterdam with number 34259527 whose registered office is at De Boelelaan 7, 1083 HJ Amsterdam, The Netherlands (the "**Issuer**");
- (2) **R.E.A. HOLDINGS PLC** (incorporated in England and Wales under registered number 671099) whose registered office is at First Floor, 32-36 Great Portland Street, London W1W 8QX (the "**Guarantor**");
- (3) **R.E.A. SERVICES LIMITED**, a private company limited by shares incorporated in England and Wales under registered number 01159736 whose registered office is at First Floor, 32-36 Great Portland Street, London W1W 8QX (the "**Co-Guarantor**"); and
- (4) **CAPITA TRUST COMPANY LIMITED** (incorporated in England and Wales under registered number 00239726) whose principal office is 4<sup>th</sup> Floor, 40 Dukes Place, London EC3A 7NH (as trustee for the Noteholders (as defined below)).

**NOW IT IS HEREBY AGREED** as follows:

1. **DEFINITIONS**

1.1 In these presents unless inconsistent with the subject or context:

**"Additional Notes"** means any further notes of the Issuer which may be created and issued pursuant to clause 3 or, as the case may be, the principal amount thereof for the time being issued and outstanding;

**"Auditors"** means the auditors for the time being of the Issuer or the Guarantor or the Co-Guarantor, as the context may require, or in either case in the event of such auditors being unable or unwilling to carry out any action requested of them pursuant to the provisions of these presents, such other firm of chartered accountants as may be approved in writing by the Trustee for the purpose after consultation with the Issuer or the Guarantor or the Co-Guarantor (as appropriate);

**"business day"** means a day (other than a Saturday or a Sunday) on which banks are generally open for business in the City of London, in Amsterdam and in Jakarta;

**"Charged Property"** means the assets charged to the Trustee as security for (a) the Notes and/or (b) the obligations of the Co-Guarantor under the guarantee given by it in respect of the Notes;

**"Conditions"** means the terms and conditions set out in schedule 1, which terms and conditions shall be endorsed on each certificate for the Notes;

**"Extraordinary Resolution"** means a resolution passed at a meeting of the Noteholders (or, as the case may be, any series (or class) thereof) duly convened and held in accordance with the provisions contained in schedule 3 by a majority consisting of not less than three-fourths of the persons voting thereat upon a show of hands or if a poll is duly demanded then by a majority consisting of not less than three-fourths of the votes given on such a poll;

**"Group"** means the Guarantor and its subsidiaries from time to time;

**"Notes"** means the Series A Notes, the Series B Notes and any Additional Notes, except that in schedule 1 the Notes means the Series A Notes, the Series B Notes only;

**"Noteholders"** means the holders for the time being of the Notes;

**"outstanding"** means, in relation to the Notes, all the Notes issued and in respect of which there is for the time being an entry in the register maintained pursuant to clause 7, other than:

- (a) Notes which have been redeemed and cancelled pursuant to these presents; and
- (b) Notes which have been purchased and cancelled pursuant to these presents

provided that for each of the following purposes, namely:

- (w) the right to attend and vote at any meeting of the Noteholders or any of them;
- (x) the determination of how much and which Notes are for the time being outstanding for the purposes of paragraphs 1, 3 and 8 of schedule 3;
- (y) any discretion, power or authority (whether contained in these presents or vested by operation of law) which the Trustee is required, expressly or impliedly, to exercise in or by reference to the interests of the Noteholders or any of them; and
- (z) the determination by the Trustee whether any event, circumstance, matter or thing is in its opinion, materially prejudicial to the interests of the Noteholders or any of them,

Notes (if any) which are for the time being held by, for the benefit of or on behalf of any member of the Group shall (unless and until ceasing to be so held) be deemed not to remain outstanding and accordingly the holders of such Notes shall be deemed not to be Noteholders;

**"REA Kaltim"** means PT REA Kaltim Plantations, a subsidiary of the Guarantor incorporated in Indonesia and engaged in the cultivation of oil palms and/or the processing of oil palm fruit;

**"Receiver"** includes a *curator* in bankruptcy, a *bewindvoerder in surseance van betaling* (suspension of payments) or similar official under Dutch or other law (including a receiver and manager or an administrative receiver) (whether appointed pursuant to these presents, pursuant to any statute, by a court or otherwise);

**"repayment"** includes redemption and vice versa and the words **"repay"**, **"redeem"**, **"repayable"**, **"redeemable"**, **"repaid"** and **"redeemed"** shall be construed accordingly;

**"Series A Notes"** means (a) the £22,000,000 nominal 9.5 per cent. guaranteed sterling notes 2015/17 of the Issuer created pursuant to a resolution of its sole managing director passed on 27 November 2006 and originally constituted pursuant to the trust deed dated 1 December 2006 made between (1) the Issuer, (2) the Guarantor and (3) Capita Trust Company Limited and (b) the £28,000,000 nominal 9.5 per cent. guaranteed sterling notes 2015/17 of the Issuer created pursuant to a resolution of its sole managing director passed on 29 July 2008 in accordance with clause 3 of the trust deed dated 1 December 2006 made between (1) the Issuer, (2) the Guarantor and (3) Capita Trust Company Limited (as amended) or, as the case may be, the principal amount thereof for the time being issued and outstanding;

**"Series B Notes"** means the £40,000,000 nominal 8.75 per cent. guaranteed sterling notes 2015/17 of the Issuer created pursuant to a resolution of its sole managing director

passed on 2 September 2015 in accordance with clause 4 of the amended and re-stated trust deed dated 29 November 2015 made between (1) the Issuer, (2) the Guarantor, (3) the Co-Guarantor and (4) Capita Trust Company Limited (as amended) or, as the case may be, the principal amount thereof for the time being issued and outstanding;

**"these presents"** means this deed (including the Conditions and the other schedules hereto), any deed expressed to be supplemental hereto and any other deed or instrument conferring rights on the Trustee executed or entered into pursuant to this deed or any deed supplemental hereto; and

**"Trustee"** means Capita Trust Company Limited or the trustee or trustees for the time being of these presents.

- 1.2 Subject to any express definition, any words and expressions defined in the Companies Act 2006 shall bear the same meanings in these presents.
- 1.3 References in these presents to any statute or a provision of any statute shall be deemed to include a reference to any statute or the provision of any statute which amends, extends, consolidates or replaces the same, or which has been amended, extended or consolidated or replaced by the same, and shall include any orders, regulations, instruments or other subordinate legislation made under the relevant statute.
- 1.4 Every report or certificate given by the Auditors under any provisions of these presents shall be in writing and shall be conclusive and binding for all purposes on the Issuer, the Guarantor, the Co-Guarantor, the Trustee, the Noteholders and all other persons interested hereunder.
- 1.5 References in these presents to costs, charges, expenses or liabilities shall include any amount in respect of value added tax or similar tax charged in respect thereof.
- 1.6 Any register, index, minute book or book of account required to be kept by these presents shall be kept, and inspection thereof shall be allowed and copies shall be supplied, in such form and manner and subject to such precautions as would from time to time be permissible or required if it were a register, index, minute book or book of account required to be kept by Book 2 of the Dutch Civil Code (*Burgerlijk wetboek*) (as from time to time amended, extended or re-enacted) and references to such records in these presents shall be construed accordingly.
- 1.7 References in these presents to any action, remedy or method of judicial proceedings for the enforcement of the rights of creditors shall be deemed to include, in respect of any jurisdiction other than England, references to such action, remedy or method of judicial proceeding for the enforcement of the rights of creditors available or appropriate in such jurisdiction as shall most nearly approximate to such action, remedy or method of judicial proceeding described or referred to in these presents.
- 1.8 The headings to clauses are inserted herein for convenience and shall not affect the construction hereof.
- 1.9 References in these presents to schedules, clauses, and paragraphs shall be construed as references to the schedules, clauses, and paragraphs of these presents respectively.
2. **AMOUNT OF THE SERIES A NOTES AND THE SERIES B NOTES**
  - 2.1 The Series A Notes are limited to £50,000,000 and were, and may be, issued in amounts and integral multiples of £1,000 to such persons and on such terms and conditions, at par or at a discount or premium to par, as the board of board of managing directors (or, if applicable, the sole managing director) of the Issuer shall determine.

2.2 The Series B Notes are limited to £40,000,000 and may be issued in minimum denominations of £100,000 and integral multiples of £1,000 in excess thereof to such persons and on such terms and conditions, at par or at a discount or premium to par, as the board of board of managing directors (or, if applicable, the sole managing director) of the Issuer shall determine.

### 3. **POWER TO ISSUE ADDITIONAL NOTES**

3.1 Power is reserved to the Issuer, subject to the following provisions of this clause 3, to create and issue additional sterling notes either ranking *pari passu* in all respects and forming a single issue with the Series B Notes (or, where there are no Series B Notes in issue, the Series A Notes) or carrying such rights and on such terms (including, without limitation, terms as to interest, conversion, premium, repayment and otherwise) as the Issuer may determine.

3.2 No Additional Notes may be created or issued unless:

- (a) the Issuer has given to the Trustee not less than 14 days' notice in writing of the Issuer's intention to create and issue any Additional Notes stating the principal amount thereof proposed to be created and issued; and
- (b) the Issuer furnishes to the Trustee a certificate signed by two directors of the Guarantor, on behalf of the Guarantor, certifying that immediately after the creation and issue of the Additional Notes:
  - (i) the borrowing limits set out in Condition 11 will not be exceeded; and
  - (ii) the covenant set out in Condition 12(A)(xx) will not be breached.

3.3 Any Additional Notes shall be constituted by a deed in favour of the Trustee in such form as the Trustee shall approve and such deed shall be expressed to be supplemental to these presents and shall be stamped (at the cost of the Guarantor) with any duty provided for by any applicable law. A memorandum of every such supplemental deed shall be endorsed by the Trustee on this deed and by the Issuer, the Guarantor and the Co-Guarantor on the duplicate of this deed.

3.4 Upon any issue of Additional Notes ranking *pari passu* as regards security with the Series A Notes and the Series B Notes, the Additional Notes so constituted and all outstanding Series A Notes and Series B Notes (and any previously issued outstanding Additional Notes also expressed to rank *pari passu* as regards security with the Series A Notes and the Series B Notes) shall thenceforth rank *pari passu* in point of security and shall be equally and rateably secured by and upon the Charged Property.

3.5 Any Additional Notes may be issued to such persons and on such terms and conditions, at par or at a discount or at a premium, as the board of managing directors (or, if applicable, the sole managing director) of the Issuer shall determine.

3.6 The rights attached to the Series A Notes and the Series B Notes shall be deemed not to be abrogated or varied by the creation or issue of Additional Notes ranking *pari passu* with either of such series.

### 4. **CONSIDERATION FOR THE ISSUE OF NOTES AND USE OF ANY CASH PROCEEDS OF ISSUE**

4.1 Notwithstanding the provisions of clauses 2.1, 2.2 and 3.5, Notes may be issued:

- (a) in the case of the Series A Notes, wholly for cash; and
- (b) in the case of Series B Notes:

- (i) as part of the consideration for the acquisition by the Issuer of Series A Notes;
- (ii) for cash; or
- (iii) partly as part of the consideration for the acquisition by the Issuer of Series A Notes and partly for cash

but for no other consideration.

4.2 All cash proceeds of issue of Notes shall be receivable by the Issuer and shall be applied solely in meeting the expenses of the issue of Notes (whether or not issued for cash and whether or not issued at the same time) and otherwise as provided in Condition 3.

## 5. **REPAYMENT AND INTEREST**

5.1 The Issuer covenants with the Trustee that:

- (a) as and when the Notes or any part thereof are due to be redeemed as provided by these presents or on such earlier date as the Notes or any part thereof shall become due and payable, it will pay to, or to the order of, the Trustee the principal amount of the Notes or as the case may be the part thereof due to be redeemed and will in the meantime until all of the Notes have been redeemed pay to, or to the order of, the Trustee interest at the applicable rate and on the due dates specified in the Conditions (as well after as before any judgment) on the principal amount of the Notes for the time being outstanding; and
- (b) it will comply with the Conditions and with the provisions set out in schedule 2 and schedule 3, all of which Conditions and provisions shall be deemed to be incorporated in this deed and shall be binding on the Issuer, the Guarantor, the Co-Guarantor, the Trustee and the Noteholders and all persons claiming through them or under them respectively.

5.2 Every payment by the Issuer (or by the Guarantor or the Co-Guarantor on behalf of the Issuer) directly to the Noteholders on account of principal or interest in respect of the Notes held by them shall be a satisfaction *pro tanto* of the amount payable to the Trustee by the Issuer under clause 5.1.

5.3 Should the date of any payment due under clause 5.1 fall on a day which is not a business day, then the payment date shall be deemed to be the next business day immediately following such payment date. This provision shall not affect any interest period nor shall it affect the amount of interest (or any other monies) to be paid on any payment date.

5.4 The Trustee shall hold all monies paid to it as envisaged pursuant to clause 5.1 (or Condition 10) upon trust to apply the same:

- (a) first, in payment or satisfaction of the costs, charges, expenses and liabilities incurred by the Trustee in or about the execution of its powers or otherwise in relation to these presents, including the remuneration of the Trustee with interest thereon as hereinafter provided;
- (b) secondly, in or towards payment to the Noteholders without any preference or priority of all arrears of interest remaining unpaid on the Notes held by them respectively *pari passu* and rateably according to the amount of such interest due to them; and
- (c) thirdly, in or towards the payment of the Noteholders without any preference or priority of all principal monies due on the Notes held by them respectively *pari passu* and rateably according to the amount of all such principal

provided that if the Trustee shall so determine payments may be made on account of principal monies before the whole of the interest on the Notes has been paid but such alteration in the order of payment of principal and interest shall not prejudice the right of the Noteholders to receive the full amount to which they would have been entitled if the ordinary order of payment had been observed.

5.5 The receipt of each Noteholder and in the case of joint Noteholders of any one of such joint holders for any principal monies or interest payable in respect of the Notes held by such Noteholder or joint Noteholders shall be a good discharge to the Trustee and to the Issuer.

5.6 Upon any payment to the Noteholders by the Trustee on account of any principal monies payable upon the Notes, the certificate for the Notes in respect of which such payment is made (if any) shall be produced to the Trustee making such payment, who shall cause a memorandum of the amount and date of payment to be enfaced thereon, or in the case of payment in full shall retain the same, but the Trustee may in any particular case dispense with the production and enfacement of a certificate and may require such indemnity to be given in connection therewith as it shall think sufficient.

## 6. **CERTIFICATES**

6.1 Every certificate for the Notes shall be in the form or substantially in the form set out in schedule 1, with such modifications as the Issuer, the Guarantor and the Trustee may from time to time approve, and shall have endorsed thereon Conditions in the form set out in that schedule.

6.2 Every Noteholder shall be entitled to receive, free of charge, one certificate for each series (or class) of the Notes held by him but so that joint Noteholders shall be entitled to only one certificate in respect of each series (or class) of the Notes held jointly by them which certificate shall be delivered to that one of the joint Noteholders whose name stands first in the register of Noteholders. When a Noteholder has validly transferred part only of his holding of any series (or class) of the Notes he shall be entitled to receive free of charge a fresh certificate for the balance of the Notes not so transferred. In the case of a transfer of Notes to a person who is already a holder of Notes of the same series (or class) as those transferred, a new certificate representing the enlarged holding shall, upon request to the Issuer's registrars in the UK, be issued free of charge against surrender of the certificate representing the existing holding.

6.3 The certificates for any Additional Notes shall be as nearly as may be in the form of those for the Series A Notes and the Series B Notes and shall have endorsed thereon conditions as nearly as may be (having regard to the terms of issue of such Additional Notes) similar to the conditions for the Series A Notes and the Series B Notes.

## 7. **REGISTER OF NOTES**

7.1 The Issuer shall at all times keep or procure to be kept at the office of its registrars in the UK for the time being (or at some other place approved in writing by the Trustee) an accurate register showing the principal amount of the Notes for the time being issued and the date of issue and of all subsequent transfers or changes of ownership thereof and the names and addresses of the Noteholders and the persons deriving title under them. The Trustee and any person authorised in writing by the Trustee shall be at liberty at all reasonable times during office hours to inspect the said register and to take copies of and extracts from the same or any part thereof and in the event of the Trustee requiring to convene a meeting of or to give any notice to the Noteholders the Issuer shall furnish the Trustee free of charge with such copies of or extracts from the register as the Trustee shall require. The register may be closed at such times and for such periods (not exceeding in aggregate 30 business days in any year) as the Issuer may from time to time determine.



7.2 The Issuer confirms that as at the date of this deed, its registrars are Capita Asset Services of The Registry, 34 Beckenham Road, Beckenham, Kent BR3 4TU. The Issuer undertakes to notify the Trustee forthwith upon it appointing any other firm as its registrars (such notice to include details as to the address of the new registrars at which the register of Notes is to be held) and upon any other change to the address at which the said register is to be held.

8. **PAYMENT TO NOTEHOLDERS FOLLOWING AN EVENT OF DEFAULT**

The Trustee shall give not less than seven days' notice to the Noteholders in accordance with the provisions as to notice contained in these presents of the day, place and time for any payment to the Noteholders under Condition 10 and after the day so fixed the Noteholders shall be entitled to interest (subject to any tax required by law to be deducted) on the balance only (if any) of the principal monies due on the Notes after deducting the amount (if any) of such principal monies payable on the day so fixed.

9. **SECURITY**

9.1 As security for the payment by the Issuer of all interest and principal and any other monies payable on or in respect of the Notes or under this deed, the Issuer has charged in favour of the Trustee (for itself and on behalf of the Noteholders) all of the Issuer's right, title and interest in and to all monies (including all interest and other sums accruing thereon) from time to time standing to the credit of:

- (a) the accounts of the Issuer with ABN Amro Bank N.V. (as the same may be replaced or renumbered from time to time); and
- (b) any other account of the Issuer with any bank or other financial institution having its centre of main interest in The Netherlands or any other branch office or local corporate entity of any financial institution in The Netherlands,

and all of the Issuer's rights in relation to such accounts, in accordance with the deed of pledge dated 1 December 2006 made between (1) the Issuer and (2) Capita Trust Company Limited (as confirmed and/or amended from time to time).

9.2 As security for the payment by the Co-Guarantor of all monies payable in respect of its guarantee of the Notes (on the terms set out in schedule 4), the Co-Guarantor has charged in favour of the Trustee (for itself and on behalf of the Noteholders):

- (a) all of the Co-Guarantor's right, title and interest in and to all monies (including all interest and other sums accruing thereon) from time to time standing to the credit of two accounts of the Co-Guarantor with Royal Bank of Scotland plc, namely:

Name:	R.E.A. Services Limited – No 2 Account
Sort code:	16-00-38
Account number:	10372353
Currency:	Sterling

and

Name:	REASERV – USDC1
Sort code:	16-00-38
IBAN reference:	GB69 RBOS 1663 0000 5770 93
Currency:	US dollars

(as the same may be replaced or renumbered from time to time) and all of the Co-Guarantor's rights in relation to such account, in accordance with the charge over accounts dated 29 November 2010 made between (1) the Co-Guarantor and (2)

Capita Trust Company Limited (as confirmed and/or amended from time to time);  
and

- (b) all of the Co-Guarantor's rights in respect of all monies owed from time to time to the Co-Guarantor by any subsidiary of the Guarantor incorporated in Indonesia and engaged in the cultivation of oil palms and/or the processing of oil palm fruit, in accordance with the charge over receivables dated 29 November 2010 made between (1) the Co-Guarantor and (2) Capita Trust Company Limited (as confirmed and/or amended from time to time).

9.3 The Trustee shall accept, without investigation, requisition or objection, such title as the Issuer or the Co-Guarantor may have to any of the Charged Property and shall not be bound or concerned to examine or enquire into or be liable for any defect or failure in the title of the Issuer or the Co-Guarantor to the Charged Property owned by it or any part thereof whether such defect or failure was known to the Trustee or might have been discovered upon examination or enquiry and whether capable of remedy or not, but the Issuer and the Co-Guarantor shall nevertheless observe any undertaking given with regard to any such titles.

## 10. **GUARANTEE**

The Guarantor and the Co-Guarantor hereby, jointly and severally, irrevocably and unconditionally undertake with the Trustee (for itself and as trustee for the Noteholders) in the terms of schedule 4 and every payment by the Guarantor and/or the Co-Guarantor pursuant to the undertakings contained in this clause 10 and schedule 4 whether in respect of the principal amount of the Notes or interest thereon or otherwise shall be in satisfaction *pro tanto* of the covenants by the Issuer in these presents to pay the same as herein provided.

## 11. **WARRANTIES**

11.1 The Issuer hereby warrants to the Trustee as follows:

- (a) that it is a company duly incorporated and validly existing under the laws of The Netherlands and has the power and authority to own all its assets and to conduct the business/operations which it conducts and/or proposes to conduct;
- (b) that it has full power to enter into and deliver this deed and to perform and comply with its obligations hereunder;
- (c) that all action, conditions and things required to be taken, fulfilled and done (including the obtaining of any necessary consents) in order:
  - (i) to enable it lawfully to enter into and deliver, exercise its rights and perform and comply with its obligations under this deed;
  - (ii) to ensure that those obligations are legally binding;
  - (iii) to make this deed admissible in evidence in the courts of England; and
  - (iv) to ensure that the security referred to at clause 9.1 has the priority and ranking specified herein

have been taken, fulfilled and done;

- (d) that the entry into and delivery, exercise of its rights, and/or performance of or compliance with its obligations under this deed do not and will not violate (i) any law or regulation or judicial order to which it is subject or (ii) the constitutional documents of it; or (iii) any agreement or other document to which it is a party or

which is binding on it or the assets of it, and do not and will not result in the existence of, or oblige it to create, any security over those assets;

- (e) that, save for the security referred to at clause 9.1, no security interest exists on, over or with respect to any of its assets at the date of this deed; and
- (f) that it is not insolvent or unable to pay its debts within the meaning of section 1 of the Dutch Insolvency Act (*Faillissementswet*) or section 123 of the Insolvency Act 1986, and it will not become insolvent or unable to pay its debts as aforesaid in consequence of entering into this deed.

11.2 The Guarantor hereby warrants to the Trustee as follows:

- (a) that it is a company duly incorporated and validly subsisting under the laws of England and has the power and authority to own all its assets and to conduct the business/operations which it conducts and/or proposes to conduct;
- (b) that it has full power to enter into and deliver this deed and to perform and comply with its obligations hereunder;
- (c) that all action, conditions and things required to be taken, fulfilled and done (including the obtaining of any necessary consents) in order:
  - (i) to enable it lawfully to enter into and deliver, exercise its rights and perform and comply with its obligations under this deed;
  - (ii) to ensure that those obligations are legally binding;
  - (iii) to make this deed admissible in evidence in the courts of England; and
  - (iv) to ensure that the security referred to at clauses 9.1 and 9.2 has the priority and ranking specified hereinhave been taken, fulfilled and done;
- (d) that the entry into and delivery, exercise of its rights, and/or performance of or compliance with its obligations under this deed do not and will not violate (i) any law or regulation or judicial order to which it is subject or (ii) the constitutional documents of it; or (iii) any agreement or other document to which it is a party or which is binding on it or the assets of it, and do not and will not result in the existence of, or oblige it to create, any security over those assets; and
- (e) that it is not insolvent or unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, and it will not become insolvent or unable to pay its debts as aforesaid in consequence of entering into this deed.

11.3 The Co-Guarantor hereby warrants to the Trustee as follows:

- (a) that it is a company duly incorporated and validly subsisting under the laws of England and has the power and authority to own all its assets and to conduct the business/operations which it conducts and/or proposes to conduct;
- (b) that it has (or, as applicable, had) full power to enter into and deliver this deed and to perform and comply with its obligations hereunder;
- (c) that all action, conditions and things required to be taken, fulfilled and done (including the obtaining of any necessary consents) in order:

- (i) to enable it lawfully to enter into and deliver, exercise its rights and perform and comply with its obligations under this deed;
- (ii) to ensure that those obligations are legally binding;
- (iii) to make this deed admissible in evidence in the courts of England; and
- (iv) to ensure that the security referred to at clause 9.2 has the priority and ranking specified herein

have been taken, fulfilled and done;

- (d) that the entry into and delivery, exercise of its rights, and/or performance of or compliance with its obligations under this deed do not and will not violate (i) any law or regulation or judicial order to which it is subject or (ii) the constitutional documents of it; or (iii) any agreement or other document to which it is a party or which is binding on it or the assets of it, and do not and will not result in the existence of, or oblige it to create, any security over those assets; and
- (e) that it is not insolvent or unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, and it will not become insolvent or unable to pay its debts as aforesaid in consequence of entering into this deed.

## **12. TRUSTEE'S POWERS OF INVESTMENT**

- 12.1 Subject as otherwise herein provided, the Trustee may at its discretion and pending payment invest monies at any time available for repayment of the Notes or payment of interest thereon in such investments in the name or under the control of the Trustee as it considers prudent, as authorised by law for the investment of trust monies or in other investments, whether similar to the aforesaid or not, which may be approved by the Issuer, or by placing the same on deposit in the name of the Trustee in such bank as the Trustee may think fit and the Trustee may at any time sell or realise any such investments or vary or transpose any such investments for or into any other permitted by these presents and shall not be responsible for any loss occasioned by anything done under this clause 12 (whether due to depreciation in value, fluctuations in exchange rates or otherwise) or otherwise in respect of any such investment.
- 12.2 All interest and other income deriving from such investments shall be applied first in payment of all costs, charges, expenses and liabilities and all remuneration payable to the Trustee under these presents and otherwise held for benefit of and paid to the Noteholders (or returned to the Issuer as applicable).

## **13. REMUNERATION OF TRUSTEE AND EXPENSES**

- 13.1 The Issuer shall pay to the Trustee by way of remuneration for its services as Trustee such sum as may from time to time be agreed between them. Such remuneration will accrue from day to day from the date of these presents and shall be payable on such dates as may be agreed between the Issuer and the Trustee.
- 13.2 If the Trustee finds it expedient in the interests of Noteholders or necessary or is requested by the Issuer and/or the Guarantor to undertake duties of an exceptional nature or otherwise outside the scope of the normal duties of the Trustee under these presents, the Issuer shall pay such additional remuneration as may be agreed between the Issuer and the Trustee.
- 13.3 The Issuer shall in addition pay to the Trustee an amount equal to the amount of any value added tax or any similar tax chargeable in respect of its remuneration under these presents.

13.4 Failing agreement as to such sums as are referred to in clauses 13.1 and 13.2, the same may be referred for determination by the Issuer and/or the Trustee to any person (acting as an expert) selected by the Trustee and approved by the Issuer or, failing such approval, nominated by the President for the time being of The Law Society of England and Wales, the expenses involved in such nomination and the fee of such person being paid by the Issuer. The determination of such person will be conclusive and binding on the Issuer, the Guarantor, the Co-Guarantor, the Trustee and the Noteholders.

13.5 The Issuer shall also pay or reimburse on demand all costs and expenses properly incurred by the Trustee in relation to the preparation and execution of this deed and the carrying out of its functions under these presents including, but not limited to, legal and travelling expenses.

#### 14. **STAMP DUTY**

The Issuer shall pay, or indemnify the Trustee in respect of, any stamp, registration, documentary or other taxes or duties payable on these presents, as a result of the creation or issue of the Notes or paid by the Trustee in connection with any legal proceedings properly brought or contemplated by the Trustee against the Guarantor, the Co-Guarantor or the Issuer for enforcing any obligation under these presents.

#### 15. **INDEMNITY OF TRUSTEE**

15.1 The Issuer shall indemnify (on an after-tax basis) the Trustee, and every attorney, agent or other person appointed by the Trustee under the provisions of these presents or by anyone appointed by it or to whom any of its functions may be delegated by it in the carrying out of its functions in the fulfilment of its obligations under these presents, against all liabilities it or they may suffer and all costs and expenses it or they may properly incur in relation to:

(a) these presents or the carrying out of the trusts of these presents or the exercise of any trusts powers or discretions vested in it or them pursuant to these presents or any other matter or thing done or omitted in anyway relating to these presents; or

(b) the creating, perfecting or enforcing of the security referred to at clause 9

including, but not limited to, any liability suffered or cost or expense properly incurred in disputing or defending any of the foregoing.

15.2 The Trustee shall be entitled in its absolute discretion to determine the manner in which any costs, charges, expenses and liabilities incurred under these presents should be allocated as between the Series A Notes, the Series B Notes and any Additional Notes.

15.3 Unless otherwise specifically stated in any discharge of any Trustee, the provisions of this clause 15 shall continue in full force and effect in relation to such Trustee notwithstanding such discharge.

#### 16. **INTEREST**

The Issuer shall on demand by the Trustee or any attorney, agent or other person appointed by the Trustee under the provisions of these presents pay every sum of money (other than amounts due pursuant to the Notes, including the interest thereon) which shall from time to time be payable to any such person under any provision of these presents together with interest at the rate of two per cent. per annum above the base rate from time to time of such member of the Committee of London Clearing Bankers as the Trustee may from time to time stipulate (or, if there is at any time no such base rate, such other rate as in the opinion of the Trustee is the nearest equivalent thereto) calculated from the date when the same should have been paid to the date of payment (as well after as before judgment).

17. **PRIOR CHARGE ON CHARGED PROPERTY**

Without prejudice to the right of indemnity by law given to the Trustee, the Trustee and every attorney, agent or other person appointed by the Trustee under the provisions of these presents shall be entitled to be indemnified (on an after-tax basis) out of the Charged Property and the proceeds of enforcement thereof in respect of all liabilities it or they may suffer and all costs and expenses it or they may properly incur in relation to these presents or the carrying out of the trusts of these presents or the exercise of any trusts powers or discretions vested in it or them pursuant to these presents, and against costs, charges, expenses and liabilities in respect of any matter or thing done or omitted in anyway relating to these presents, in priority to any payments to the Noteholders, and the Trustee and every attorney, agent or other person appointed by the Trustee under the provisions of these presents may retain and pay out of any monies in its or his hands arising from the trusts of these presents all sums necessary to effect such indemnity and also the remuneration of the Trustee and interest as hereinbefore provided.

18. **PROVISIONS SUPPLEMENTAL TO TRUSTEE ACT**

18.1 By way of supplement to the Trustee Act 1925 and, as applicable, the Trustee Act 2000, it is expressly declared as follows:

- (a) the Trustee may, in relation to any of the provisions of these presents, act on the opinion or advice of or on any information obtained from any lawyer, valuer, surveyor, broker, auctioneer, banker, accountant or other expert whether obtained by the Issuer or by the Trustee or otherwise and shall not be responsible for any loss occasioned by so acting;
- (b) any such opinion, advice or information may be sent or obtained by letter, telegram, telex message, cablegram, facsimile transmission, telephone or other means and the Trustee shall not be liable for acting on any opinion, advice or information purporting to be so conveyed although the same shall contain some error or shall not be authentic;
- (c) the Trustee shall be at liberty to accept a certificate signed by any two directors of the Guarantor, on behalf of the Guarantor, as to any fact or matter on which the Trustee may need or wish to be satisfied as sufficient evidence thereof, and a like certificate that any properties or assets in the opinion of the persons so certifying have a particular value or produce a particular income or are suitable for such company's purposes as sufficient evidence that they have that value or produce that income or are so suitable, and a like certificate to the effect that any particular dealing or transaction or step or thing is in the opinion of the persons so certifying expedient as sufficient evidence that it is expedient, and the Trustee shall not be bound in any of such cases to call for further evidence or be responsible for any loss that may be occasioned by their failing to do so or by their acting on any such certificate;
- (d) the Trustee shall not be bound to give notice to any person of the execution of these presents nor shall it be liable for any failure, omission, or defect in perfecting the security for the Notes including without prejudice to the generality of the foregoing (i) failure to obtain any licence, consent or other authority for the execution of these presents and (ii) failure to register the same in accordance with the provisions of any of the documents of title of the Issuer to any of the Charged Property;
- (e) with a view to facilitating dealings under any provisions of these presents, the Trustee shall have full power prospectively to consent to any specified transaction conditionally on the same conforming to any specified conditions laid down or approved in writing by the Trustee;

- (f) save as herein otherwise expressly provided, the Trustee shall as regards all the trusts, powers, authorities and discretions hereby vested in it have absolute and uncontrolled discretion as to the exercise or execution or non-exercise or non-execution thereof and, provided it shall not have acted fraudulently, shall be in no way responsible for any loss, costs, damages, expenses or inconvenience that may result from the exercise or execution or non-exercise or non-execution thereof;
- (g) the Trustee shall be at liberty to place these presents and all documents certifying, representing or constituting the title to any of the Charged Property for the time being in its hands in any safe deposit, safe or receptacle selected by the Trustee or with any banker or banking company or company whose business includes undertaking the safe custody of documents or solicitor or firm of solicitors and may at its discretion make any such arrangements as it thinks fit for allowing the Issuer or its solicitors and auditors access to or possession of such documents when necessary or convenient and the Trustee shall not be responsible for any loss incurred in connection with any such deposit, access or possession and the Issuer shall pay all sums required to be paid on account of or in respect of any such deposit;
- (h) as between the Trustee and the Noteholders, the Trustee shall have full power to determine all questions and doubt arising in relation to any of the provisions of these presents and every such determination, whether made upon a question actually raised or implied in the acts or proceedings of the Trustee, shall be conclusive and shall bind all Noteholders and other persons interested under these presents;
- (i) the Trustee may, in the conduct of the trusts of these presents instead of acting personally, employ and pay an agent whether being a solicitor or other person to transact or concur in transacting any business and to do or concur in doing any acts required to be done by the Trustee, including the receipt and payment of money, and any trustee being a solicitor, broker or other person engaged in any profession or business shall be entitled to be paid all usual professional and other charges for business transacted and acts done by him or any partner of his in connection with the trusts of these presents, including matters which ought to or should have been attended to in person by a trustee not being engaged in any profession or business;
- (j) the Trustee shall not be concerned or bound to take any steps to ascertain whether any event has happened upon the happening of which the Notes shall become immediately due and payable or it shall be entitled to determine the security to have become enforceable or it shall be entitled to exercise any of the powers, authorities and discretions vested in it by these presents;
- (k) the Trustee shall not be liable to any person by reason of having acted upon any Extraordinary Resolution in writing or any Extraordinary or other resolution purporting to have been passed at any meeting of Noteholders in respect whereof minutes have been made and signed or any direction or request of the Noteholders even though subsequent to its acting it may be found that the meeting was not in fact duly constituted, there was some defect in the constitution of the meeting or the passing of the resolution or (in the case of an Extraordinary Resolution in writing) that not all Noteholders had signed the Extraordinary Resolution or (in the case of a direction or request) it was not signed by the requisite number of Noteholders or that for any reason the resolution, direction or request, was not valid or binding upon such Noteholders;
- (l) where in these presents any reference is made to any consent by the Trustee, then unless the contrary is expressly provided, the Trustee may give such consent without any reference to Noteholders and any consent, approval, authorisation,

waiver, release, agreement or determination given by the Trustee may be given on such terms and conditions (if any) as the Trustee may in its absolute discretion determine and may be given retrospectively and the Trustee may at any time waive or agree a variation in such terms and conditions;

- (m) in connection with the exercise by it of any of its trusts, powers, authorities and discretions under these presents (including, without limitation, any modification, waiver, authorisation or determination), the Trustee shall have regard to the general interests of the Noteholders as a class but shall not have regard to any interests arising from circumstances particular to individual Noteholders (whatever their number) and, in particular but without limitation, shall not have regard to the consequences of such exercise for individual Noteholders (whatever their number) resulting from their being for any purpose domiciled or resident in, or otherwise connected with, or subject to the jurisdiction of, any particular territory or any political sub-division thereof and the Trustee shall not be entitled to require, nor shall any Noteholder be entitled to claim, from the Issuer, the Trustee or any other person any indemnification or payment in respect of any tax consequence of any such exercise upon individual Noteholders;
- (n) the Trustee shall not (unless and to the extent ordered so to do by a court of competent jurisdiction) be required to disclose to any Noteholder or other person any confidential, financial, price sensitive or other information made available to the Trustee by any member of the Group and no Noteholder or other person shall be entitled to take any action to obtain from the Trustee any such information;
- (o) the Trustee shall not incur any liability in respect of the monies subscribed by applicants for the Notes or be bound to see to the application thereof or be concerned as to the allotment of any Notes;
- (p) without prejudice to the foregoing provisions of this clause 18.1, the Trustee may act on the advice of or grant discretionary management powers to any investment manager or adviser (including an associate of the Trustee) in relation to any cash or investments for the time being held by it for the purposes of these presents;
- (q) the Trustee shall not be liable for any thing whatsoever save only a breach of trust fraudulently committed by it;
- (r) the Trustee shall not be responsible for the execution, delivery, legality, effectiveness, adequacy, genuineness, validity, enforceability or admissibility in evidence of these presents or any other document relating thereto and shall not be liable for any failure to obtain any licence, consent or other authority for the execution, delivery, legality, effectiveness, adequacy, genuineness, validity, performance, enforceability or admissibility in evidence of these presents or any other document relating thereto;
- (s) the Trustee may call for and may rely on certificates or reports from the Auditors or any other expert (including any insolvency practitioner) in accordance with the provisions of these presents whether or not addressed to the Trustee and whether or not any such certificate or report or engagement letter or other document entered into by the Trustee and/or the Auditors and/or such other expert in connection therewith contains any limit (whether monetary or otherwise) on the liability of the Auditors or such other expert in respect thereof; and
- (t) the Trustee shall not be liable to any person by reason of having accepted as valid or not having rejected any certificate for Notes purporting to be such and subsequently found to be forged or not authentic,



provided that nothing in any of the foregoing provisions of this clause 18.1 shall exempt the Trustee from or indemnify it against any liability for breach of trust in any case in which the Trustee has failed to show the degree of diligence and care required of it as trustee having regard to the provisions of these presents.

18.2 The provisions of section 1 of the Trustee Act 2000 shall not apply to the Trustee in respect of its role under these presents.

19. **ASSUMPTION OF DUE PERFORMANCE OF COVENANTS AND ENFORCEMENT**

Except as herein expressly provided, the Trustee shall be and is hereby authorised and is intended to assume without enquiry (in the absence of actual knowledge by or an express notice to it to the contrary) that the Issuer, the Guarantor and the Co-Guarantor are each duly performing and observing all applicable covenants, conditions, provisions and obligations contained in these presents and on its part to be performed and observed and, notwithstanding knowledge by or notice to the Trustee of any breach of any such covenant, condition, provision or obligation, it shall be in the discretion of the Trustee whether to take any action or proceedings or to enforce the performance thereof and the Trustee shall not be bound to enforce the provisions of these presents unless and until in any of such cases the Trustee is requested to do so by an Extraordinary Resolution or in writing by the holder or holders of not less than one-fifth part in principal amount of the Notes for the time being outstanding and then only if the Trustee shall be indemnified and/or secured to its satisfaction against all costs, charges, expenses and liabilities which it may incur by so doing.

20. **POWER TO WAIVE BREACH OF COVENANT**

20.1 The Trustee may from time to time and at any time without the sanction of an Extraordinary Resolution (provided that in the Trustee's opinion the interests of the Noteholders will not thereby be materially prejudiced) waive or authorise on such terms and conditions as shall seem expedient to the Trustee any breach or proposed breach by the Issuer, the Guarantor or the Co-Guarantor of any of the covenants, conditions, provisions or obligations contained in these presents or determine that any act, omission, condition or event which would or might otherwise on its own or together with any other act, omission, condition or event constitute an event of default pursuant to Condition 10 without prejudice to the rights of the Trustee in respect of any subsequent breach thereof provided that the Trustee shall not exercise any powers conferred on it by this clause 20.1 in contravention of any express direction given pursuant to an Extraordinary Resolution, but so that no such direction shall affect any waiver, authorisation, modification or determination previously given or made.

20.2 No failure or delay by the Trustee in exercising any right, power or privilege under these presents will operate as a waiver of that right, power or privilege, nor will any single or partial exercise of any right, power or privilege preclude any other or further exercise of that right, power or privilege, or the exercise of any other right, power or privilege.

21. **CERTIFICATES AND REPORTS BY EXPERTS**

The Trustee shall be entitled to rely on any certificate or report given by any expert (including any insolvency practitioner) approved by the Trustee, or by the Auditors, under any provision of these presents whether or not the Trustee is an addressee of such certificate or report and if the Trustee does so rely, such certificate or report shall (in the absence of manifest error) be conclusive and binding for all the purposes of these presents on the Issuer, the Guarantor, the Co-Guarantor, the Trustee and the Noteholders and all other persons.

22. **APPROVAL OF NOTICES**

Where any notice is required to be given by the Issuer to Noteholders pursuant to these presents, where reasonably practicable, the Issuer shall in good time provide a draft of the said notice to the Trustee for its approval, and shall take into account any reasonable comments received in good time from the Trustee in respect of any such notice.

23. **TRUSTEE'S POWER TO DELEGATE**

Any trustee of these presents being a corporation may, in the execution and exercise of all or any of the trusts, powers and discretions vested in it by these presents, act by a duly authorised officer or employee for the time being of the trustee and the Trustee may, whenever it thinks it expedient in the interests of the Noteholders, delegate by power of attorney or in any other manner to any person or persons all or any of the trusts, powers and discretions vested in the Trustee by these presents and any such delegation may be made upon such terms and conditions (including power to sub-delegate) and subject to such regulations as the Trustee may in the interest of the Noteholders think fit and the Trustee shall not be in any way responsible for any loss incurred by any misconduct or default on the part of any such delegate or sub-delegate.

24. **TRUSTEE'S TRANSACTIONS WITH MEMBERS OF THE GROUP**

The Trustee and any director or officer of any corporation being a trustee of these presents or any company or person in any other way associated with a trustee hereof shall be entitled to enter into or to be otherwise interested in any banking, financial or business contracts or any other transactions or arrangements with any member of the Group or in connection with the Notes or which it could have entered into had it not been a trustee of these presents and, without prejudice to the generality of these provisions, it is expressly declared that such contracts, transactions or arrangements may include (a) any contract, transaction or arrangement for or in relation to the placing, underwriting, purchasing, subscribing for or dealing with or lending money upon the Notes or any other stock, shares, debenture stock, debentures or other securities of any member of the Group or any contract of insurance with any member of the Group; and (b) a trustee hereof acting as trustee of any other securities or obligations of any member of the Group; and the Trustee shall not be accountable to any member of the Group or to the Noteholders for any profits or benefits resulting or arising from any contract, transaction or arrangement as is mentioned in this clause 24 and the Trustee shall also be at liberty to retain for its own benefit and shall be in no way accountable to any member of the Group or to the Noteholders for any benefits or profits or any fees, commissions, discounts or share of brokerage allowed to it by bankers, brokers or other parties in relation to or otherwise arising out of any contract, transaction or arrangement (including any dealing with the Notes or the Charged Property) permitted by or effected under or in connection with these presents, and if any contract, transaction or arrangement as is mentioned in this clause 24 is dependent on or involves the exercise by the Trustee of any discretion the Trustee shall be free if it thinks fit to exercise such discretion so as to permit such contract, transaction or arrangement notwithstanding the interest of all or any of them therein.

25. **MODIFICATION TO TRUST DEED**

In addition and without prejudice to the powers of the Noteholders exercisable by Extraordinary Resolution, the Trustee may at any time without the sanction of any Extraordinary Resolution concur with the Issuer, the Guarantor and the Co-Guarantor in making such modifications to these presents as may be agreed between the Issuer, the Guarantor, the Co-Guarantor and the Trustee where the Trustee is of the opinion that any such modification will not be materially prejudicial to the interests of the Noteholders or where the modification is to correct a manifest error or is of a minor or technical nature.

26. **POWER TO APPOINT NEW TRUSTEE**

The statutory power of appointing new trustees of these presents shall be vested in the Issuer but a trustee so appointed must in the first place be approved by the Noteholders by an Extraordinary Resolution. At least one trustee hereof shall be a trust corporation and a trust corporation may be a sole trustee hereof. Whenever there shall be more than two trustees of these presents a majority of trustees shall be competent to exercise all the powers authorities and discretions hereby vested in the Trustee provided always that a trust corporation is included in such majority.

27. **RETIREMENT OF TRUSTEE**

Any trustee may at any time on the expiry of not less than three months' written notice to that effect given to the Issuer and the Guarantor retire from the trusts of these presents without assigning any reason and without being responsible for any expense thereby occasioned.

28. **TRUSTEE APPOINTED AS ATTORNEY**

Each of the Issuer, the Guarantor and the Co-Guarantor hereby irrevocably and by way of security appoints the Trustee and any person nominated for the purpose by the Trustee (in writing and signed by an officer of the Trustee) as its attorney (with full power of substitution and delegation) in its name and on its behalf and as its act and deed to execute, seal and deliver (using the company seal where appropriate) and otherwise perfect and do any deed, assurance, agreement, instrument, act or thing which it ought to execute and do under the terms of these presents, or which may be required or deemed proper in the exercise of any rights or powers conferred on the Trustee under these presents or otherwise for any of the purposes of these presents, and each of the Issuer, the Guarantor and the Co-Guarantor covenants with the Trustee to ratify and confirm all such acts or things made, done or executed by that attorney.

29. **TRUSTEE'S POWER TO APPLY TO COURT**

The Trustee may, at any time after any security contemplated by this deed becomes enforceable, apply to the Court for an order that the powers and trusts of these presents be exercised or carried into execution under the direction of the Court and for any order in relation to the execution and administration of the powers and trusts hereof as the Trustee shall deem expedient and it may assent to or approve any application to the Court made at the instance of any of the Noteholders and shall be indemnified by the Issuer against all the costs, charges, expenses and liabilities incurred by and in relation to any such application or proceedings.

30. **GENERAL COVENANTS TO PERFORM OBLIGATIONS**

30.1 The Issuer covenants with the Trustee that it will comply with and perform and observe all the provisions of these presents which are expressed to be binding on it. The Conditions shall be binding on the Issuer and the Noteholders. The Trustee shall be entitled to enforce the obligations of the Issuer under the Conditions as if the same were set out and contained in these presents, which shall be read and construed as one document with the Notes. The Trustee shall hold the benefit of this covenant on trust for itself and the Noteholders according to its and their respective interests.

30.2 Each of the Guarantor and the Co-Guarantor covenants with the Trustee that it will comply with and perform and observe all the provisions of these presents which are expressed to be binding on it. The Trustee shall be entitled to enforce the obligations of the Guarantor and the Co-Guarantor under the Conditions and schedule 4 as if the same were set out and contained in these presents. The Trustee shall hold the benefit of this covenant on trust for itself and the Noteholders according to its and their respective interests.

31. **COVENANT FOR FURTHER ASSURANCE**

Each of the Issuer, the Guarantor and the Co-Guarantor shall from time to time and at all times execute and do all such acts, assurances, consents, deeds and things as the Trustee may require for perfecting the security intended to be created by this deed and for facilitating or effecting any dealings by the Trustee under the powers of these presents and shall from time to time and at all times after the security hereby constituted shall have become enforceable execute and do all such acts, assurances, consents, deeds and things as the Trustee may require for facilitating the realisation of the Charged Property and the exercise of all the powers authorities and discretions hereby conferred on the Trustee.

32. **TRUSTEE'S POWERS ADDITIONAL TO OTHER POWERS**

The powers conferred by these presents upon the Trustee shall be in addition to any powers which may from time to time be vested in it by the general law or as the holder of any of the Notes.

33. **NOTICES**

33.1 Any notice, demand or other document may be served on the Issuer by sending the same by post in a prepaid letter to the registered office of the Issuer marked for the attention of The Managing Trustee, or to such other address in the Netherlands and/or addressee as the Issuer may from time to time notify to the Trustee and to Noteholders. Any notice, demand or other document served on the Issuer shall be copied to the Guarantor and the Co-Guarantor in accordance with clause 33.2.

33.2 Any notice, demand or other document may be served on the Guarantor or the Co-Guarantor by sending the same by post in a prepaid letter to the registered office of the Guarantor or the Co-Guarantor (as applicable) marked for the attention of The Company Secretary, or to such other address in England and/or addressee as the Guarantor may from time to time notify to the Trustee and to Noteholders.

33.3 Any notice, demand or other document may be served on the Trustee by sending the same by post in a prepaid letter to 4<sup>th</sup> Floor, 40 Dukes Place, London EC3A 7NH marked for the attention of Corporate Trust Manager or to such other address in England and/or addressee as the Trustee may from time to time notify to the Guarantor and the Co-Guarantor and to Noteholders.

33.4 Any notice, demand or other document served by post shall be deemed to have been given or served on the day following that on which the same is posted and in proving such service it shall be sufficient to prove that the envelope or wrapper containing the notice of the document or the notice or document itself was properly addressed, stamped (first class) and posted. Any notice, demand or other document served by delivery otherwise than by post shall be deemed to have been given or served at the time it is delivered to the address hereinbefore specified, unless it is delivered (a) otherwise than on a business day or (b) after 5.00 p.m. on any business day, in which event it shall be deemed to have been given or served at 9.00 a.m. on the next following business day.

34. **COUNTERPARTS**

This deed may be entered into in any number of counterparts and by the parties to it on separate counterparts, each of which when executed and delivered shall be an original, but all the counterparts shall together constitute one and the same instrument.

35. **GOVERNING LAW AND SUBMISSION TO JURISDICTION**

- 35.1 This deed (and any dispute, controversy, proceedings or claim of whatsoever nature arising out of or in any way relating to this deed or its formation) shall be governed by and construed in accordance with English law.
- 35.2 The Issuer, the Guarantor and the Co-Guarantor irrevocably agree (for the benefit of the Trustee and the Noteholders) that only the courts of England and those of the Netherlands have jurisdiction to hear and decide any suit, action or proceedings, and to settle any dispute, controversy or claim of whatever nature, which may in either case arise out of or in any way relate to these presents (respectively, "**Proceedings**" and "**Disputes**") and, for these purposes, the Issuer irrevocably submits to the jurisdiction of the courts of England (as well as to the jurisdiction of the courts of the Netherlands).
- 35.3 The Issuer irrevocably waives any objection which it might at any time have to the courts of England being nominated as the forum to hear and decide any Proceedings and to settle any Disputes and irrevocably agrees that (a) it will not claim that the courts of England are not a convenient or appropriate forum for any such Proceedings or Disputes and (b) a judgment in any Proceedings brought in any court of England shall be conclusive and binding upon it and may be enforced in the courts of any other jurisdiction.
- 35.4 Without prejudice to any other permitted mode of service, the Issuer agrees that service of any claim form, notice or other document for the purpose of any Proceedings begun in England shall be duly served upon it if delivered personally to the Guarantor at its registered office marked for the attention of The Company Secretary or such other person and address in England as the Issuer may notify the Trustee in writing from time to time.

36. **PARALLEL DEBT**

- 36.1 Notwithstanding any other provision of this deed, for the purposes of ensuring the validity of effect of any security (including security governed by Dutch or Indonesian law) granted or to be granted by any party pursuant to this deed, the Issuer hereby irrevocably and unconditionally undertakes to pay to the Trustee, as creditor in its own right and not as representative of the Noteholders, sums equal to and in the currency of each amount payable by the Issuer to each of the Noteholders under this deed (whether present or future, actual or contingent) at the instruction of and in the manner determined by the Trustee, but only as and when that amount falls due for payment under this deed or would have fallen due but for any suspension of payment, moratorium, discharge by operation of law or analogous event (the "**Parallel Debt**").
- 36.2 The Trustee shall have its own independent right to demand payment of the amounts payable by the Issuer under this clause 36, irrespective of any suspension, extinction or any other discharge for any reason whatsoever (otherwise than by payment) of such Issuer's obligation to pay those amounts to the Noteholders other than a discharge by virtue of payment which Noteholders are entitled to retain.
- 36.3 Any amount due and payable by the Issuer to the Trustee under this clause 36 shall be decreased to the extent that the Noteholders have received (and are able to retain) payment in full of the corresponding amount under the other provisions of this deed and any amount due and payable by the Issuer to the Noteholders under those provisions shall be decreased to the extent that the Trustee has received (and is able to retain) payment in full of the corresponding amount under this clause 36.
- 36.4 The rights of the Noteholders to receive payment of amounts payable by the Issuer under this deed are several and are separate and independent from, and without prejudice to, the rights of Trustee to receive payment under this clause 36.
- 36.5 Any amounts received by the Trustee under this clause 36 shall, to the extent permitted by the mandatory provisions of the applicable law, be applied in accordance with clause 5.

## SCHEDULE 1

### Form of Certificate and Terms and Conditions

Certificate no:

ISIN no [GB00B1FWDD12 / GB00BY8MM32]

**Nominal amount and series of Notes represented by this certificate:**

£ nominal of Series [A /B] Notes

#### REA FINANCE B.V.

(a private company with limited liability (*besloten vennootschap met beperkte aansprakelijkheid*) incorporated under the laws of the Netherlands, with corporate seat in Amsterdam and registered with the trade registry of the Chamber of Commerce and Industries in Amsterdam with number 34259527)

Issue of up to £50,000,000 9.5 per cent. guaranteed sterling notes 2015/17 of REA Finance B.V., created pursuant to resolutions of the sole managing director of REA Finance B.V. passed on 27 November 2006 and 29 July 2008 (the "**Series A Notes**") and £40,000,000 8.75 per cent. guaranteed sterling notes 2020 of REA Finance B.V., created pursuant to resolutions of the sole managing director of REA Finance B.V. passed on 2 September 2015 (the "**Series B Notes**", the Series A Notes and the Series B Notes being together the "**Notes**").

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THIS IS TO CERTIFY that the person(s) named below is/are the registered holder(s) of the nominal amount and series of Notes shown above, which Notes are constituted by and secured in accordance with an amended and restated trust deed dated 2 September 2015 and made between REA Finance B.V. (as Issuer), R.E.A. Holdings plc (as Guarantor), R.E.A. Services Limited (as Co-Guarantor) and Capita Trust Company Limited (as Trustee). The Notes are also issued subject to and with the benefit of the provisions contained in the said amended and restated trust deed and the terms and conditions endorsed hereon.

Interest at the rate of 9.5 per cent. per annum, in the case of the Series A Notes, or 8.75 per cent. per annum, in the case of the Series B Notes (subject in each case to any tax required by law to be deducted) is payable on the Notes comprised in this certificate half-yearly on 30 June and 31 December in each year. The Notes are redeemable, in the case of the Series A Notes, in three tranches on 31 December 2015, 31 December 2016 and 31 December 2017 and, in the case of the Series B Notes, on 31 August 2020. The Notes are transferable, in the case of the Series A Notes, in amounts and integral multiples of £1,000 and, in the case of the Series B Notes, in amounts of £100,000 and integral multiples of £1,000 in excess thereof provided that, where a transfer would be in respect of part only of a holding, the transferor must retain a minimum holding of £100,000 nominal of Series B Notes.

The payment of interest and principal and any other monies payable by REA Finance B.V. on or in respect of the Notes (a) is irrevocably and unconditionally guaranteed by each of R.E.A. Holdings plc and R.E.A. Services Limited and (b) is secured by way of a first charge in favour of the Trustee (on behalf of Noteholders) over the bank account(s) of REA Finance B.V.

The obligations of R.E.A. Services Limited in respect of its guarantee of the Notes is secured by way of first charges in favour of the Trustee (on behalf of Noteholders) over (a) two designated bank accounts of R.E.A. Services Limited and (b) the rights of R.E.A. Services Limited in respect of all monies owed to it from time to time by any subsidiary from time to time of R.E.A. Holdings plc incorporated in Indonesia and engaged in the cultivation of oil palms and/or the processing of oil palm fruit.

#### Name(s) and address(es) of Noteholder(s)

Executed by **REA Finance B.V.**

Dated:

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#### NOTES:

1. The Notes have not been, and will not be, registered under the US Securities Act of 1933, as amended (the "**Securities Act**"). Accordingly, the Notes may not be offered or sold within the United States, or to or for the account or benefit of any US persons, except in certain transactions that are exempt from the registration requirements of the Securities Act. The Notes have not been approved or disapproved by the US Securities and Exchange Commission or any other US regulatory authority. Any representation to the contrary is a criminal offence in the United States.
2. No transfer of the Notes (or any portion of the Notes) represented by this certificate can be registered without production of this certificate.

## TERMS AND CONDITIONS

The £50,000,000 9.5 per cent. guaranteed sterling notes 2015/17 (the "**Series A Notes**") and £40,000,000 8.75 per cent. guaranteed sterling notes 2020 (the "**Series B Notes**", the Series A Notes and the Series B Notes being together the "**Notes**", which expression shall in these terms and conditions (the "**Conditions**"), unless the context otherwise requires, include any further notes issued pursuant to Condition 15 and forming a single series with the Series A Notes or the Series B Notes) of REA Finance B.V. (the "**Issuer**") are constituted by an amended and restated trust deed dated 2 September 2015 made between the Issuer, R.E.A. Holdings plc (the "**Guarantor**"), R.E.A. Services Limited (the "**Co-Guarantor**") and Capita Trust Company Limited (the "**Trustee**") as trustee for the holders of the Notes (the "**Noteholders**") (such amended and restated trust deed as further amended and supplemented from time to time being the "**Trust Deed**"). The issue of the Series A Notes was authorised pursuant to resolutions of the board of directors of the Guarantor passed on 8 November 2006 and 23 July 2008 and resolutions of the sole managing director of the Issuer passed on 27 November 2006 and 29 July 2008. The issue of the Series B Notes was authorised pursuant to resolutions of a committee of the board of directors of the Guarantor passed on 2 September 2015, resolutions of the board of directors of the Co-Guarantor passed on 2 September 2015 and resolutions of the sole managing director of the Issuer passed on 2 September 2015. The statements in these Conditions include summaries of, and are subject to, the detailed provisions of and definitions in the Trust Deed. Copies of the Trust Deed are available for inspection during normal business hours by the Noteholders at the principal office for the time being of the Trustee, being as at the date of issue of this certificate at [4<sup>th</sup> Floor, 40 Dukes Place, London EC3A 7NH]. The Noteholders are entitled to the benefit of, are bound by, and are deemed to have notice of, all the provisions of the Trust Deed.

### 1. Definitions

In these Conditions, except to the extent that the context otherwise requires:

**"business day"** means a day (other than a Saturday or a Sunday) on which banks are generally open for business in the City of London, in Amsterdam and in Jakarta;

**"Extraordinary Resolution"** means a resolution passed at a meeting of the Noteholders (or, as the case may be, any series (or class) thereof) duly convened and held in accordance with the provisions contained in schedule 3 to the Trust Deed by a majority consisting of not less than three-fourths of the persons voting thereat upon a show of hands or if a poll is duly demanded then by a majority consisting of not less than three-fourths of the votes given on such a poll;

**"Indonesian Debtor Subsidiary"** means any Qualifying Subsidiary which is indebted to the Co-Guarantor, for so long as such Qualifying Subsidiary is so indebted;

**"Interest Payment Date"** means 30 June and 31 December in each year;

**"Interest Period"** means the period commencing on (but excluding) the date of issue of the relevant Notes and ending on (and including) the next following Interest Payment Date and thereafter each successive period commencing on (and including) the day following an Interest Payment Date and ending on (and including) the next following Interest Payment Date;

**"Prescribed Loan Agreement"** means any loan agreement made between the Co-Guarantor and any Qualifying Subsidiary pursuant to which the Co-Guarantor lends monies to such subsidiary (as amended and/or re-stated from time to time with the sanction of the Noteholders);

**"Prescribed Terms"** means:

- (i) as respects any loan by the Co-Guarantor to SYB, the terms set out in the loan agreement dated 29 November 2010 made between (1) the Co-Guarantor (as lender), (2) SYB (as borrower) and (3) the Guarantor (as amended and/or re-stated from time to time with the sanction of Noteholders);
- (ii) as respects any loan by the Co-Guarantor to PT Kutai Mitra Sejahtera, the terms set out in the loan agreement dated 13 March 2013 made between (1) the Co-Guarantor (as lender), (2) PT Kutai Mitra Sejahtera (as borrower) and (3) the Guarantor (as amended and/or re-stated from time to time with the sanction of Noteholders); and
- (iii) as respects any loan by the Co-Guarantor to any other Qualifying Subsidiary, the terms set out in the pro forma loan agreement included at schedule 5 to the Trust Deed, subject to any amendment(s) to which the Trustee has agreed in writing (which agreement the Trustee shall not withhold where the Guarantor has certified (by way of providing a certificate signed by two directors of the Guarantor on

behalf of the Guarantor) that (i) the amendment(s) is/are necessary as a consequence of any change in a law, regulation or other legal requirement on or after the date of the Trust Deed and (ii) the amendment(s) is/are not materially adverse or detrimental to the security for the Notes);

**"Qualifying Subsidiary"** means any subsidiary of the Guarantor incorporated in Indonesia and engaged in the cultivation of oil palms and/or the processing of oil palm fruit;

**"REA Kaltim"** means PT REA Kaltim Plantations, a subsidiary of the Guarantor incorporated in Indonesia and engaged in the cultivation of oil palms and/or the processing of oil palm fruit;

**"redemption date"** means, in relation to the Series A Notes, 31 December in each of the three years commencing 31 December 2015 and, in relation to the Series B Notes, 31 August 2020;

**"relevant spot rate"** means, for any day, the spot rate shown by the Financial Times of that day as the closing spot rate on the preceding business day or, if the board of directors of the Guarantor so elects, the spot rate in London quoted at or about 11.00 am on that day (or on the preceding business day) by a London clearing bank, approved by the board of directors of the Guarantor, as being the rate for the purchase by the Co-Guarantor or an Indonesian Debtor Subsidiary (as the case requires) of sterling or dollars (as applicable) for the currency and amount in question;

**"subsidiary"** has the meaning given thereto in section 1159 of the Companies Act 2006 of the United Kingdom; and

**"SYB"** means PT Sasana Yudha Bhakti, a subsidiary of REAH incorporated in Indonesia and engaged in the cultivation of oil palms and/or the processing of oil palm fruit.

References to **"dollars"** or to **"\$"** are to the lawful currency of the United States of America. References to **"sterling"** or to **"£"** are the lawful currency of the United Kingdom.

## 2. **Form, status and transfer**

### (A) Form and denomination

The Notes are issued in registered form, in the case of the Series A Notes, in amounts and integral multiples of £1,000 and, in the case of the Series B Notes, in minimum denominations of £100,000 and integral multiples of £1,000 in excess thereof.

The Issuer, the Guarantor, the Co-Guarantor and the Trustee may (to the fullest extent permitted by applicable law) deem and treat the registered holder of any Notes as the absolute owner for all purposes, notwithstanding any notice to the contrary, including any notice of ownership, trust or any interest in it and no person shall be liable for so treating the registered holder.

### (B) Status

The Notes are direct and unconditional secured obligations of the Issuer and rank equally and without any preference among themselves.

### (C) Transfers

#### (a) Series A Notes

The Series A Notes are transferable in amounts and integral multiples of £1,000.

#### (b) Series B Notes

The Series B Notes are transferable in minimum amounts of £100,000 nominal and integral multiples of £1,000 in excess thereof provided that, where the transfer is in respect of part only of a holding of Series B Notes, the transfer will not be valid unless the transferor retains a minimum holding of £100,000 nominal of Series B Notes represented, in the case of Series B Notes held in certificated form, by one certificate. Where a prospective transferor of Series B Notes holds more than one Series B Note in certificated form and is proposing to transfer part only of his holding, he may need first to consolidate his holding into fewer certificates.



(c) General

Subject as provided below, transfers of Notes shall be made by instrument in writing in the usual common form applicable to UK securities or in any other form which the board of managing directors (or, if applicable, the sole managing director) of the Issuer may approve. There shall not be included in any instrument of transfer more than one series (or class) of Notes.

In the case of Notes held in uncertificated form, title to the Notes may be transferred by means of a relevant system (as defined in the Uncertificated Securities Regulations 2001 (the "**Regulations**")), in which event, the Conditions shall not apply to the Notes to the extent that they are inconsistent with:

- (i) the holding of Notes in uncertificated form;
- (ii) the transfer of title to the Notes by means of a relevant system;
- (iii) any provision of the Regulations,

and the provisions of the Regulations shall apply in respect of the Notes and these Conditions.

### 3. Use of any cash proceeds

All cash proceeds of issue of the Notes shall be receivable by the Issuer and shall be applied solely in meeting the expenses of the issue of Notes (whether or not issued for cash and whether or not issued at the same time) and in making loans to the Guarantor, such loans to be applied by the Guarantor solely in making loans to the Co-Guarantor provided that any monies lent by the Issuer to the Guarantor shall be paid directly by the Issuer to the Co-Guarantor, on behalf of the Guarantor, into a bank account of the Co-Guarantor charged as referred to in Condition 4 or in accordance with Condition 12(C)(v). The Co-Guarantor shall apply the loans made to it by the Guarantor solely in making loans to Qualifying Subsidiaries provided that the Co-Guarantor and each such subsidiary shall have first entered into a loan agreement in respect of such loan on the Prescribed Terms. Pending the making by the Issuer of any such loans as are referred to above, the Issuer shall retain the cash proceeds of issue of the Notes (net of any expenses of the issue of the same) on deposit with ABN Amro Bank N.V. or such other bank or banks as the Trustee may from time to time approve (in accordance with Condition 12(B)(iv)).

### 4. Guarantee

The payment of the interest and principal and any other monies payable by the Issuer on or in respect of the Notes is irrevocably and unconditionally guaranteed by the Guarantor and the Co-Guarantor. The full terms of the guarantee are set out in schedule 4 to the Trust Deed.

The obligations of the Guarantor in respect of such guarantee are unsecured and, except as may be provided by applicable legislation or judicial order, will rank equally and without preference with all other unsecured and unsubordinated obligations of the Guarantor. The obligations of the Co-Guarantor in respect of such guarantee are secured by way of first ranking charges in favour of the Trustee (on behalf of Noteholders) over:

- (i) two designated bank accounts of the Co-Guarantor; and
- (ii) the rights of the Co-Guarantor in respect of all monies owed to it from time to time by any Indonesian Debtor Subsidiary.

Any demand under such guarantee must be in writing, signed by the Trustee and received by the Guarantor or the Co-Guarantor at its address for service of notices in accordance with Condition 19 on or before, in the case of the Series A Notes, 28 February 2018 and, in the case of the Series B Notes, 31 October 2020 or, in either case if earlier, in the event of the Trustee giving valid notice under Condition 10 to the Issuer and the Guarantor and the Co-Guarantor that the Notes are, in accordance with Condition 10, due and payable, on or before the expiry of three months from the date of the said notice from the Trustee.

### 5. Security

In addition to the security referred to at Condition 4 in respect of the Co-Guarantor's obligations in respect of its guarantee of the Notes, payment of interest and principal and all other monies payable by the Issuer on or in respect of the Notes is secured by way of a first right of pledge in favour of the Trustee (on behalf of Noteholders) over the bank account(s) of the Issuer.

## 6. Interest

### (A) Series A Notes

The Issuer shall pay interest on the principal amount of the Series A Notes at the rate of 9.5 per cent. per annum payable semi-annually in arrear in equal instalments on each Interest Payment Date to those persons who are registered as holders of Series A Notes at the close of business on the relevant record date (notwithstanding any intermediate transfer or transmission of any Series A Notes). Each Note will cease to bear interest from (and including) the due date for redemption unless payment of principal in respect of the Note is improperly withheld or refused.

### (B) Series B Notes

The Issuer shall pay interest on the principal amount of the Series B Notes at the rate of 8.75 per cent. per annum payable semi-annually in arrear in equal instalments on each Interest Payment Date to those persons who are registered as holders of Series B Notes at the close of business on the relevant record date (notwithstanding any intermediate transfer or transmission of any Series B Notes), save that:

- (i) in respect of the first Interest Period following the date of issue of each Series B Note issued as consideration for the acquisition by the Issuer of Series A Notes pursuant to the offer made by the Issuer on 3 August 2015 (the "**exchange offer**") on the date that the exchange offer becomes unconditional, interest shall be calculated from (but excluding) the date of issue to (and including) 31 December 2015;
- (ii) in respect of the first Interest Period following the date of issue of each Series B Note issued as consideration for the acquisition by the Issuer of Series A Notes pursuant to the exchange offer after the date that the exchange offer becomes unconditional but on or prior to 31 December 2015, the interest rate shall be calculated as if interest had accrued from (and including) the day following the date that the exchange offer becomes unconditional to (and including) 31 December 2015;
- (iii) in respect of the first Interest Period following the date of issue of each Series B Note issued for cash, interest shall be calculated from (but excluding) the date of issue to (and including) the first Interest Payment Date following the date of issue; and
- (iv) each Note will cease to bear interest from (and including) the due date for redemption unless, upon due presentation, payment of principal in respect of the Note is improperly withheld or refused.

### (C) General

For the above provisions of this Condition 6, the "**record date**" shall mean the thirtieth day before the relevant Interest Payment Date or, if such day is not a business day, then the next following business day.

If it should be necessary to compute an amount of interest in respect of any Notes for a period shorter than a complete Interest Period, such interest shall be calculated on the basis of the actual number of days in the period from (and including) the day following the most recent Interest Payment Date to (and including) the final day of the relevant period divided by the actual number of days in the period from (and including) the day following the most recent Interest Payment Date to (and including) the next Interest Payment Date.

Interest will be paid in sterling.

## 7. Redemption, purchases and cancellation

### (A) Final Redemption

Unless previously redeemed or purchased and cancelled as provided below, the Issuer shall redeem:

- (i) the Series A Notes in sterling at their principal amount by three (as nearly as possible) equal annual instalments commencing 31 December 2015; and
- (ii) the Series B Notes in sterling at their principal amount in one instalment on 31 August 2020.

If Series A Notes are purchased and cancelled by the Issuer, the amount of Series A Notes that the Issuer will be obliged to redeem on any given redemption date will be reduced by the nominal amount of Series A Notes purchased and cancelled prior to that redemption date (save in so far as such Series A Notes were purchased

and cancelled prior to a previous redemption date and taken into account in reducing the amount of Series A Notes otherwise due to be redeemed in relation to that redemption date).

Redemptions will be made *pro rata* to holdings of Notes on the due redemption date with the amount to be applied in redemption of each holding being rounded down to the nearest integral multiple of, in the case of the Series A Notes, £1,000 and, in the case of the Series B Notes, £100,000 and then utilised to redeem in full an appropriate proportion of the Notes comprised in that holding.

Any interest accrued but unpaid on any Notes to be redeemed shall be paid on redemption.

(B) Purchases

The Issuer, any parent company of the Issuer (including the Guarantor) and any subsidiary of the Issuer or of the Guarantor may at any time purchase Notes in any manner and at any price.

(C) Cancellation

All Notes redeemed or purchased by the Issuer will be cancelled forthwith and such Notes may not be reissued. Notes purchased by any subsidiary of the Issuer, or by the Guarantor or any subsidiary of the Guarantor (other than the Issuer) may be held and/or resold.

## 8. Payments, unclaimed monies and prescription

Any interest, principal and other monies payable by the Issuer, the Guarantor, the Co-Guarantor or the Trustee on or in respect of the Notes shall be paid by cheque made payable to the order of and sent through the post to the registered address of the holder or person entitled thereto or in the case of joint holders made payable to the order of and sent through the post to the registered address of that one of the joint holders who is first named in the register in respect of the Notes or made payable to the order of such person and sent to such address as the holder or joint holders may in writing direct. Payment of any such cheque shall be a satisfaction of the monies represented thereby. Every such cheque shall be sent at the risk of the person(s) entitled to the monies represented thereby. If several persons are entered in the register as joint holders of any Notes, then without prejudice to the foregoing provisions of this Condition 8, the payment to any of such persons of the monies in question shall be as effective a discharge to the Issuer, the Guarantor, the Co-Guarantor and the Trustee as if the person to whom the payment is made was the sole registered holder of such Notes.

If any monies should remain due to any Noteholder in respect of any Notes after the due date because any cheque in respect of such monies has not been presented, then after the expiry of six months from such due date (or at such earlier time as the Trustee may agree), the Issuer or the Guarantor or the Co-Guarantor (as applicable) may pay to the Trustee the amount due to such Noteholder and upon such payment being made the interest due on the Notes which the Issuer is ready to redeem (as the case may be) shall be deemed to have been paid or redeemed. The Trustee shall place any such monies so received by it on deposit in the name of the Trustee in such bank as it may think fit and thereafter the Trustee shall not be responsible for the safe custody of such monies or for interest thereon. Any payment made to the Trustee as described in this Condition 8 shall be held by the Trustee on trust for the holder of the relevant Notes provided that the Trustee may amalgamate any such monies with any other monies for the time being held by the Trustee for which it is accountable to any other Noteholder or to the holders of any stock or security (whether or not of the Issuer) for which it is or was the trustee under provisions equivalent to or similar to these provisions. Any monies which remain unclaimed after ten years (in the case of principal) or five years (in the case of interest), and any interest thereon, will be forfeit and will revert to the Issuer.

## 9. Taxation

All payments of interest and principal and any other monies payable by the Issuer, the Guarantor, the Co-Guarantor or the Trustee on or in respect of the Notes will be made free and clear of, and without withholding of or deduction for, or on account of, any taxes imposed or levied by the Netherlands or the United Kingdom or any political sub-division thereof or by any authority therein or thereof having power to tax, unless the withholding or deduction of such taxes is required by law.

## 10. Events of Default and change of control

(A) Events of Default

The Trustee at its discretion may and, if so requested in writing by the holders of at least one-quarter in principal amount of the Notes then outstanding or if so directed by an Extraordinary Resolution of the

Noteholders, shall (subject in each case to being indemnified and/or secured to its satisfaction) (but, in the case of the happening of any of the events mentioned in sub-paragraphs (ii), (iii), (vi), (viii) or (ix) below, only if the Trustee shall have certified in writing that such event is, in its opinion, materially prejudicial to the interests of the Noteholders) give notice to the Issuer, the Guarantor and the Co-Guarantor that the Notes are, and they shall accordingly forthwith become, immediately due and repayable at their principal amount, together with accrued interest, in any of the following events (each an "**Event of Default**"):

- (i) if default should be made in the payment on the due date of any principal monies or for a period of 14 days in the payment of any interest which ought to be paid in accordance with these Conditions;
- (ii) if default should be made by the Issuer, the Guarantor or the Co-Guarantor in the performance or observance of any covenant, condition or provision binding on it under the Trust Deed or the Notes (other than a covenant, condition or provision for payment of principal or interest) and (except in circumstances where the Trustee certifies that delay would in its opinion place the interests of the Noteholders in jeopardy) the same (if capable of remedy) is not remedied to the satisfaction of the Trustee within one calendar month after notice in writing of such default has been given to the Issuer, the Guarantor or the Co-Guarantor (as applicable) by the Trustee;
- (iii) if the Issuer, the Guarantor or the Co-Guarantor should stop or threaten by notice to its creditors generally to stop payment of its debts generally or if the Issuer, the Guarantor or the Co-Guarantor should cease or threaten to cease to carry on business or substantially the whole of its business;
- (iv) if:
  - (I) the Issuer should be unable to pay its debts within the meaning section 1 of the Dutch Insolvency Act (*Faillissementswet*) or section 123 of the Insolvency Act 1986;
  - (II) the Issuer has been granted suspension of payments (*surseance van betaling*), on a temporary basis or otherwise (within the meaning of section 214 of the Dutch Insolvency Act) or has become subject to any other similar regulation (including but not limited to emergency proceedings (*noodregeling*)), or has, wholly or partly, lost the free management or disposal of its property in any other way, the foregoing irrespective of whether that situation is irrevocable; or
  - (III) the Issuer should propose to its creditors any composition as regards the debts owed by the Issuer to them, whether under the laws of the Netherlands or elsewhere and whether within or outside the scope of the insolvency proceedings referred to under (II);
- (v) if:
  - (I) the Guarantor or the Co-Guarantor should be unable to pay its debts within the meaning section 123 of the Insolvency Act 1986 of the United Kingdom; or
  - (II) any voluntary arrangement should be proposed under section 1 of the Insolvency Act 1986 of the United Kingdom in respect of the Guarantor or the Co-Guarantor;
- (vi) if any indebtedness in the nature of borrowings of the Guarantor or the Co-Guarantor should become repayable by reason of default by the Guarantor or the Co-Guarantor (respectively) or if any guarantee or indemnity given by the Guarantor or the Co-Guarantor is not honoured when due and called upon and, in either case, steps are taken to enforce payment;
- (vii) if an order should be made or a resolution passed for the winding up of the Issuer, the Guarantor or the Co-Guarantor (except for a voluntary members' winding up approved in writing by the Trustee or by an Extraordinary Resolution of the Noteholders);
- (viii) if any security interest created by the Guarantor, the Co-Guarantor, the Issuer or any Indonesian Debtor Subsidiary, other than any customary retention of title provision, should become enforceable and steps are taken to enforce the same;
- (ix) if any Indonesian Debtor Subsidiary should incur or have outstanding for more than 10 business days following the date on which it becomes an Indonesian Debtor Subsidiary any indebtedness in the nature of borrowings owed to the Guarantor or any of its subsidiaries (other than the Co-Guarantor or any other Indonesian Debtor Subsidiary); or

- (x) if the Guarantor should cease to be the owner (directly or indirectly) of more than 50 per cent. of the issued ordinary share capital of the Co-Guarantor or any Indonesian Debtor Subsidiary.
- (B) Change of control of the Guarantor

If any person (or group of persons acting in concert within the meaning of the City Code on Takeovers and Mergers of the United Kingdom) should obtain the right to exercise more than 50 per cent. of the votes which may generally be cast at a general meeting of the Guarantor, the Guarantor shall promptly give notice of such event (a "**change of control**"). Each Noteholder at its discretion may, following a change of control, give notice to the Issuer and the Guarantor that the Notes held by that Noteholder are, and they shall accordingly forthwith become, immediately due and repayable at an amount equal to 101 per cent. of their principal amount, together with accrued interest provided that any such notice to the Issuer and the Guarantor shall only be effective if received by the Guarantor prior to the expiry of 60 days from the date of the notification by the Guarantor as to the change of control as referred to above.

#### 11. **Limitation on borrowing**

For so long as any of the Notes remain outstanding, except with the sanction of an Extraordinary Resolution of the Noteholders, the combined Borrowings (as defined below) of the Issuer and the Indonesian Debtor Subsidiaries shall not, at any time, exceed an amount equal to 2.5 times the earnings before interest, tax, depreciation, amortisation and gain or loss on biological assets of REA Kaltim for the preceding financial period (expressed in dollars and calculated using figures derived from the consolidation schedules used to prepare the audited consolidated financial statements of the Guarantor for the relevant financial period) or, if more, the limit on the combined Borrowings of the Issuer and the Indonesian Debtor Subsidiaries applicable for the previous financial period (such amount being the "**Permitted Maximum**").

For these purposes, "**Borrowings**" means:

- (a) all indebtedness in the nature of borrowings owed by the Issuer to any person other than to the Guarantor, net of any cash balances deposited at a bank in the name of the Issuer; and
- (b) all indebtedness in the nature of borrowings owed by the Indonesian Debtor Subsidiaries other than indebtedness in the nature of borrowings owed to the Co-Guarantor or owed by one Indonesian Debtor Subsidiary to another, net of any cash balances deposited at a bank in the name of an Indonesian Debtor Subsidiary

and "**indebtedness in the nature of borrowings owed by the Indonesian Debtor Subsidiaries**" includes:

- (x) the principal amount raised by any Indonesian Debtor Subsidiary by acceptances or under any acceptance credit opened on its behalf by any bank or accepting house other than acceptances relating to the purchase of goods in the ordinary course of trading and outstanding for not more than ninety days;
- (y) the principal amount outstanding in respect of any finance leases entered into by any Indonesian Debtor Subsidiary; and
- (z) save where the principal obligor is another Indonesian Debtor Subsidiary, the principal amount of any monies borrowed or other indebtedness, the redemption or repayment of which is guaranteed or secured by, or is the subject of an indemnity given by, any Indonesian Debtor Subsidiary

but Borrowings shall not include amounts not exceeding \$10,000,000 in aggregate of any monies borrowed by any Indonesian Debtor Subsidiary for the purpose of repaying the whole or any part (with or without premium) of any monies borrowed by that Indonesian Debtor Subsidiary then outstanding and so to be applied by that Indonesian Debtor Subsidiary within eighteen months of being so borrowed pending their application for such purpose within such periods (as to which, a certificate as to the purpose of the borrowing in question signed by any two directors of the Guarantor on behalf of the Guarantor shall be conclusive evidence as to such purpose for the purposes of this Condition 11).

Where the amount of any indebtedness required to be taken into account for the purposes of this Condition 11 is denominated or repayable (or repayable at the option of any person other than the Issuer or an Indonesian Debtor Subsidiary) in a currency other than dollars, such amount shall be translated, for the purpose of calculating the dollar equivalent, at the relevant spot rate on the day in question provided that the "day in question", for the purposes of the Notes, shall be taken to be the date on which the issue of the relevant Notes becomes unconditional.

A certificate or report by the auditors for the time being of the Guarantor as to the amount of the Permitted Maximum referred to above in this Condition 11 and/or the aggregate amount of the combined Borrowings of the Issuer and the Indonesian Debtor Subsidiaries at any time shall be conclusive evidence of such amount for the purposes of this Condition 11.

## 12. Other covenants

### (A) Covenants by the Guarantor

The Guarantor covenants with the Trustee that for so long as any of the Notes remain outstanding the Guarantor will:

- (i) carry on and conduct its businesses and affairs in a proper and efficient manner and duly comply with all obligations imposed on it by the Companies Act 2006;
- (ii) keep proper books of account and therein make true and proper entries of all dealings and transactions of and in relation to its business; keep the said books of account and all other documents relating to its affairs at its registered office or such other place or places where such books of account and other documents ought in the ordinary course to be kept and allow the Trustee or any person or persons nominated by the Trustee in writing (not being a person or persons to whom the Guarantor may reasonably object) at all reasonable times to have access to such books of account and other documents to the extent relevant for the purposes of the Notes;
- (iii) give to the Trustee or any person or persons nominated by the Trustee in writing (not being a person or persons to whom the Guarantor may reasonably object) such information as they may reasonably require, in such form as they may reasonably require, as to all matters relating to the business, assets and affairs of the Guarantor, the Co-Guarantor and its subsidiaries;
- (iv) furnish to the Trustee two copies of every report, balance sheet, profit and loss account, circular or notice issued by the Guarantor to its members, in each case at the same time as the same are despatched to members of the Guarantor;
- (v) send to the Noteholders a copy of (I) the annual report of the Guarantor (incorporating those reports and audited accounts required by law or the rules of the Financial Conduct Authority in its capacity as the competent authority for the purposes of Part VI of the Financial Services and Markets Act 2000 (or any successor body) to be incorporated therein) and (II) each published interim report of the Guarantor, in each case at the same time as the same are despatched to members of the Guarantor;
- (vi) use its best endeavours (I) to maintain the listing of the Notes on the Official List of the Financial Conduct Authority (or any successor body) and their admission to trading on the London Stock Exchange's regulated market for listed securities (being a regulated market for the purposes of Directive 2004/39/EC (The Markets in Financial Instruments Directive)) or, if it is unable to do so having used such best endeavours or if the maintenance of such listing and admission to trading is agreed by the Trustee to be unduly onerous, use its best endeavours to obtain and maintain the quotation and listing of the Notes on such other stock exchange and by such other listing authority, where applicable, as it may (with the prior written approval of the Trustee) decide and (II) to procure that there will at all times be furnished to any stock exchange and listing authority, where applicable, on which and by which the Notes are for the time being traded and listed, on the application of the Issuer, such information as such stock exchange and listing authority, where applicable, may require in accordance with its normal requirements or in accordance with any arrangements for the time being made with any such stock exchange and listing authority, where applicable;
- (vii) use all reasonable endeavours to procure that its auditors furnish to the Trustee such certificates, reports or other information as the Trustee may from time to time reasonably require and in such form as the Trustee may reasonably require in connection with any calculation or matter arising under the Trust Deed or these Conditions;
- (viii) execute all such further documents and carry out all such further acts and things as may be necessary at any time or times in the opinion of the Trustee to give effect to the provisions of the Trust Deed and these Conditions;
- (ix) give immediate notice in writing to the Trustee upon the Guarantor becoming aware of the happening of any such event as is mentioned in Condition 10;

- (x) deliver to the Trustee (I) within 14 days of request therefor from time to time by the Trustee and (II) without the need for any such demand, within 14 days of the date on which the audited accounts for each financial year of the Guarantor are despatched to the members of the Guarantor (or, if earlier, not later than 180 days after the end of the financial year to which such audited accounts relate) a certificate signed by two directors of the Guarantor on behalf of the Guarantor certifying that, so far as the Guarantor is aware, having made all proper enquiries and except as set out in the relevant certificate, as at the date of such certificate and throughout the period from and including the date of the last such certificate to and including the date of the certificate (or throughout any other period specified by the Trustee):
- (a) none of the Guarantor, the Co-Guarantor and the Issuer is, or has been, in breach of the provisions of the Trust Deed; and
- (b) none of the events specified in Condition 10 has occurred;
- (xi) deliver to the Trustee within 14 days of the date on which the audited accounts for each financial year of the Guarantor are despatched to the members of the Guarantor (or, if earlier, not later than 180 days after the end of the financial year to which such audited accounts relate) a certificate signed by two directors of the Guarantor on behalf of the Guarantor certifying the outstanding amounts of all loans made by the Co-Guarantor to (and repaid to the Co-Guarantor by) any Qualifying Subsidiary, and of the interest rate and repayment provisions applicable to each such loan, in each case as at the preceding accounting reference date of the Co-Guarantor;
- (xii) not change its accounting reference date;
- (xiii) procure that the borrowing restriction set out in Condition 11 is not breached;
- (xiv) procure that no Indonesian Debtor Subsidiary permits to subsist and/or creates security interest(s) in respect of any of its assets, other than customary retention of title provisions or any security interest(s) arising by operation of law, such that, at any time while there exist any Indonesian Debtor Subsidiaries, the Indonesian Debtor Subsidiaries together have secured borrowings of more than \$55,000,000 in aggregate;
- (xv) procure that:
- (I) in any financial period of the Guarantor when the Indonesian Debtor Subsidiaries did not together have, as at the beginning of the relevant financial period, fixed assets with an aggregate book value (expressed in dollars and calculated using figures derived from the consolidation schedules used to prepare the audited consolidated balance sheet of the Guarantor as at the end of the immediately preceding financial period) of more than three times the Permitted Maximum (as defined in Condition 11), the Indonesian Debtor Subsidiaries do not dispose (whether by way of sale, lease, transfer or otherwise) of fixed assets having an aggregate book value (expressed in dollars and calculated as provided above) of more than \$2,000,000; or
- (II) in any financial period of the Guarantor when the Indonesian Debtor Subsidiaries together had, as at the beginning of the relevant financial period, fixed assets with an aggregate book value (expressed in dollars and calculated using figures derived from the consolidation schedules used to prepare the audited consolidated balance sheet of the Guarantor as at the end of the immediately preceding financial period) of more than three times the Permitted Maximum (as defined in Condition 11), the Indonesian Debtor Subsidiaries do not dispose (whether by way of sale, lease, transfer or otherwise) of fixed assets having an aggregate book value (expressed in dollars and calculated as provided above) of more than the amount by which the book value of the fixed assets of the Indonesian Debtor Subsidiaries as at the beginning of the relevant financial period (expressed in dollars and calculated as provided above) exceeded three times the Permitted Maximum

provided that for the purposes of this sub-paragraph (xv):

- (a) any disposal of assets by one Indonesian Debtor Subsidiary to another;
- (b) any disposal of assets for cash where the proceeds of the disposal are applied within one month of the date of the disposal, in or towards repaying borrowings owed to the Issuer and the Issuer thereafter retains the proceeds of such repayment in cash or applies the proceeds in purchasing Notes;

- (c) any disposal of assets for cash where the proceeds of the disposal are applied within twelve months of the date of the disposal in acquiring, or any exchange of assets for, assets of a similar nature;
- (d) (A) any disposal by SYB of land to PT Ade Putra Tanrajeng of Indonesia and/or associates (the "APT group") and/or relinquishing of rights by SYB in respect of further land, in consideration of which the APT group would procure the transfer to SYB of the whole of the issued share capital of PT Praesetia Utama in connection with the proposed settlement arrangements detailed in the circular dated 13 January 2012 from the Guarantor to holders of the Series A Notes and (B) any disposal by SYB of up to (and including) five per cent of PT Praesetia Utama to a local partner; and
- (e) any creation of any security interest in respect of any assets

shall be deemed not to constitute a "**disposal**" and "**fixed assets**" shall mean biological assets and property, plant and equipment that are treated as non-current assets in accordance with International Financial Reporting Standards applicable on 4 December 2006;

- (xvi) procure that each of the Issuer and the Co-Guarantor complies with its covenants under the Trust Deed (including these Conditions);
- (xvii) as soon as practicable after the first occasion on which the Co-Guarantor makes a loan to a Qualifying Subsidiary that is not immediately prior to the making of the loan an Indonesian Debtor Subsidiary (and in any event within five business days thereof), furnish to the Trustee:
  - (I) a certified copy of the loan agreement in respect of the new loan;
  - (II) an opinion from Ali Budiardjo, Nugroho, Reksodiputro (Counsellors at Law, Jakarta) or Oentoeng Suria & Partners (or such other firm of Indonesian lawyers as the Trustee may approve) addressed to the Trustee in relation to the relevant Qualifying Subsidiary in substantially the form of the opinion issued by Ali Budiardjo, Nugroho, Reksodiputro to Capita Trust Company Limited on 16 March 2013 (subject to any amendment(s) to which the Trustee has agreed in writing);
  - (III) a notification, and acknowledgement of notification, of the charge over receivables referred to in Condition 4(ii) in the form set out in the schedule to such charge over receivables, duly executed by the Co-Guarantor and the relevant Qualifying Subsidiary as applicable;
  - (IV) a notification, and acknowledgement of notification, of the fiduciary assignment of receivables proposed to be made between the Co-Guarantor and the Trustee in the form set out in schedules to such fiduciary assignment, duly executed by the Co-Guarantor and the relevant Qualifying Subsidiary as applicable; and
  - (V) a certificate signed by two directors of the Guarantor, on behalf of the Guarantor, certifying that:
    - (a) the loan agreement in respect of the new loan has been duly executed by the Co-Guarantor and the relevant Qualifying Subsidiary and is enforceable in accordance with its terms;
    - (b) the loan agreement in respect of the new loan is on the Prescribed Terms; and
    - (c) the Issuer is in compliance with Condition 12;
- (xviii) not agree to amend, and procure that neither the Co-Guarantor nor any Indonesian Debtor Subsidiary agrees to amend, the terms of any Prescribed Loan Agreement provided that, for the avoidance of doubt, none of:
  - (I) any further or other arrangements pursuant to which the Co-Guarantor agrees with commercial lenders to an Indonesian Debtor Subsidiary to subordinate (a) any indebtedness owed to the Co-Guarantor by that Indonesian Debtor Subsidiary to (b) indebtedness of the Indonesian Debtor Subsidiary falling due for repayment on or before 31 August 2020 (provided that such further or other arrangements are on like or substantially similar terms to, or no more onerous terms than, those included in the subordination agreement dated 23



April 2009 and made between (1) the Issuer (as subordinated creditor), (2) REA Kaltim (as debtor) and (3) PT Bank Rabobank Indonesia and others (as senior creditors)); and

- (II) any arrangements pursuant to which the Co-Guarantor agrees with the relevant counterparties to any derivative financial instrument entered into by any Indonesian Debtor Subsidiary with a view to hedging against US dollars indebtedness owed by the Indonesian Debtor Subsidiary in a currency other than US dollars (a "**hedging contract**") to subordinate (a) any indebtedness owed to the Co-Guarantor by that Indonesian Debtor Subsidiary to (b) the obligations of the Indonesian Debtor Subsidiary under the hedging contract

will constitute an amendment for the purposes of this sub-paragraph (xviii);

- (xix) apply the proceeds of any loans made to it by the Issuer as provided in Condition 3 only as stipulated in Condition 3; and
- (xx) procure that the aggregate value of the assets subject to the security referred to at Conditions 4 and 5 at all times equals or exceeds an amount equal to the principal amount of the Notes outstanding from time to time plus, to the extent that the cash held by the Issuer or the Co-Guarantor at bank (and charged as security as referred to at Condition 4 or 5) is less than the principal amount of the Notes outstanding, the greater of (a) 50 per cent. of the amount by which the principal amount of the Notes outstanding exceeds the cash so held and (b) £10,000,000 and, for this purpose, cash on deposit and any loans by the Co-Guarantor to any Indonesian Debtor Subsidiary shall be valued at face value, with any cash deposits not retained in sterling translated into sterling at the relevant spot rates on the day of valuation and any loans by the Co-Guarantor to any Indonesian Debtor Subsidiary made in dollars translated into sterling at the relevant spot rate(s) on the day(s) on which such loans were first advanced (or, in the case of the loan of \$26,500,000 owed by SYB and assigned by the Issuer to the Co-Guarantor on 29 November 2010, at the rate of £1=\$1.6143) provided that, for the purposes of this sub-paragraph (xx), monies in the course of being transferred by the Issuer (from an account charged as required pursuant to Condition 5) to the Co-Guarantor (to an account charged as required pursuant to Condition 4), and *vice versa*, including transfers from the Issuer to the Co-Guarantor at the direction of the Guarantor and *vice versa*, shall be deemed to remain charged during the course of such transfer.

- (B) Covenants by the Issuer

The Issuer covenants with the Trustee that for so long as any of the Notes remain outstanding the Issuer will:

- (i) carry on and conduct its businesses and affairs in a proper and efficient manner and duly comply with all obligations imposed on it by its articles of association (*statuten*) and by Book 2 of the Dutch Civil Code (*Burgerlijk Wetboek*);
- (ii) keep proper books of account and therein make true and proper entries of all dealings and transactions of and in relation to its business; keep the said books of account and all other documents relating to its affairs at its registered office or such other place or places where such books of account and other documents ought in the ordinary course to be kept and allow the Trustee or any person or persons nominated by the Trustee in writing (not being a person or persons to whom the Issuer may reasonably object) at all reasonable times to have access to such books of account and other documents to the extent relevant for the purposes of the Notes;
- (iii) give to the Trustee or any person or persons nominated by the Trustee in writing (not being a person or persons to whom the Issuer may reasonably object) such information as they may reasonably require, in such form as they may reasonably require, as to all matters relating to the business, assets and affairs of the Issuer and its subsidiaries (if any);
- (iv) not open any bank account (other than its accounts with ABN Amro Bank N.V.) without:
- (I) the same first being approved by the Trustee; and
- (II) creating, in favour of the Trustee (on behalf of Noteholders) a charge over the same on terms to be approved by the Trustee with the highest possible ranking as security for the payment of interest in respect of the Notes and repayment of the principal amount of the Notes and for its obligations under the Trust Deed;
- (v) apply the proceeds of issue of the Notes only as stipulated in Condition 3;

- (vi) apply any monies lent by it to the Guarantor and subsequently repaid only:
  - (I) in making one or more cash deposits into a bank account of the Issuer charged as referred to in Condition 5 or in accordance with sub-paragraph (iv) above;
  - (II) in meeting costs and expenses in the ordinary course of its business (including without limitation in meeting interest payments due in respect of the Notes);
  - (III) in making loans to the Guarantor; and/or
  - (IV) in purchasing or redeeming Notes;
- (vii) not lend monies to any person other than the Guarantor provided that this shall not preclude the depositing of monies in a bank account as permitted under the terms of the Trust Deed;
- (viii) not incur any indebtedness in the nature of borrowings, other than:
  - (I) in respect of the Notes; or
  - (II) in respect of unsecured loans due to the Guarantor,

and in any event not incur any indebtedness in the nature of borrowings where to do so would result in a breach, on the date on which the borrowing would be incurred, of the borrowing restriction set out in Condition 11;
- (ix) not create any security interest in respect of any of its assets, other than customary retention of title provisions or any security interests arising by operation of law and other than as envisaged at Condition 5;
- (x) not change its financial year end;
- (xi) give immediate notice in writing to the Trustee upon the Issuer becoming aware of the happening of any such event as is mentioned in Condition 10;
- (xii) execute all such further documents and carry out all such further acts and things as may be necessary at any time or times in the opinion of the Trustee to give effect to the Trust Deed and these Conditions;
- (xiii) comply with the requirement to benefit from the banking license exemption as laid down in Section 3:2 of the Dutch Financial Markets Supervision Act (*Wet op het financieel toezicht*) and implementing regulations as amended from time to time; and
- (xiv) once there are Series B Notes in issue, not issue any further Series A Notes.
- (C) Covenants by the Co-Guarantor

The Co-Guarantor covenants with the Trustee that for so long as any of the Notes remain outstanding the Co-Guarantor will:

- (i) carry on and conduct its businesses and affairs in a proper and efficient manner and duly comply with all obligations imposed on it by the Companies Act 2006;
- (ii) keep proper books of account and therein make true and proper entries of all dealings and transactions of and in relation to its business; keep the said books of account and all other documents relating to its affairs at its registered office or such other place or places where such books of account and other documents ought in the ordinary course to be kept and allow the Trustee or any person or persons nominated by the Trustee in writing (not being a person or persons to whom the Co-Guarantor may reasonably object) at all reasonable times to have access to such books of account and other documents to the extent relevant for the purposes of the Notes;
- (iii) without prejudice to sub-paragraph (ii) above, keep proper records of all amounts lent by it to (and repaid or prepaid to it by) any Qualifying Subsidiary, and of the interest rate and repayment provisions applicable to each such loan, and notify the Trustee promptly (and in any event within five business days) upon (I) any new loan being made by it to a Qualifying Subsidiary (giving details of the amount of the loan and of the interest rate and repayment provisions applicable to it) and (II)

any loan made by it to a Qualifying Subsidiary being repaid or prepaid in full or in part (giving details of the amount repaid or prepaid);

- (iv) give to the Trustee or any person or persons nominated by the Trustee in writing (not being a person or persons to whom the Co-Guarantor may reasonably object) such information as they may reasonably require, in such form as they may reasonably require, as to all matters relating to the business, assets and affairs of the Co-Guarantor and its subsidiaries (if any);
  - (v) at all times maintain a bank account with a bank approved by the Trustee and charged in favour of the Trustee (on behalf of Noteholders) on terms approved by the Trustee with the highest possible ranking as security for its guarantee in respect of the Notes (provided that, for the avoidance of doubt, the Co-Guarantor shall be at liberty to maintain such other, uncharged, bank accounts as it considers appropriate);
  - (vi) apply the proceeds of any loans made to it by the Guarantor as provided in Condition 3 only as stipulated in to Condition 3;
  - (vii) apply any monies lent by it to a Qualifying Subsidiary and subsequently repaid only:
    - (I) in making one or more cash deposits into the bank account of the Co-Guarantor charged in accordance with Condition 12(C)(v);
    - (II) in making one or more loans to any Qualifying Subsidiary on the Prescribed Terms;
    - (III) in repaying amounts owed to the Guarantor;
    - (IV) in making one or more loans to the Guarantor on such terms as may be agreed from time to time between the Co-Guarantor and the Guarantor; and/or
    - (V) in paying dividends;
  - (viii) lend monies to any Qualifying Subsidiary only in accordance with the terms of a loan agreement made between the Co-Guarantor and the Qualifying Subsidiary on the Prescribed Terms;
  - (ix) not agree to amend the terms of any Prescribed Loan Agreement provided that, for the avoidance of doubt, none of:
    - (I) any further or other arrangements pursuant to which the Co-Guarantor agrees with commercial lenders to an Indonesian Debtor Subsidiary to subordinate (a) any indebtedness owed to the Co-Guarantor by that Indonesian Debtor Subsidiary to (b) indebtedness of the Indonesian Debtor Subsidiary falling due for repayment on or before 31 August 2020 (provided that such further or other arrangements are on like or substantially similar terms to, or no more onerous terms than, those included in the subordination agreement dated 23 April 2009 and made between (1) the Issuer (as subordinated creditor), (2) REA Kaltim (as debtor) and (3) PT Bank Rabobank Indonesia and others (as senior creditors)); and
    - (II) any arrangements pursuant to which the Co-Guarantor agrees with the relevant counterparties to any derivative financial instrument entered into by any Indonesian Debtor Subsidiary with a view to hedging against US dollars indebtedness owed by the Indonesian Debtor Subsidiary in a currency other than US dollars (a "**hedging contract**") to subordinate (a) any indebtedness owed to the Co-Guarantor by that Indonesian Debtor Subsidiary to (b) the obligations of the Indonesian Debtor Subsidiary under the hedging contract
- will constitute an amendment for the purposes of this sub-paragraph (ix);
- (x) furnish the Trustee with a certified copy of any subordination or hedging agreement as is referred to at sub-paragraphs (ix)(I) and (ix)(II) above as soon as practicable after such agreement is entered into;
  - (xi) not change its financial year end;
  - (xii) give immediate notice in writing to the Trustee upon the Issuer becoming aware of the happening of any such event as is mentioned in Condition 10;

- (xiii) execute all such further documents and carry out all such further acts and things as may be necessary at any time or times in the opinion of the Trustee to give effect to the Trust Deed and these Conditions; and
- (xiv) not agree repayment amounts as regards the loans due to it by Indonesian Debtor Subsidiaries which would result in the aggregate amount being due to it by Indonesian Debtor Subsidiaries on any repayment date, when aggregated with the cash amounts then held by the Co-Guarantor and/or the Issuer in a bank account charged in favour of the Trustee (on behalf of Noteholders), being less than the aggregate amount then due to holders of sterling notes by the Issuer on the next following redemption date and, for this purpose, loans due to the Co-Guarantor by Indonesian Debtor Subsidiaries that are denominated in dollars shall be translated into sterling at the relevant spot rate(s) on the day(s) on which such loans were first advanced (or, in the case of the loan of \$26,500,000 owed by SYB and assigned by the Issuer to the Co-Guarantor on 29 November 2010, at the rate of £1=\$1.6143).

**The Trust Deed does not contain any provisions limiting the borrowings of the Guarantor or any of its subsidiaries, other than the Issuer and the Indonesian Debtor Subsidiaries, nor any provisions restricting or prohibiting the granting of security by the Guarantor or any of its subsidiaries, other than the Issuer and the Indonesian Debtor Subsidiaries.**

### 13. Enforcement of rights

#### (A) Enforcement by the Trustee

The Trustee may at any time, at its discretion and without notice, take such proceedings against the Issuer and/or the Guarantor and/or the Co-Guarantor as it may think fit to enforce the provisions of the Trust Deed or the Notes, but it shall not be bound to take any such proceedings or any other action in relation to the Trust Deed or the Notes unless (i) it has been so directed by an Extraordinary Resolution of the Noteholders or so requested in writing by the holders of at least one-quarter in principal amount of the Notes then outstanding and (ii) it has been indemnified or secured to its satisfaction.

#### (B) Enforcement by the Noteholders

No Noteholder shall be entitled to proceed directly against the Issuer unless the Trustee, having become bound so to proceed, fails so to do within a reasonable period and the failure shall be continuing.

### 14. Meetings of Noteholders and class meetings

The Trust Deed contains provisions for convening meetings of Noteholders to consider any matter affecting their interests, including the modification by Extraordinary Resolution of any of these Conditions or any of the provisions of the Trust Deed.

The Trust Deed contains provisions for convening a single meeting of Noteholders in all circumstances save where the matter(s) to be considered include proposals for the variation or abrogation of the special rights attached to a series (or class) of Notes, in which event such rights may only be varied or abrogated either (a) with the consent in writing of the holders of more than 75 per cent in nominal value of the issued Notes of that series (or class); or (b) with the sanction of an Extraordinary Resolution passed at a separate meeting of the holders of that series (or class). For this purpose, "special rights" means rights particular to one series (or class) of Notes, rather than attached to all of the Notes.

The quorum at any meeting of Noteholders (or meeting of the holders of any series (or class) of Notes) for passing an Extraordinary Resolution, other than an adjourned meeting, is one or more persons holding or representing at least one third of the principal amount of the Notes (or the relevant series (or class) of Notes) for the time being outstanding. The quorum at any meeting of Noteholders (or meeting of the holders of any series (or class) of Notes) for passing an Extraordinary Resolution at an adjourned meeting is one or more holders or representatives of holders of Notes (or the relevant series (or class) of Notes) whatever the principal amount of the Notes for the time being outstanding so held or represented. An Extraordinary Resolution passed at any meeting of Noteholders (or meeting of the holders of any series (or class) of Notes) will be binding on all Noteholders, whether or not they are present at the meeting.

### 15. Modification and waiver

The Trustee may agree, without the consent of the Noteholders, to any modification (subject to certain exceptions) of, or to the waiver or authorisation of any breach or proposed breach of, any of these Conditions or any of the provisions of the Trust Deed which is not, in the opinion, of the Trustee, materially prejudicial to

the interests of the Noteholders or to any modification which is, in the opinion of the Trustee, of a formal, minor or technical nature or which is made to correct a manifest or proven error. Any such modification, waiver or authorisation shall be binding on the Noteholders and, unless the Trustee agrees otherwise, any such modification shall be notified to the Noteholders as soon as practicable thereafter in accordance with Condition 18.

#### **16. Further issues**

Subject to certain limitations included in clause 3 of the Trust Deed, the Issuer shall be at liberty from time to time without the consent of the Noteholders to create and issue further notes or bonds either ranking *pari passu* in all respects (save for the first payment of interest thereon) and (in the case of notes) so that the same shall be consolidated and form a single series with the Series B Notes (or, where there are no Series B Notes in issue, the Series A Notes) or upon such terms as to ranking, interest, premium, redemption and otherwise as the Issuer may at the time of the issue thereof determine. Any such notes or bonds, if they are to form a single series with the Series A Notes or the Series B Notes, shall be constituted by a deed supplemental to the Trust Deed and in any other case in such manner as the Trustee may agree.

#### **17. Replacement of certificates**

If any certificate in respect of Notes be worn out or defaced then, upon production of such certificate to the Issuer, the Issuer shall cancel the same and shall issue a new certificate in lieu thereof to the person(s) entitled to such worn out or defaced certificate. If any such certificate be lost or destroyed then, upon proof thereof to the satisfaction of the Issuer and on such terms as to evidence and indemnity as the Issuer may deem adequate being given, the Issuer shall issue a new certificate in lieu thereof to the person(s) entitled to such lost or destroyed certificate. An entry as to the issue of the new certificate and indemnity (if any) shall be made in the register of Noteholders.

#### **18. Notices to Noteholders**

Any notice may be given to or served on any Noteholder either personally or by sending it by first class or airmail post in a prepaid envelope addressed to him at his registered address or (if he desires that notices shall be sent to some other person or address) to the person at the address supplied by him to the Issuer for the giving of notices or sending of other documents to him. In the case of joint registered holders of any Notes, a notice given to the Noteholder whose name stands first in the register in respect of such Notes shall be sufficient notice to all the joint holders. Any notice or other document duly served on or delivered to any Noteholder as provided above shall, notwithstanding that such Noteholder is then dead or bankrupt or that any other event has occurred and whether or not the Issuer has notice of the death or the bankruptcy or other event, be deemed to have been duly served or delivered in respect of any Notes registered in the name of such Noteholder as sole or joint holder unless before the day of posting (or if it is not sent by post before the day of service or delivery) of the notice or document his name has been removed from the register as the holder of the Notes, and such service or delivery shall for all purposes be deemed a sufficient service or delivery of such notice or document on all persons interested (whether jointly with or claiming through or under him) in the Notes.

Any notice given or document served by post shall be deemed to have been given or served on the day following that on which the same is posted and in proving such service it shall be sufficient to prove that the envelope or wrapper containing the notice of the document or the notice or document itself was properly addressed stamped and posted. Any notice given or document served by delivery otherwise than by post shall be deemed to have been given or served at the time it is delivered to the address hereinbefore specified.

A Noteholder who, having no registered address within the European Union, has not supplied to the Issuer an address within the European Union for the service of notices shall not be entitled to receive notices from the Issuer. The Issuer may, at its discretion, give notices to such Noteholder by advertisement (to Noteholders generally) in a national newspaper published in the Netherlands and a national newspaper published in the United Kingdom, and any such notices shall be deemed to be effective on the date of such publication.

If at any time the Issuer is unable to give notice by post as a result of the suspension or curtailment of postal services in the Netherlands and/or the United Kingdom, notice may be given to Noteholders by advertisement in a national newspaper published in the Netherlands and a national newspaper published in the United Kingdom. In any such case, the Issuer shall send confirmatory copies of the notice by post as soon as practicable after normal postal services throughout the Netherlands or the United Kingdom (as applicable) are restored.

#### **19. Notices to the Issuer, to the Guarantor and to the Co-Guarantor**

Any notice, demand or other document may be served:

- (i) on the Issuer by sending the same by post in a prepaid letter to the registered office of the Issuer marked for the attention of The Managing Trustee, or to such other address in the Netherlands and/or addressee as the Issuer may from time to time notify to the Trustee and to Noteholders;
- (ii) on the Guarantor or the Co-Guarantor by sending the same by post in a prepaid letter to the registered office of the Guarantor or the Co-Guarantor (as applicable) marked for the attention of The Company Secretary, or to such other address in England and/or addressee as the Guarantor may from time to time notify to the Trustee and to Noteholders.

Any notice, demand or other document served on the Issuer shall be copied to the Guarantor in accordance with sub-paragraph (ii) above.

## 20. **Trustee**

Capita Trust Company Limited, whose principal office is [*4<sup>th</sup> Floor, 40 Dukes Place, London EC3A 7NH*], has agreed to act as trustee of the Noteholders in respect of the Notes.

The statutory power of appointing new trustees shall be vested in the Issuer but a new trustee so appointed must in the first place be approved by the Noteholders by an Extraordinary Resolution. At least one trustee must be a trust corporation and a trust corporation may be a sole trustee. Whenever there are more than two trustees, a majority of trustees shall be competent to exercise all the powers, authorities and discretions vested in the Trustee under the Trust Deed or by law, provided always that a trust corporation is included in such majority.

Any trustee may at any time on the expiry of not less than three months' written notice to that effect given to the Issuer retire without assigning any reason and without being responsible for any expense thereby occasioned.

As between the Trustee and the Noteholders, the Trustee shall have full power to determine all questions and doubts arising in relation to any of the provisions of the Trust Deed and the Notes and every such determination, whether made upon a question actually raised or implied in the acts or proceedings of the Trustee, shall be conclusive and shall bind all Noteholders.

The Issuer will pay to the Trustee by way of remuneration for its services as trustee such sum as may from time to time be agreed between them, together with any amount of value added tax or similar tax in respect thereof. The Issuer shall also reimburse all costs, charges, liabilities and expenses reasonably incurred by the Trustee in relation to the carrying out of its functions as trustee, together with any amount of irrecoverable value added tax or similar tax in respect thereof.

## 21. **Indemnity in favour of the Trustee and contracts between the Trustee and the Issuer and/or the Guarantor**

The Trust Deed contains provisions for the indemnification of the Trustee and for its relief from responsibility, including provisions relieving it from taking action unless indemnified and/or secured to its satisfaction.

The Trust Deed also contains provisions pursuant to which the Trustee is entitled, inter alia, (a) to enter into business transactions with the Issuer and/or the Guarantor and/or the Co-Guarantor and/or any of their respective subsidiaries and to act as trustee for the holders of any other securities issued or guaranteed by, or relating to, the Issuer and/or the Guarantor and/or the Co-Guarantor and/or any of their respective subsidiaries, (b) to exercise and enforce its rights, comply with its obligations and perform its duties under or in relation to any such transactions or, as the case may be, any such trusteeship without regard to the interests of, or consequences for, the Noteholders, and (c) to retain and not be liable to account for any profit made or any other amount or benefit received thereby or in connection therewith.

## 22. **Exercise of functions by the Trustee**

In connection with the exercise of any of its trusts, powers or discretions (including but not limited to those relating to any proposed modification, waiver, authorisation or substitution), the Trustee shall have regard to the general interests of the Noteholders as a class but shall not have regard to any interest arising from circumstances particular to individual Noteholders (whatever their number) and, in particular but without limitation, shall not have regard to the consequences of such exercise for individual Noteholders (whatever their number) resulting from their being for any purpose domiciled or resident in, or otherwise connected with, or subject to the jurisdiction of, any particular territory. The Trustee shall not be entitled to require, nor shall

any Noteholder, in connection with any such modification, waiver, authorisation or substitution, be entitled to claim from the Issuer or any other person any indemnification or payment in respect of any tax or other consequence thereof upon individual Noteholders.

**23. Governing law and submission to jurisdiction**

The Trust Deed and the Notes are governed by, and shall be construed in accordance with, English law. The Issuer, the Guarantor and the Co-Guarantor have irrevocably agreed, and each Noteholder is deemed to have irrevocably agreed, that only the courts of England and those of the Netherlands have jurisdiction to hear and decide any suit, action or proceedings, and to settle any dispute, controversy or claim, which may in either case arise out of or in any way relate to the Trust Deed or the Notes.

## SCHEDULE 2

### Provisions as to registration, transfer and otherwise

#### 1. **Recognition of Noteholder as absolute owner**

Except as required by law or as ordered by some court of competent jurisdiction the Issuer will recognise the registered holder of any Notes as the absolute owner thereof and shall not be bound to take notice or see to the execution of any trust whether express, implied or constructive to which any Notes may be subject and the payment to the registered holder for the time being of any Notes or, in the case of joint registered holders, the payment to any of them of the principal thereof or the interest from time to time accruing due in respect thereof or of any other monies payable in respect thereof shall be a good discharge to the Issuer notwithstanding any notice it may have whether express or otherwise of the right, title, interest or claim of any other person to or in such principal, interest or monies. No notice of any trust whether express, implied or constructive shall (except as by statute provided or as required by an order of a court of competent jurisdiction) be entered in the register in respect of any Notes.

#### 2. **Exclusion of equities**

Every Noteholder will be recognised by the Issuer as entitled to his Notes free from any equity, set off or cross-claim on the part of the Issuer against the original or any intermediate holder of the Notes.

#### 3. **Transferability of Notes**

The Notes are transferable, in the case of the Series A Notes, in amounts or integral multiples of £1,000 and, in the case of the Series B Notes, in minimum amounts of £100,000 nominal and integral multiples of £1,000 in excess thereof provided that, where the transfer is in respect of part only of a holding of Series B Notes, the transfer will not be valid unless the transferor retains a minimum holding of £100,000 nominal of Series B Notes represented, in the case of Series B Notes held in certificated form, by one certificate.

Subject as provided below, transfers of Notes shall be made by instrument in writing in the usual common form applicable to UK securities or in any other form which the board of managing directors (or, if applicable, the sole managing director) of the Issuer may approve. There shall not be included in any instrument of transfer more than one series (or class) class of Notes.

In the case of Notes held in uncertificated form, title to the Notes may be transferred by means of a relevant system (as defined in the Uncertificated Securities Regulations 2001).

#### 4. **Execution of transfers**

Every instrument of transfer must be signed by or on behalf of the transferor and the transferor shall be deemed to remain the owner of the Notes to be transferred until the name of the transferee is entered in the register in respect thereof. In the case of partly paid Notes the instrument of transfer must also be signed by or on behalf of the transferee.

#### 5. **Lodging of transfers**

Every instrument of transfer must be left for registration at the place where the register of the Notes shall for the time being be kept accompanied by the certificate of the Notes to be transferred and such other evidence as the Issuer may require to prove the title of the transferor or his right to transfer the Notes and if the instrument of transfer is executed



by some other person on his behalf the authority of that person so to do. All instruments of transfer registered will be retained by the Issuer.

**6. No fee for registration of transfers**

No fee will be charged for the registration of any transfer or for the registration of any probate, certificate of confirmation, letters of administration, certificate of marriage or death, power of attorney or other document relating to or affecting the title of any Notes.

**7. Recognition of personal representatives**

In the case of the death of the registered holder of Notes the survivor, where the deceased was a joint holder, and the executor or administrator of the deceased, where he was a sole or only surviving holder, shall be the only person recognised by the Issuer as having any title to such Notes.

**8. Transmission of Notes**

Any person becoming entitled to any Notes in consequence of the death or bankruptcy of the holder of such Notes or of any other event giving rise to the transmission of such Notes by operation of law may, upon producing such evidence that he sustains the character in respect of which he proposes to act under this paragraph 8 or of his title as the Issuer shall think sufficient, be registered himself as the holder of such Notes or subject to the preceding provisions as to transfer may transfer such Notes. The Issuer shall be at liberty to retain the interest payable upon any Notes which any person under this paragraph 8 is entitled to transfer until such person shall be registered as aforesaid or shall duly transfer the Notes as aforesaid. Notwithstanding the foregoing, no person shall be entitled to be registered as the holder of less than £100,000 nominal of Series B Notes.

## **SCHEDULE 3**

### **Meetings of Noteholders**

**1. Calling of meetings**

The Trustee or the Issuer may at any time convene a meeting of the Noteholders and the Trustee shall do so upon a requisition in writing signed by the holder or holders of not less than one-tenth part in nominal amount of the Notes for the time being outstanding and upon receiving such indemnity against the costs of convening and holding such meeting as it may reasonably require. Every meeting shall be held in Amsterdam or in such other place as the Trustee and the Issuer shall agree.

**2. Notice of meetings**

At least 21 days' notice (exclusive of the day on which the notice is served or deemed to be served and of the day on which the meeting is to be held) of every meeting shall be given to the Noteholders. A copy of the notice shall be sent by post to the Trustee unless the meeting shall be convened by the Trustee and a copy shall be sent by post to the Issuer unless the meeting shall be convened by the Issuer. Such notice shall specify the place, day and time of the meeting and (if no Extraordinary Resolution is to be proposed) the general nature of the business to be transacted at the meeting, shall state the terms of any Extraordinary Resolution to be proposed at the meeting and shall be given in the manner provided in the Trust Deed. The accidental omission to give such notice to or the non-receipt of such notice by any Noteholder or by the Trustee or by the Issuer shall not invalidate any of the proceedings at any meeting. Any Noteholder described in the register by an address not within the United Kingdom who shall from time to time give to the Issuer an address within the United Kingdom at which such notice may be served upon him shall be entitled to have notice served upon him at such address. Save as aforesaid no Noteholder other than a Noteholder described in the register by an address within the United Kingdom shall be entitled to receive any such notice.

**3. Quorum at meetings**

Subject as hereinafter provided with regard to adjourned meetings, the quorum at any meeting shall be one or more persons holding or representing by proxy one-third in nominal amount of the Notes for the time being outstanding. No business (other than the choosing of a chairman) shall be transacted at any meeting unless the requisite quorum is present at the commencement of business. If within two minutes (or such longer time not exceeding 30 minutes as the chairman may decide) from the time appointed for any meeting a quorum is not present the meeting, if convened on the requisition of Noteholders, shall be dissolved, but in any other case the meeting shall stand adjourned to such day (not being less than ten nor more than 42 days thereafter) time and place as may be appointed by the chairman and at such adjourned meeting one or more Noteholders present in person or by proxy (whatever the nominal amount of the Notes held by them) shall form a quorum and shall have power to pass an Extraordinary Resolution and to transact all business which might lawfully have been transacted at the meeting from which the adjournment took place. At least seven days' notice of any meeting adjourned through want of a quorum shall be given in the manner provided in paragraph 2 of this schedule and such notice shall state that one or more Noteholders present in person or by proxy at the adjourned meeting whatever the nominal amount of the Notes held by them will form a quorum. For the purpose of this schedule one person may constitute a meeting.

**4. Chairman of meetings**

Some person (who may but need not be a Trustee or a Noteholder) nominated in writing by the Trustee shall be the chairman of every meeting and if no person is nominated or, if

at any meeting a person nominated shall not be present within five minutes after the time appointed for holding the meeting, the Noteholders present in person or by proxy shall choose any Director or Noteholder or representative or proxy for any Noteholder willing so to act to be the chairman.

5. **Other persons entitled to attend and speak**

The Trustee and its advisers, the managing directors of the Issuer and any other person authorised by the Issuer may attend and speak at any such meeting.

6. **Resolutions on show of hands unless poll demanded**

Every question submitted to a meeting shall be decided in the first instance by a show of hands. Unless before or on the declaration of the result of the show of hands a poll is demanded, a declaration by the chairman that a resolution has been carried or carried by a particular majority or lost or not carried by a particular majority shall be conclusive evidence of the fact.

7. **Votes**

On a show of hands every Noteholder who (being an individual) is present in person or (being a corporation) is present by proxy or by its representative duly authorised under the Companies Act 2006 shall have one vote and on a poll every Noteholder who is present in person or by proxy shall have one vote for every £1,000 in nominal amount of Notes of which he is the holder. In the case of an equality of votes, whether on a show of hands or on a poll, the chairman of the meeting at which the show of hands takes place or at which the poll is demanded shall have a casting vote in addition to any vote or votes to which he may be entitled as a Noteholder unless such poll has been demanded in order that the Trustee may be directed as to the manner in which to deal with or to exercise the votes attached to any shares in the Issuer held by it in which case every Noteholder so present shall have one vote only.

8. **Power to demand a poll**

A poll may be demanded by:

- (a) the chairman;
- (b) the Trustee;
- (c) any three or more Noteholders present in person or by proxy or by duly authorised representative (if a corporation); or
- (d) any one or more Noteholders present in person or by proxy or by duly authorised representative (if a corporation) holding at least five per cent in nominal amount of the Notes for the time being outstanding.

9. **Manner of taking poll**

If at any meeting a poll is demanded it shall be taken in such manner as the chairman may direct and the result of a poll shall be deemed to be the resolution of the meeting at which the poll was demanded. A poll demanded on the election of a chairman or on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken either forthwith or at such time or date as the chairman may direct. The demand for a poll may be withdrawn.

10. **Adjournment of meetings**

The chairman may with the consent of (and shall if directed by) any meeting at which a quorum is present adjourn the same from time to time and from place to place but no business shall be transacted at any adjourned meeting except business which might lawfully have been transacted at the meeting from which the adjournment took place.

11. **Voting on a poll**

On a poll a Noteholder may vote either in person or by proxy and a Noteholder entitled to more than one vote need not use all his votes or cast all the votes he uses in the same way.

12. **Votes of joint Noteholders**

In the case of joint holders of the Notes the vote of the senior who tenders a vote whether in person or by proxy shall be accepted to the exclusion of the votes of the other joint holders and for this purpose seniority shall be determined by the order in which the names stand in the register of Noteholders.

13. **Appointment of proxies**

The appointment of a proxy shall be in any usual or common form, or in any other form which the Issuer may approve and shall be:

- (a) under the hand of the appointor or of his attorney duly authorised in writing; or
- (b) if the appointor is a corporation, either under seal, or under the hand of an officer or attorney or other person duly authorised; or
- (c) if permitted by the Issuer, in electronic form in the manner and form and subject to such terms and conditions as the Issuer may decide.

The signature, if any, on such appointment need not be witnessed. The appointment of a proxy shall not preclude a Noteholder from attending and voting in person at the meeting or any adjournment thereof.

14. **Proxy need not be Noteholder**

A proxy need not be a Noteholder.

15. **Right to appoint more than one proxy**

A Noteholder may appoint more than one proxy to attend and to speak and to vote on the same occasion, provided that each proxy is appointed to exercise the rights attached to a different Note or Notes held by the Noteholder.

16. **Delivery of proxies**

16.1 The appointment of a proxy shall:

- (a) (in the case of an appointment not sent in electronic form) be deposited (and (if required by the Issuer or the Trustee) the power of attorney or other authority (if any) under which it is signed or a notarially certified or office copy of such power or authority) at the registered office or at such other place or one of such places (if any) within the United Kingdom as is or are specified for that purpose in or by way of note to the notice convening the meeting or any document accompanying such notice; or

- (b) (in the case of an appointment sent in electronic form) where an address has been specified for the purpose by the Issuer (generally or specifically), be received at such address,

not less than 48 hours before the time for holding the meeting or adjourned meeting at which the person named in the appointment proposes to vote or, in the case of a poll taken otherwise than at or on the same day as the meeting or adjourned meeting, not less than 24 hours before the time appointed for the taking of the poll at which it is to be used and in default the appointment of a proxy shall not be treated as valid. Failing previous registration with the Issuer, if required by the Issuer or the Trustee, the power of attorney or other authority, if any, under which the appointment of a proxy is executed, or a notarially certified copy or a copy certified in accordance with the Powers of Attorney Act 1971 of that power or authority, or a copy in some other way approved by the Issuer, shall (whether (a) or (b) above shall apply) also be deposited or received at the registered office or at such other place specified in accordance with (a) above, or (if the Issuer so agree) at the address or by the means provided in accordance with (b) above, not later than the time by which the appointment of a proxy is required to be deposited or (as the case may be) received in accordance with this paragraph 16.1.

- 16.2 Without limiting paragraph 16.1 above, in relation to any Notes which are held in uncertificated form, the Issuer may from time to time permit appointments of a proxy to be made by an Uncertificated Proxy Instruction (that is, a properly authenticated dematerialised instruction and/or other instruction or notification which is sent by means of the relevant system concerned and received by such participant in that system acting on behalf of the Issuer as the Issuer may prescribe, in such form and subject to such terms and conditions as may from time to time be prescribed by the Issuer (subject always to the facilities and requirements of the relevant system concerned)); and may in a similar manner permit supplements to, or amendments or revocations of, any such Uncertificated Proxy Instruction to be made by like means. Notwithstanding any other provision of these presents, the Issuer may in addition prescribe the method of determining the time at which any such properly authenticated dematerialised instruction (and/or other instruction or notification) is to be treated as received by the Issuer or such participant. The Issuer may treat any such Uncertificated Proxy Instruction which purports to be or is expressed to be sent on behalf of a Noteholder as sufficient evidence of the authority of the person sending that instruction to send it on behalf of that Noteholder.
- 16.3 An appointment of a proxy and any other document referred to in the last sentence of paragraph 16.1 above shall be deemed to have been validly deposited or received in accordance with paragraph 16.1 above if the appointment is received at the registered office or at such other place specified by the Issuer by facsimile transmission within the period of time specified by paragraph 16.1 above provided that the original appointment in the same form as the appointment received by facsimile transmission and any other such document is deposited at the place at which the facsimile transmission was received not less than 24 hours before the time appointed for the meeting or adjourned meeting or the holding of a poll subsequently at which the vote is to be used.
- 16.4 If two or more valid but differing appointments of a proxy are delivered or (in the case of appointments in electronic form) received in accordance with paragraph 16.1 or 16.2 above in respect of the same Note for use at the same meeting, the one which is last delivered or, as the case may be, received as aforesaid (regardless of its date, its date of sending or the date of its execution) shall be treated as replacing and revoking the others as regards that Note. If the Issuer is unable to determine which was delivered or received last, none of them shall be treated as valid in respect of that Note.

17. **Validity of proxies**

An appointment of a proxy shall, unless the contrary is stated thereon, be valid as well for any adjournment of the meeting to which it relates. No appointment of a proxy shall be valid after the expiration of 12 months from the date of its deposit or receipt in accordance with paragraph 16.1 or 16.2 above except at an adjourned meeting or on a poll demanded at a meeting or adjourned meeting in cases where the meeting was originally held within 12 months from that date.

18. **Authority of proxies**

The appointment of a proxy to vote on a matter at a meeting of Noteholders shall be deemed to confer authority on the proxy to demand or join in demanding a poll on that matter and (unless the contrary is stated therein) to vote as the proxy thinks fit in any election of a chairman of the meeting.

An instrument of proxy shall unless the contrary is stated therein be valid as well for any adjournment of the meeting as for the meeting to which it relates.

19. **Cancellation of proxy's authority**

A vote given or poll demanded in accordance with the terms of an appointment of a proxy or by the duly authorised representative of a corporation shall be valid notwithstanding the previous death or insanity of the principal or revocation of the proxy or determination of the authority of the person voting or demanding a poll, provided that no intimation in writing of such death, insanity, revocation or determination shall have been received by the Issuer at the registered office or such other place (if any) as is specified for depositing the appointment of proxy or, where the appointment of the proxy was in electronic form, at the address at which such appointment was duly received, in each case in accordance with paragraph 16.1 or 16.2 above, before the time for holding the meeting or adjourned meeting or the time appointed for taking a poll subsequently thereto at which such vote is given.

20. **Corporate representatives**

Any corporation which is a Noteholder may by resolution of its directors or other governing body authorise a person or persons to act as its representative or representatives at any meeting of Noteholders or of any series (or class) of Noteholders.

21. **Powers of corporate representatives**

Any person so authorised shall be entitled to exercise the same powers on behalf of the corporation which he represents as that corporation could exercise if it were an individual Noteholder and such corporation shall for the purposes of these presents be deemed to be present in person at any such meeting if a person so authorised is present thereat.

22. **Powers of meetings of Noteholders**

A meeting of the Noteholders shall in addition to any other powers given by these presents have the following powers exercisable by Extraordinary Resolution:

- (a) power to sanction any scheme for the reconstruction of the Issuer or for the amalgamation of the Issuer with any other company;
- (b) power to sanction the exchange of the Notes for or the conversion of the Notes into shares, stock, debentures, debenture stock or other obligations or securities of the Issuer or any other company formed or to be formed and whether with or without a cash entitlement;

- (c) power to sanction the release of the Issuer from payment of all or any part of the principal of or premium (if any) and interest on the Notes and other monies intended to be secured by these presents and power to sanction the release of the whole or any part of the Charged Property;
- (d) power to sanction the creation of any mortgage or charge upon the Charged Property or any part thereof ranking in point of security in priority to or *pari passu* with the charges securing the Notes;
- (e) power to sanction any modification, abrogation or compromise of or arrangement in respect of the rights of the Noteholders against the Issuer or against the whole or any part of the undertaking, property assets and rights of the Issuer whether such rights shall arise under these presents or otherwise;
- (f) power to assent to any modification or abrogation of or addition to the provisions contained in these presents or to which the Notes are subject proposed or agreed to by the Issuer and to authorise the Trustee to concur in and execute any deed embodying any such modifications;
- (g) power to authorise the Trustee or any Receiver where it has entered into possession of the Charged Property or any part thereof to give up possession of such property to the Issuer or otherwise to discontinue enforcement of any security constituted by these presents either unconditionally or upon any conditions;
- (h) power to appoint any persons (whether Noteholders or not) as a committee to represent the interests of Noteholders and to confer upon such committee any powers or discretions which the Noteholders could themselves exercise;
- (i) power to agree to the release or exoneration of any Trustee from any liability in respect of anything done or omitted to be done by such Trustee before the giving of such release or exoneration; and
- (j) power to authorise the Trustee to take any action or give any release in connection with these presents.

23. **Extraordinary resolutions binding on all Noteholders**

An Extraordinary Resolution passed at a meeting of the Noteholders duly convened and held in accordance with these presents shall be binding upon all the Noteholders whether present or not present at such meeting and each of the Noteholders and the Trustee (subject to the provisions for its indemnity contained in these presents) shall be bound to give effect thereto accordingly.

24. **Resolutions in writing**

A resolution in writing signed by or on behalf of all the Noteholders who for the time being are entitled to receive notice of meetings in accordance with the provisions herein contained shall for all purposes be as valid and effectual as an Extraordinary Resolution passed at a meeting of the Noteholders duly convened and held in accordance with the provisions herein contained. Such resolution in writing may be contained in one document or in several documents in like form each signed by or on behalf of one or more of the Noteholders.

25. **Minutes of meetings**

Minutes of all resolutions and proceedings at every meeting shall be made and duly entered in books to be from time to time provided for that purpose by the Trustee and any such minutes as aforesaid if purporting to be signed by the chairman of the meeting at which such resolutions were passed or proceedings held or by the chairman of the next

succeeding meeting of the Noteholders shall be conclusive evidence of the matters therein contained and until the contrary is proved every such meeting in respect of the proceedings of which minutes have been made and signed as aforesaid shall be deemed to have been duly convened and held and all resolutions passed and proceedings had thereat to have been duly passed and had.

26. **Variation of rights**

Notwithstanding any other provision of these presents, whenever there is in issue more than one series (or class) of Notes, the special rights attached to any such series (or class) may only be varied or abrogated either (a) with the consent in writing of the holders of more than 75 per cent in nominal value of the issued Notes of that series (or class); or (b) with the sanction of an Extraordinary Resolution passed at a separate meeting of the holders of that series (or class). To every such separate meeting all the above provisions of this schedule 3 (and to the proceedings at such meetings) shall, *mutatis mutandis*, apply as if references above to (i) a meeting of Noteholders or (ii) Noteholders or (iii) Notes were to, respectively, (i) a meeting of holders of Notes of the relevant series (or class) or (ii) holders of Notes of the relevant series (or class) or (iii) Notes of the relevant series (or class). For the purposes of this paragraph 26, "**special rights**" means rights particular to one series (or class) of Notes, rather than attached to all of the Notes (in the sense of class rights in respect of shares).



## **SCHEDULE 4**

### **Guarantee**

#### **1. Guarantee**

The Guarantor and the Co-Guarantor, on a joint and several basis, unconditionally and irrevocably guarantee to the Trustee (for itself and as trustee for the Noteholders) the obligations of the Issuer in relation to the punctual payment of interest and the principal and all other monies which become payable by the Issuer under the terms of the Notes or the Trust Deed, subject to the limitations set out in this schedule 4. If the Issuer does not pay any amount when due, the Guarantor and the Co-Guarantor shall immediately on demand pay that amount as if they were the principal obligors. Furthermore, the Guarantor and the Co-Guarantor agree that if the Issuer fails to make a payment expressed to be due under the terms of the Notes on its due date they will immediately on demand by the Trustee reimburse the Trustee for the losses and expenses the Trustee incurs or will incur as a result.

#### **2. Demand**

Any demand under this guarantee must be in writing and signed by the Trustee, specifying the amount in respect of which the demand is made and whether the same comprises interest and/or principal in respect of the Notes (and, where relevant, the split between interest and principal), and the identity of the person(s) on whose behalf the demand is being made.

#### **3. Method of payment**

3.1 Payment of any demand complying with the requirements of this schedule 4 shall be made by the Guarantor and the Co-Guarantor in accordance with Condition 8.

3.2 Upon payment the Guarantor and the Co-Guarantor shall enforce the certificate(s) (if any) relating to the relevant Note(s) with a memorandum of payment and return the same to the relevant Noteholder by prepaid post to his registered address at the risk of such Noteholder.

3.3 If the Guarantor and the Co-Guarantor are so required by law, the Guarantor and the Co-Guarantor shall deduct tax from any amount payable by it hereunder in respect of principal or interest unpaid on the relevant Note(s) and shall deliver to the relevant Noteholder in respect of the amount so paid by it a certificate as to the gross amount of such payment, the amount of tax deducted and the actual amount paid and certifying that the Guarantor and the Co-Guarantor have paid the amount of tax deducted to Her Majesty's Revenue and Customs. If the Guarantor and the Co-Guarantor are required by law to make such deduction of tax in respect of principal or interest unpaid on the relevant Note(s), the Guarantor and the Co-Guarantor will not be required to make any additional payment to the relevant Noteholder.

#### **4. Payment and discharge**

4.1 Notwithstanding anything to the contrary herein, it is hereby confirmed that this schedule 4 constitutes the direct obligation of each of the Guarantor or the Co-Guarantor to make payment in accordance with the terms of this schedule 4. Any amounts due hereunder will be paid without reference to any rights of set off or counterclaim that the Issuer, the Guarantor or the Co-Guarantor has against the relevant Noteholder or any rights of set off which the Guarantor or the Co-Guarantor may have against the Issuer.

4.2 The Guarantor and the Co-Guarantor may rely on any demand or other document or information believed by it to be genuine and correct and to have been signed or communicated by the person by whom it purports to be signed or communicated and the

Guarantor and the Co-Guarantor shall not be liable for the consequence of such reliance and shall have no obligation to verify that the facts or matters stated therein are true and correct.

- 4.3 Payment by the Guarantor and the Co-Guarantor of a claim made in accordance with this paragraph 4 shall be deemed a valid payment for all purposes of the Notes and this Guarantee. The Guarantor and the Co-Guarantor shall not be concerned to see to the application of any such payment.

5. **Time limit for claims under the guarantee**

No demand under this schedule 4 shall be valid or result in any liability on the part of the Guarantor or the Co-Guarantor hereunder unless it is received by the Guarantor and the Co-Guarantor on or before, where it the demand relates to the Series A Notes, 28 February 2018 or, where the demand relates to the Series B Notes, 31 October 2020 or, in either case, if earlier, in the event of the Trustee giving valid notice under Condition 10 to the Issuer, the Guarantor and the Co-Guarantor that the Notes are, in accordance with Condition 10, due and payable, unless it is received by the Guarantor and the Co-Guarantor on or before the expiry of three months from the date of the said notice from the Trustee.

6. **Continuing guarantee**

The guarantee contained herein is a continuing unconditional and irrevocable and will extend to the ultimate balance of sums payable by the Issuer, regardless of any intermediate payment or discharge in whole or in part. The guarantee shall remain in force notwithstanding the liquidation or dissolution of the Issuer, or the appointment of a Receiver of all or any part of the assets of the Issuer.

7. **Waiver of defences and release**

- 7.1 No compounding, indulgence or relief granted by a Noteholder or any other matter or thing which but for this provision might reduce or exonerate the Guarantor and the Co-Guarantor shall release or reduce the liability of the Guarantor and the Co-Guarantor hereunder provided that the Guarantor and the Co-Guarantor shall not be bound by any such other matter or thing which would operate either to increase its actual or contingent liabilities hereunder or extend any due date for any of the Issuer's obligations under the Notes.

- 7.2 As provided under paragraph 7.1 above, the obligations of the Guarantor and the Co-Guarantor shall not be affected by any matter or thing which would otherwise reduce, release or prejudice any of its obligations, including, without limitation:

- (a) any time, waiver or consent granted to the Issuer;
- (b) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of the Issuer;
- (c) any amendment (however fundamental) or replacement of a Note or any other document or security; or
- (d) any unenforceability, illegality or invalidity or any obligation of any person under any Note or any other document or security.

- 7.3 The guarantee contained herein is irrevocable in respect of the Notes held by each Noteholder save where a Noteholder gives to the Guarantor and the Co-Guarantor a specific written release of the Guarantor's and the Co-Guarantor's liability in relation to the whole or any part of the Note(s) of such Noteholder.

8. **Recourse**

8.1 The Guarantor and the Co-Guarantor waive any right they may have of first requiring the Trustee to proceed against or enforce any other rights or security or claim payment from any person before claiming from the Guarantor and the Co-Guarantor under this schedule 4. This waiver applies irrespective of any law or any provision of the Trust Deed to the contrary.

8.2 The Guarantor and the Co-Guarantor agree that any claims they have or may obtain against the Issuer as a result of any payment by the Guarantor and the Co-Guarantor under this guarantee, including (without limitation) claims pursuant to rights of subrogation, are subordinated to the claims of the Trustee against the Issuer.

9. **Deferral of the rights of the Guarantor and Co-Guarantor**

Until all amounts which may be or become payable by the Issuer under or in connection with the Notes have been irrevocably paid in full, the Guarantor and the Co-Guarantor will not exercise any rights which it may have by reason of performance of its obligations under the Trust Deed or the Notes:

- (a) to be indemnified by the Issuer; and/or
- (b) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Trustee or the Noteholders under the Trust Deed or of any other guarantee or security taken pursuant to, or in connection with, the Notes by any party.

10. **Additional security**

This guarantee is in addition to and is not in any way prejudiced by any other guarantee or security now or subsequently held by any parties.

11. **Governing law**

This guarantee shall be governed and construed in accordance with English law.

## SCHEDULE 5

### Pro forma loan agreement

**THIS AGREEMENT** is made on

**BETWEEN:**

- (1) **R.E.A. SERVICES LIMITED**, a private company limited by shares incorporated in England and Wales under registered number 01159736 whose registered office is at First Floor, 32-36 Great Portland Street, London W1W 8QX, England ("**REA Services**");
- (2) [**QUALIFYING SUBSIDIARY**], a limited liability company duly established and existing under the laws of the Republic of Indonesia whose principal place of business is at [address] (the "**Borrower**"); and
- (3) **R.E.A. HOLDINGS PLC**, a public company limited by shares incorporated in England and Wales under registered number 671099 whose registered office is at First Floor, 32-36 Great Portland Street, London W1W 8QX, England ("**REAH**").

**WHEREAS:**

- (A) In order to fund subsidiaries of REAH incorporated in Indonesia and engaged in the cultivation of oil palms and/or the processing of oil palm fruit, REA Finance B.V., a private company with limited liability (*besloten vennootschap met beperkte aansprakelijkheid*) incorporated under the laws of the Netherlands and registered with the trade registry of the Chamber of Commerce and Industries in Amsterdam with number 34259527 whose registered office is at De Boelelaan 7, 1083 HJ Amsterdam, The Netherlands ("**REA Finance**") has created up to £50 million nominal of 9.5 per cent. guaranteed sterling notes 2015/17 and up to £40 million nominal of 8.75 per cent. guaranteed sterling notes 2020 (together the "**sterling notes**"), which notes are unconditionally and irrevocably guaranteed by REAH and REA Services.
- (B) The obligations of REA Services in respect of the guarantee referred to at recital (A) above are secured by way of:
  - (a) an English law charge over receivables created by REA Services in favour of Capita Trust Company Limited (as trustee for the sterling notes); and
  - (b) an Indonesian law fiduciary assignment of receivables made between REA Services (as assignor) and Capita Trust Company Limited (as assignee).
- (C) The Borrower is a subsidiary of REAH incorporated in Indonesia and engaged in the cultivation of oil palms and/or the processing of oil palm fruit.
- (D) It is now proposed that REA Services should lend monies to the Borrower as detailed in clause 1 hereof.
- (E) Such loans shall constitute receivables for the purposes of the English law charge over receivables and the Indonesian law fiduciary assignment of receivables referred to at recital (B) above.

**NOW IT IS HEREBY AGREED:**

1. **Agreement to make loan[s] available**

- 1.1 [Conditional upon [specify condition(s), if any],] REA Services shall, [specify when loan(s) is/are to be made], lend to the Borrower[: (a)] the sum of [currency and amount, provided that loans

*shall only be made in US dollars or sterling] [and (b) the sum of [currency and amount, provided that loans shall only be made in US dollars or sterling]].*

1.2 [Such / Each such] loan shall be an unsecured obligation of the Borrower and shall be on the terms set out in the schedule hereto, supplemented as follows:

- (a) where the loan is made in US dollars, the loan:
  - (i) will be denominated (and repayable) in US dollars;
  - (ii) will bear interest at 2.75 per cent. per annum above SIBOR; and
  - (iii) will be repayable [set out agreed repayment terms] (or earlier in the event of default); and
  
- (b) where the loan is made in sterling, the loan:
  - (i) will be denominated (and repayable) in sterling;
  - (ii) will, until (and including) 31 December 2017, bear interest at 10.25 per cent. per annum and, thereafter, bear interest at 9.5 per cent. per annum; and
  - (iii) will be repayable [set out agreed repayment terms] (or earlier in the event of default).

1.3 For the purposes of clause 1.2(a)(ii), "**SIBOR**" means, for a period:

- (a) the rate determined by PT Bank Rabobank International Indonesia or such other person as the parties may from time to time agree (the "**Agent**") acting reasonably to be the arithmetical mean of the rates displayed on the Reuters screen SIBOR= page for a term equivalent to that period for value on the first day of the period; or
- (b) if for any reason there are no rates displayed for a term equivalent to that period, the prevailing LIBOR rate (and for this purpose "**LIBOR**" means, for a period, the British bankers' Association Interest settlement Rate for dollars and for the period displayed on the appropriate page of the Reuters screen or, if the agreed page is replaced or service ceases to be available, such other page or service displaying the appropriate rate specified by the Agent acting reasonably).

Each arithmetic mean will be rounded upwards, if necessary, to the nearest 1/16<sup>th</sup> of 1 per cent.

## 2. **Further loan funding**

2.1 To the extent that REA Services lends further monies to the Borrower, (which loans shall only be made in US dollars or sterling):

- (a) where such loan is made in US dollars, the same shall be consolidated with any US dollar loan(s) already made and be made on the terms set out in clause 1.2(a)); and
- (b) where such loan is made in sterling, the same shall be consolidated with any sterling loan(s) already made and be made on the terms set out in clause 1.2(b)).

2.2 For the avoidance of doubt, REA Services shall be under no obligation to make any further loans to the Borrower.

3. **Repayment by the Borrower of other existing indebtedness**

3.1 Within 10 Business Days (as defined in the schedule hereto) of the date hereof, the Borrower shall repay such amount(s) (if any) of its existing indebtedness as is/are necessary to ensure that REA Finance is in compliance with condition 10(A)(ix) of the terms and conditions set out in schedule 1 to the amended and restated trust deed dated 2 September 2015 and made between REA Finance, REAH, REA Services and the Trustee.

3.2 REAH shall notify the Borrower promptly as to the amount of any such repayment required to be made.

4. **Costs**

The Borrower shall reimburse to REAH:

- (a) all reasonable costs and expenses (including legal fees and any amounts in respect of value added tax thereon) incurred by REAH in connection with the negotiation, preparation, execution and completion of this agreement; and
- (b) the Borrower's fair proportion of all reasonable costs and expenses (including legal fees, commissions and fees payable to regulatory authorities (including the UK Listing Authority) and any amounts in respect of value added tax thereon) incurred by REAH (for itself or on behalf of REA Finance) in raising any monies lent (directly or indirectly) to REA Services to be on-lent to the Borrower, the Borrower's "fair proportion" being such proportion of such total costs and expenses as equals the proportion that the amount lent to REA Services and on-lent to the Borrower is of the gross amount raised.

5. **Representations and warranties**

5.1 The Borrower represents and warrants to REA Services that:

(a) *Powers and Capacity*

The Borrower has full power, authority and legal right to own its property and assets and to enter into and perform this agreement.

(b) *Authorisation*

(A) It has taken all necessary action:

- (i) to authorise the entry into of and compliance with its obligations under this agreement;
- (ii) to ensure that its obligations under this agreement are valid, legally binding and enforceable in accordance with their terms; and
- (iii) to make this agreement admissible in evidence in the courts of the jurisdiction to which it has submitted in this agreement.

(B) All necessary authorisations, reports, registrations, consents, licenses and permits required in relation to execution, delivery and performance of this agreement and for carrying out any acts contemplated hereunder have been obtained and are and will be maintained by the Borrower in full force and effect

(c) **No Contravention**

The entry into by it, the exercise of its rights under and the compliance with its obligations under this agreement do not:

- (i) contravene any law, regulation, judgment or order to which it is subject; or
- (ii) conflict with its constitutional documents.

(d) ***Obligations Binding***

The obligations expressed to be assumed by the Borrower under this agreement constitute its valid and legally binding obligations and are enforceable in accordance with their terms.

(e) ***No conflict***

Without limiting the generality of the foregoing, the execution, delivery and performance of this agreement by the Borrower will not conflict with or contravene any laws, regulations, permits, judgements, orders or other restrictions or any other agreements or obligations by which the Borrower or its assets may be bound, nor result in the imposition of any encumbrance of any nature on the Borrower's assets

(f) ***No Event of Default***

No event has occurred which constitutes, or which with the lapse of time, giving of notice or fulfilment of any other condition will or may constitute, an event of default under any agreement or other instruments and paper writings (including this agreement) by which the Borrower or its assets may be bound;

(g) ***No litigation***

No litigation, arbitration or administrative proceedings have been commenced or are pending or threatened against the Borrower or any or all of its assets, the resolution of which could have a material adverse effect on the business or financial condition of the Borrower or on its ability to perform its obligations under this agreement or documents related thereto to which it is a party.

5.2 Save as disclosed by the Borrower to REA Services at the relevant time, each of such representations and warranties will be deemed to be repeated by the Borrower, by reference to the facts and circumstances then existing, on the date on which each further loan (if any) is made by REA Services to the Borrower pursuant to clause 2.

5.3 The Borrower acknowledges that REA Services has entered into this agreement, and REA Services has agreed to provide each Loan, in full reliance on the representations and warranties given by the Borrower in the terms set out in the above provisions of this clause 5.

6. **Invalidity of any provision**

If any provision of this agreement is or becomes invalid, illegal or unenforceable in any respect under any law, the validity, legality and enforceability of the remaining provisions shall not be affected or impaired in any way.

7. **Counterparts**

This agreement may be executed in any number of counterparts and all of such counterparts taken together shall be deemed to constitute one and the same instrument.

8. **Confidentiality**

The parties will keep this agreement and the subject matter thereof confidential save to the extent that they are required by law or regulation to disclose the same. REA Services agrees with the Borrower to hold confidential all information which it acquires under or in connection with this agreement save to the extent it is required by law or regulation to disclose the same or the same comes into the public domain (otherwise than as a result of a breach of this clause 8). REA Services or the Borrower may, however, disclose such information to its auditors, legal advisers or other professional advisers for purposes connected with this agreement.

9. **Notices**

9.1 Save as specifically otherwise provided in this agreement any notice, demand or other communication to be served under this agreement will be in writing and will be served only by posting by air mail post or by personally delivering the same or sending the same by facsimile transmission to the party to be served at its address, or facsimile number as notified by it from time to time to the others.

9.2 A notice or demand served by air mail post will be deemed served five Business Days after posting or when delivered if served personally. A notice or demand sent by facsimile transmission will be deemed served at the time of transmission unless served on a non-Business Day or after 5.00 p.m. (in the place of receipt) in which case it will be deemed served at 9.00 a.m. (in the place of receipt) on the following Business Day.

9.3 In proving service of any notice it will be sufficient to prove, in the case of a letter, that such letter was properly stamped or franked, addressed and placed in the post or, in the case of personal delivery, was left at the correct address and, in the case of a facsimile transmission, that such facsimile was duly transmitted to the facsimile number of the addressee referred to in clause 9.1.

10. **Waiver**

The parties hereto waive article 1266 of the Indonesian Civil Code to the extent that prior judicial approval is required for cancellation or early termination of this agreement, and to the extent that article 1267 of the Indonesian Civil Code may be interpreted as precluding court orders for both specific performance and the award of damages, the parties agree that they waive the right to assert such an interpretation.

11. **Governing Law**

This agreement (and any dispute, controversy, proceedings or claim of whatsoever nature arising out of or in any way relating to this agreement or its formation) shall be governed by and construed in all respects in accordance with the laws of the Republic of Indonesia.

12. **Domicile**

For the purposes of this agreement, the parties hereby choose the registrars office of the district court of Central Jakarta as the legal and permanent domicile. Notwithstanding the foregoing, the Borrower agrees that each of REA Services and REAH may, at its absolute discretion, submit any dispute which may arise in connection with this agreement to any other district court in Jakarta or to any other court in the Republic of Indonesia or elsewhere having jurisdiction over the Borrower.

13. **Language**

This agreement is executed in the English language which shall be the governing language despite translation into any other language. Should an Indonesian language translation of this agreement be required for any purpose whatsoever, the parties agree that the



Borrower shall provide such translation prepared by a sworn translator on its account, and the accuracy and/or substance of such translation shall not be contested by the Borrower except for manifest error.

**IN WITNESS WHEREOF**, this agreement has been executed the day first above written.

## The Schedule

### Loan Terms

#### 1. INTERPRETATION

1.1 In this schedule, unless the context otherwise requires, the following expressions have the following meanings:

**"Business Day"** means a day (other than a Saturday or a Sunday) on which banks are generally open for business in the City of London and in Jakarta;

**"Event of Default"** means any of the events specified in paragraph 8 (Events of Default);

**"Indebtedness"** means all money and liabilities now or hereafter due, owing or incurred to REA Services by the Borrower under this agreement whether present or future, actual or contingent, whether incurred solely or jointly with any other person and whether as principal or surety;

**"Loan"** means each loan made by REA Services to the Borrower under this agreement;

**"Security Interest"** means any mortgage, charge (fixed or floating), pledge, lien, hypothecation, trust, assignment by way of security or any other security interest whatsoever, howsoever created or arising or any other agreement or arrangement (including, without limitation, a sale and repurchase arrangement entered into primarily as a method of raising finance or of financing the acquisition of an asset) having the commercial effect of conferring security;

**"Taxes"** includes all present and future income and other taxes, levies, assessments, imposts, deductions, charges, duties, compulsory loans and withholdings whatsoever and wheresoever imposed and any charges in the nature of taxation together with interest thereon and penalties and fines with respect thereto, if any, and any payments made on or in respect thereof and **"Tax"** and **"Taxation"** shall be construed accordingly.

1.2 In this schedule, unless the context otherwise requires, a reference to:

(a) **"assets"** includes property and rights of every kind, present, future and contingent (including uncalled share capital) and every kind of interest in an asset;

(b) **"indebtedness"** includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;

(c) a **"person"** includes any person, individual, firm, company, corporation, government, state or agency of a state or any undertaking or other association (whether or not having separate legal personality) or any two or more of the foregoing;

(d) **"repayment"** includes **"prepayment"** and its grammatical variations and cognate expressions shall be construed accordingly;

(e) **"this agreement"** means the agreement to which this schedule is a schedule, together with this schedule; and

(f) **"winding-up"** of any person includes its dissolution and/or termination and/or any equivalent or analogous proceedings under the law of any jurisdiction in which the person concerned is incorporated, registered, established or carries on business or to which that person is subject.

1.3 Save where a contrary intention appears, in this schedule:

- (a) a reference to the Borrower or REA Services is, where relevant, deemed to be a reference to or to include, as appropriate, their respective successors or assigns;
- (b) a reference to (or to any specified provision of) any agreement, deed or other instrument is to be construed as a reference to that agreement, deed or other instrument (or that provision) as it may have been or hereafter be, from time to time, amended, varied, supplemented, restated or novated but excluding for this purpose any amendment, variation, supplement or modification which is contrary to any provision of this agreement;
- (c) a reference to a statute or statutory instrument or accounting standard or any provision thereof is to be construed as a reference to that statute or statutory instrument or accounting standard or such provision thereof as the same may have been, or may from time to time hereafter be, amended or re-enacted;
- (d) the index to and the headings in this schedule are inserted for convenience only and are to be ignored in construing this schedule;
- (e) words importing the plural shall include the singular and vice versa; and
- (f) references to clauses are to clauses of the main body of this agreement and references to paragraphs (and to sub-paragraphs) are to paragraphs (and sub-paragraphs) of this schedule.

## 2. **INTEREST**

### 2.1 **Rate**

Each Loan will bear interest on the principal amount thereof outstanding from time to time at the rate specified in clause 1.2(a) or 1.2(b) (as applicable), to be paid semi-annually in arrear on 15 June and 15 December in each year ("**Interest Payment Dates**").

### 2.2 **Calculation**

Interest will be calculated on the basis of actual days elapsed and a 360 day year and will accrue from day to day.

## 3. **DEFAULT INTEREST**

If the Borrower fails to pay any sum (including, without limitation, any sum payable under this paragraph 3) under this agreement on its due date, the Borrower will pay default interest on such unpaid sum from its due date to the date of actual payment (as well after as before judgement) at a rate equal to three per cent. per annum above the interest rate specified in clause 1.2(a) or 1.2(b) (as applicable), to be paid on demand by REA Services and to compound at the end of each calendar month.

## 4. **REPAYMENT AND PREPAYMENT**

### 4.1 **Repayment**

The Borrower shall repay each Loan as provided in clause 1.2(a) or 1.2(b) (as applicable).

### 4.2 **Prepayment**

The Borrower may prepay the whole or any part of any Loan on not less than 30 days notice to REA Services.

#### 4.3 **Repayments and prepayments to be made with interest**

All repayments and prepayments of a Loan shall be made together with payment of all interest accrued on the amount of the Loan being repaid or prepaid, up to the date of the payment.

### 5. **PAYMENTS**

#### 5.1 **Payments by Borrower**

All payments to be made by the Borrower to REA Services pursuant to this agreement are to be made to REA Services in immediately available funds for value not later than 11.00 a.m. (London time) on the date in question to such account as REA Services specifies for this purpose.

#### 5.2 **No Set-Off or Deductions**

All payments made by the Borrower under this agreement (whether of principal, interest, expenses or otherwise) must be paid in full without set-off or counterclaim and not subject to any condition and free and clear of and without any deduction or withholding for or on account of any Taxes (save as may be required by law).

#### 5.3 **Business Days**

If any sum would otherwise become due for payment pursuant to this agreement on a day which is not a Business Day, such sum shall become due on the next succeeding Business Day.

### 6. **TAXES**

If any deduction or withholding for or on account of Taxes or any other deduction from any payments made or to be made by the Borrower under this agreement is required by law, then the Borrower will promptly pay to REA Services an additional amount being the amount required to procure that the aggregate net amount received by REA Services equals the full amount which would have been received by it had no such deduction or withholding or other deduction been made.

### 7. **FEES AND EXPENSES**

#### 7.1 **Expenses**

The Borrower will within two Business Days of demand pay and reimburse to REA Services, on the basis of a full indemnity, all reasonable costs and expenses (including legal fees and any amounts in respect of value added tax thereon) incurred by REA Services in connection with:

- (a) any variation, amendment, restatement, waiver or consent relating to this agreement (and documents, matters or things referred to therein);
- (b) the investigation of any Event of Default; and
- (c) the preservation, enforcement or the attempted preservation or enforcement of any of REA Services' rights under this agreement (and the documents referred to therein).

#### 7.2 **Stamp Duties, etc**

The Borrower will pay, and within two Business Days of demand indemnify REA Services in respect of any liability for, any stamp duty, documentary, registration and other duties

and Taxes (if any) which are or may hereafter become payable in connection with the entry into, performance, execution or enforcement of this agreement or to which this agreement may otherwise be or become subject or give rise.

**8. EVENTS OF DEFAULT**

8.1 Each of the events set out in this paragraph 8 (other than an event disclosed pursuant to the schedule) constitutes an Event of Default whether or not the occurrence of the event concerned is outside the control of the Borrower.

**(a) Payment Default**

The Borrower fails to pay on the due date any amount payable by it under this agreement at the place and in the currency at or in which it is expressed to be payable and, if caused by technical or administrative error, the non-payment is not remedied within one Business Day of its due date (in the case of principal, interest or any expense payable hereunder) or otherwise of the date that REA Services notifies the Borrower of the non-payment.

**(b) Breach of Obligations**

The Borrower fails to comply with any of its obligations under this agreement and, if capable of remedy, the failure to comply is not remedied within ten days of the earlier of the date on which the Borrower is aware of the non-compliance and the date on which REA Services notifies the Borrower of the non-compliance.

**(c) Misrepresentation**

Any representation, warranty or statement which is made by the Borrower in this agreement or is contained in any certificate, statement or notice provided under or pursuant to this agreement proves to be incorrect in any material respect when made (or deemed to be made or repeated) and, if the circumstances giving rise to that representation, warranty or statement being incorrect are capable of remedy, the failure to comply is not remedied within ten days of the earlier of the date on which the Borrower is aware of the non-compliance and the date on which REA Services notifies the Borrower of the non-compliance.

**(d) Cross-Default**

- (i) Any indebtedness in the nature of borrowings of the Borrower is not paid when due or within any applicable grace period; or
- (ii) An event of default howsoever described occurs under any document relating to indebtedness in the nature of borrowings of the Borrower and the relevant creditor enters into formal discussions with the Borrower, or takes any other formal step, with a view to improving its position;
- (iii) Any indebtedness in the nature of borrowings of the Borrower becomes prematurely due and payable as a result of an event of default (howsoever described) under the document relating to that indebtedness and is not paid forthwith; or
- (iv) Any other steps are taken to enforce any Security Interest securing indebtedness in the nature of borrowings of the Borrower,

in circumstances where the aggregate indebtedness in the nature of borrowings referred to in all or any of the above sub-paragraphs exceeds US\$500,000 (or its equivalent in other currencies).

(e) **Insolvency**

- (i) The Borrower is, or is deemed for the purposes of any law to be, unable to pay its debts as they fall due or to be insolvent, or admits inability to pay its debts as they fall due; or
- (ii) The Borrower suspends making payments on all or any class of its debts or formally announces an intention to do so, or a moratorium is declared in respect of all or any class of its indebtedness; or
- (iii) The Borrower, by reason of financial difficulties, begins negotiations with all or any class of its creditors with a view to the general readjustment or rescheduling of all or any class of its indebtedness.

(f) **Insolvency Proceedings**

- (i) Any step (including petition, formal proposal or convening a meeting) is taken with a view to a composition, assignment or arrangement with any creditors of the Borrower; or
- (ii) A meeting of the Borrower is convened for the purpose of considering any resolution for (or to petition for) its winding-up or for its administration or any such resolution is passed; or
- (iii) Any person presents a petition for the winding-up or for the administration of the Borrower and in the case of a presentation of a petition for winding-up presented by a creditor, it is not discharged or stayed within fourteen days; or
- (iv) An order for the winding-up or administration of the Borrower is made.

(g) **Appointment of Receivers and Managers**

- (i) Any liquidator, trustee in bankruptcy, judicial custodian, compulsory manager, receiver, administrative receiver, administrator or the like is appointed in respect of the Borrower or any part of its assets; or
- (ii) The directors of the Borrower requests the appointment of a liquidator, trustee in bankruptcy, judicial custodian, compulsory manager, receiver, administrative receiver, administrator or the like.

(h) **Creditors' Process**

Any attachment, sequestration, distress or execution affects any asset of the Borrower and is not discharged within ten days.

(i) **Analogous Proceedings**

There occurs, in relation to the Borrower, any event anywhere which, in the reasonable opinion of REA Services, appears to correspond with any of those mentioned in sub-paragraphs (e) (Insolvency) to (h) (Creditors' Process) above (inclusive).

(j) **Unlawfulness**

It is or becomes unlawful for the Borrower to perform any of its obligations under this agreement, where the unlawfulness is materially adverse to the interests of REA Services.

(k) **Material Adverse Change**

Any event or series of events occurs which is reasonably likely to have a material adverse effect on the business or financial condition of the Borrower or on the ability of the Borrower to perform its obligations under this agreement or documents related thereto to which it is a party.

8.2 **Repayment**

At any time after the occurrence of an Event of Default (and so long as it is continuing) REA Services may by written notice to the Borrower do all or any of the following in addition and without prejudice to any other rights or remedies which it may have under this agreement:

- (a) declare all or any of the Loans to be immediately due and payable, whereupon the same shall become immediately due and payable by the Borrower, together with interest accrued thereon and all other sums due, owing or payable under this agreement (including such amount (if any) as REA Services may certify pursuant to paragraph 13 (Indemnity)) or declare the same to be due and payable on demand in which case the Borrower shall make payment thereof on demand by REA Services made at any time thereafter; and/or
- (b) take any other action, exercise any other right or pursue any other remedy conferred upon REA Services by this agreement or by any applicable law or regulation or otherwise as a consequence of such Event of Default.

9. **SET-OFF**

9.1 **Set-Off Rights**

REA Services may at any time (without notice to the Borrower):

- (a) set-off or otherwise apply sums owing by REA Services to the Borrower (irrespective of the terms applicable to such amounts and whether or not such sums are then due for payment to the Borrower);
- (b) set-off any other obligations (whether or not then due for performance) owed by REA Services to the Borrower,

against the Indebtedness.

9.2 **Different Currencies**

REA Services may exercise such rights notwithstanding that the amounts concerned may be expressed in different currencies and REA Services is authorised to effect any necessary conversions at a market rate of exchange selected by it.

9.3 **Unliquidated Claims**

If the relevant obligation or liability is unliquidated or unascertained, REA Services may set-off the amount it estimates (in good faith) will be the final amount of such obligation or liability once it becomes liquidated or ascertained.

10. **NO IMPLIED WAIVERS**

10.1 **Failure to Exercise Rights**

No failure or delay by REA Services in exercising any right, power or privilege under this agreement will operate as a waiver thereof nor will any single or partial exercise of any

right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

**10.2 Cumulative Rights**

The rights and remedies provided in this agreement are cumulative and not exclusive of any rights and remedies provided by law.

**10.3 Grant of Waivers**

A waiver given or consent granted by REA Services under this agreement will be effective only if given in writing and then only in the instance and for the purpose for which it is given.

**11. INVALIDITY OF ANY PROVISION**

If any provision of this agreement is or becomes invalid, illegal or unenforceable in any respect under any law, the validity, legality and enforceability of the remaining provisions will not be affected or impaired in any way.

**12. CHANGES TO PARTIES**

**12.1 No Transfers by the Borrower**

The Borrower may not assign or transfer all or any part of its rights, benefits or obligations under this agreement without having first received the prior written consent of REA Services.

**12.2 Granting of security and assignment by REA Services**

REA Services may pledge or otherwise charge or encumber, by way of security, all or any part of its rights and benefits under this agreement. REA Services may also assign or transfer all or any part of its rights and benefits under this agreement, including by way of security. REA Services shall give notice of the creation of any such security interest or of any such assignment to the Borrower.

**12.3 Benefit of Agreement**

This agreement will be binding upon, and enure for the benefit of, each party hereto and its or any subsequent successors or permitted assigns.

**13. INDEMNITY**

The Borrower will fully indemnify REA Services within two Business Days of demand in respect of any expense (including legal fees), loss, damage or liability which REA Services may incur as a consequence of any sum not being paid when due pursuant to this agreement or otherwise in connection with a breach by the Borrower of this agreement.