

# M

CHWP000

COMPANIES FORM No. 466(Scot)

## Particulars of an instrument of alteration to a floating charge created by a company registered in Scotland

# 466

Please do not write in this margin

Pursuant to section 410 and 466 of the Companies Act 1985

Please complete legibly, preferably in black type, or bold block lettering

To the Registrar of Companies  
(Address overleaf - Note 5)

For official use

Company number

3

SC562819

Name of company

\* Confida FM Limited

\* insert full name of company

Date of creation of the charge (note 1)

14 April 2020

Description of the instrument creating or evidencing the charge or of any ancillary document which has been altered (note 1)

Floating Charge

Names of the persons entitled to the charge

Bank of Scotland PLC

Short particulars of all the property charged

Floating charge covers all the property or undertaking of the company.

Presenter's name address and reference (if any):

Harper Macleod LLP  
The Ca'd'oro  
45 Gordon Street  
Glasgow  
G1 3PE

For official use (02/06)

Charges Section

Post room

TUESDAY



SCT 18/08/2020 #348  
COMPANIES HOUSE

Names, and addresses of the persons who have executed the instrument of alteration (note 2)

Please see paper apart, part A.

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write in  
this margin*

*Please complete  
legibly, preferably  
in black type, or  
bold block lettering*

Date(s) of execution of the instrument of alteration

Please see paper apart, part B.

A statement of the provisions, if any, imposed by the instrument of alteration prohibiting or restricting the creation by the company of any fixed security or any other floating charge having, priority over, or ranking pari passu with the floating charge

N/A

Short particulars of any property released from the floating charge

N/A

The amount, if any, by which the amount secured by the floating charge has been increased

N/A

A statement of the provisions, if any, imposed by the instrument of alteration varying or otherwise regulating the order of the ranking of the floating charge in relation to fixed securities or to other floating charges

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this margin*

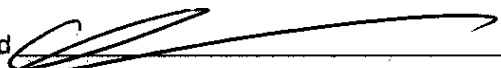
*Please complete  
legibly, preferably  
in black type, or  
bold block lettering*

Please see paper apart, part C.

Continuation of the statement of the provisions, if any, imposed by the instrument of alteration varying or otherwise regulating the order of the ranking of the floating charge in relation to fixed securities or to other floating charges

*Please do not write in this margin*

*Please complete legibly, preferably in black type, or bold block lettering*

Signed  Date 19 August 2020  
On behalf of ~~[company]~~ [chargee]

**Notes**

1. A description of the instrument e.g. "Instrument of Charge" "Debenture" etc as the case may be, should be given.  delete as appropriate  
For the date of creation of a charge see section 410(5) of the Companies Act.
2. In accordance with section 466(1) the instrument of alteration should be executed by the company, the holder of the charge and the holder of any other charge (including a fixed security) which would be adversely affected by the alteration.
3. A certified copy of the instrument of alteration, together with this form with the prescribed particulars correctly completed must be delivered to the Registrar of Companies within 21 days after the date of execution of that instrument.
4. A certified copy must be signed by or on behalf of the person giving the certification and where this is a body corporate it must be signed by an officer of that body.
5. The address of the Registrar of Companies is: Companies Registration Office, 139 Fountainbridge, Edinburgh EH3 9FF DX 235 Edinburgh

This is the paper apart referred to in the foregoing Form 466 relative to an instrument of alteration dated 27 July 2020 (the "Ranking Agreement") in respect of the floating charge by CONFIDA FM LIMITED in favour of BANK OF SCOTLAND PLC created on 14 April 2020 and registered at Companies House on 17 April 2020.

The following terms shall have the following meanings in this paper apart:-

"**Close's Floating Charge**" means the floating charge by the Company in favour of Close over all the Company's property, rights and assets created on 27 July 2020 and registered with the Registrar of Companies on 28 July 2020;

"**Contract of Sale**" means any contract for the supply or hire of goods or the provision of services by the Company to any person;

"**Customer**" means any person who incurs an obligation to make payment to the Company under a Contract of Sale;

"**Debt Purchase Agreement**" means the agreement for the purchase of debts between Close and the Company dated on or around the date of the Ranking Agreement and any extension of, amendment to or replacement of such agreement;

"**Debts**" means each present, future or contingent obligation of a Customer to make payment to the Company under a Contract of Sale (including the right to recover sums due following the determination, assessment or agreement of such obligation, interest, value added tax and all duties and charges);

"**Lender's Floating Charge**" means the floating charge by the Company in favour of the Lender over all the Company's property, rights and assets created on 14 April 2020 and registered with the Registrar of Companies on 17 April 2020;

"**Non-Vesting Debts**" means Debts purchased by Close pursuant to the Debt Purchase Agreement which are not Vesting Debts (save for any such Debts which are repurchased by, or otherwise transferred back to, the Company under the Debt Purchase Agreement or otherwise);

"**Non-Vesting Related Rights**" means any Related Rights in relation to any Debt purchased by Close pursuant to the Debt Purchase Agreement (save for any such Debts which are repurchased by, or otherwise transferred back to, the Company under the Debt Purchase Agreement or otherwise) which are not vested absolutely and effectively in Close;

"**Non-Vesting Returned Goods**" means Returned Goods owned, or purportedly owned, by Close pursuant to the Debt Purchase Agreement, title to which is not vested absolutely and effectively in Close (save for any such Returned Goods which are repurchased by, or otherwise transferred back to, the Company under the Debt Purchase Agreement or otherwise);

"**Related Rights**" means in relation to each Debt and all Returned Goods:-

- a) all the Company's rights (but not obligations) as an unpaid vendor or under the relevant Contract of Sale including the Company's rights to the payment of interest, the return of goods, of lien and stoppage in transit;
- b) the benefit of all insurances, securities, guarantees and indemnities;
- c) the right to any documents of title to the goods; and
- d) the right to all accounting records relating to the Debt and all documents evidencing the Contract of Sale and its performance;

"**Returned Goods**" means any goods relating to a Contract of Sale giving rise to a Debt which a Customer shall reject or return or intimate a wish to do so or which the Company or Close shall recover from a Customer;



**"Securities"** means the Lender's Floating Charge and Close's Floating Charge together and **"Security"** means any one of them; and

**"Vesting Debts"** means any Debts purchased by Close pursuant to the Debt Purchase Agreement title to which are vested absolutely and effectively in Close.

**Part A – Names, and addresses of the persons who have executed the instrument of alteration**

- (1) **CLOSE INVOICE FINANCE LIMITED** (Company Number 935949), whose registered office is at 10 Crown Place, London, EC2A 4FT ("**Close**");
- (2) **BANK OF SCOTLAND PLC** (Company Number SC327000) whose registered office is at The Mound, Edinburgh, EH1 1YZ (the "**Lender**"); and
- (3) **CONFIDA FM LIMITED**, incorporated in Scotland with registered number SC562819 and having its registered office at Ground Floor, 8 Forbes Drive, Heathfield Business Park, Ayr, Scotland, KA8 9FG (the "**Company**")

**Part B – Date(s) of execution of the instrument of alteration**

Subscribed:

- (a) for and on behalf of Close on 24 July 2020;
- (b) for and on behalf of the Lender on 24 July 2020; and
- (c) for and on behalf of the Company on 24 July 2020,

and delivered on 27 July 2020.

**Part C - A statement of the provisions, if any, imposed by the instrument of alteration varying or otherwise regulating the order of the ranking of the floating charge in relation to fixed securities or to other floating charges**

- 3.1 Notwithstanding the terms of the Securities, any provisions as to ranking contained in them and their respective dates of creation, the Securities shall rank in the following order of priority:-
  - 3.1.1 Close's Floating Charge shall rank on the Non-Vesting Debts, the Non-Vesting Returned Goods and the Non-Vesting Related Rights, and on the proceeds thereof, prior and preferably to the Lender's Floating Charge to an unlimited extent;
  - 3.1.2 the Lender's Floating Charge shall rank on all and any of the assets, property and/or undertaking of the Company from time to time (other than the Non-Vesting Debts, the Non-Vesting Returned Goods and the Non-Vesting Related Rights), and on the proceeds thereof, prior and preferably to Close's Floating Charge to an unlimited extent;
  - 3.1.3 the Lender's Floating Charge shall rank on the Non-Vesting Debts, the Non-Vesting Returned Goods and the Non-Vesting Related Rights, and on the proceeds thereof, to an unlimited extent after the prior ranking provided for in clause 3.1.1 of the Ranking Agreement has been satisfied; and
  - 3.1.4 Close's Floating Charge shall rank on all and any of the assets, property and/or undertaking of the Company from time to time (other than the Non-Vesting Debts, the Non-Vesting Returned Goods and the Non-Vesting Related Rights), and on the proceeds thereof, to an unlimited extent after the prior ranking provided for in clause 3.1.2 of the Ranking Agreement has been satisfied.





**FILE COPY**

**CERTIFICATE OF THE REGISTRATION  
OF AN ALTERATION TO A FLOATING CHARGE**

COMPANY NO. 562819  
CHARGE CODE SC56 2819 0003

I HEREBY CERTIFY THAT PARTICULARS OF AN INSTRUMENT  
OF ALTERATION DATED 27 JULY 2020 WERE DELIVERED  
PURSUANT TO SECTION 466 OF THE COMPANIES ACT 1985  
ON 18 AUGUST 2020

THE INSTRUMENT RELATES TO A CHARGE CREATED ON 14  
APRIL 2020

BY CONFIDA FM LIMITED

IN FAVOUR OF  
BANK OF SCOTLAND PLC

GIVEN AT COMPANIES HOUSE, EDINBURGH 21 AUGUST 2020



**Companies House**



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

I certify that, save for material redacted pursuant to s.859G of the Companies Act 2006, this copy instrument is a correct copy of the original instrument.

Signature 

Date 19 | 8 | 20 20

Harper Macleod LLP

**RANKING AGREEMENT**

among

(1) CLOSE INVOICE FINANCE  
LIMITED

and

(2) BANK OF SCOTLAND PLC

and

(3) CONFIDA FM LIMITED

2020



## RANKING AGREEMENT

among

- (1) **CLOSE INVOICE FINANCE LIMITED** (Company Number 935949), whose registered office is at 10 Crown Place, London, EC2A 4FT (“Close”);
- (2) **BANK OF SCOTLAND PLC** (Company Number SC327000) whose registered office is at The Mound, Edinburgh, EH1 1YZ (the “Lender”);

and

- (3) **CONFIDA FM LIMITED**, incorporated in Scotland with registered number SC562819 and having its registered office at Ground Floor, 8 Forbes Drive, Heathfield Business Park, Ayr, Scotland, KA8 9FG (the “Company”)

WHEREBY IT IS AGREED among the parties hereto as follows:-

### 1 Definitions and Interpretation

- 1.1 In this deed, except where the context otherwise requires, the following expressions shall have the following meanings:-

“**Administrator**” has the same meaning as in Schedule B1 to the Insolvency Act 1986;

“**Close's Floating Charge**” means the floating charge by the Company in favour of Close over all the Company's property, rights and assets dated on or around the date hereof and to be registered with the Registrar or Companies;

“**Contract of Sale**” means any contract for the supply or hire of goods or the provision of services by the Company to any person;

“**Customer**” means any person who incurs an obligation to make payment to the Company under a Contract of Sale;

“**Debt Purchase Agreement**” means the agreement for the purchase of debts between Close and the Company dated on or around the date hereof and any extension of, amendment to or replacement of such agreement;

“**Debts**” means each present, future or contingent obligation of a Customer to make payment to the Company under a Contract of Sale (including the right to recover sums due following the determination, assessment or agreement of such obligation, interest, value added tax and all duties and charges);

“**Enforcement Action**” means the taking of any steps to appoint a Receiver or Administrator in respect of the Company (and/or all or any of its assets), appointing a Receiver or Administrator in respect of the Company (and/or all or any of its assets) or otherwise enforcing or exercising (or attempting to enforce or exercise) all or any part of a Security;

“**Lender's Floating Charge**” means the floating charge by the Company in favour of the Lender over all the Company's property, rights and assets created on 14 April 2020 and registered with the Registrar of Companies on 17 April 2020;

“**Non-Vesting Debts**” means Debts purchased by Close pursuant to the Debt Purchase Agreement which are not Vesting Debts (save for any such Debts which are repurchased by, or otherwise transferred back to, the Company under the Debt Purchase Agreement or otherwise);

**"Non-Vesting Related Rights"** means any Related Rights in relation to any Debt purchased by Close pursuant to the Debt Purchase Agreement (save for any such Debts which are repurchased by, or otherwise transferred back to, the Company under the Debt Purchase Agreement or otherwise) which are not vested absolutely and effectively in Close;

**"Non-Vesting Returned Goods"** means Returned Goods owned, or purportedly owned, by Close pursuant to the Debt Purchase Agreement, title to which is not vested absolutely and effectively in Close (save for any such Returned Goods which are repurchased by, or otherwise transferred back to, the Company under the Debt Purchase Agreement or otherwise);

**"Receiver"** includes a receiver or a manager or a receiver and manager or an administrative receiver as defined in section 251 of the Insolvency Act 1986 or a receiver of part only of the property of the Company or a receiver only of the income arising from any part of the Company's property;

**"Related Rights"** means in relation to each Debt and all Returned Goods:-

- a) all the Company's rights (but not obligations) as an unpaid vendor or under the relevant Contract of Sale including the Company's rights to the payment of interest, the return of goods, of lien and stoppage in transit;
- b) the benefit of all insurances, securities, guarantees and indemnities;
- c) the right to any documents of title to the goods; and
- d) the right to all accounting records relating to the Debt and all documents evidencing the Contract of Sale and its performance;

**"Returned Goods"** means any goods relating to a Contract of Sale giving rise to a Debt which a Customer shall reject or return or intimate a wish to do so or which the Company or Close shall recover from a Customer;

**"Securities"** means the Lender's Floating Charge and Close's Floating Charge together and **"Security"** means any one of them;

**"Security Holders"** means the Lender and Close and **"Security Holder"** means either of them; and

**"Vesting Debts"** means any Debts purchased by Close pursuant to the Debt Purchase Agreement title to which are vested absolutely and effectively in Close.

1.2 In this deed, unless the context otherwise requires:-

- 1.2.1 references to any of the parties shall be construed so as to include their respective successors and permitted assignees;
- 1.2.2 references to a **"business day"** shall be construed as a reference to a day (other than a Saturday or Sunday) on which banks are generally open in London and Edinburgh for the transaction of business in the lawful currency of the United Kingdom;
- 1.2.3 references to a clause by number are references to the appropriately numbered clause of this deed;
- 1.2.4 references to this deed shall be to this deed as amended, varied, supplemented or novated from time to time;

- 1.2.5 references to any statute, law, decree or regulations shall be treated as references to such statute, law, decree or regulations as re-enacted, amended, extended or replaced from time to time;
  - 1.2.6 headings are inserted for ease of reference only and shall be ignored in the construction of this deed; and
  - 1.2.7 the singular includes the plural and vice versa and any gender includes any other.
- 1.3 If there shall be any conflict or inconsistency between any provision of this deed and any provision contained within a Security, the provision of this deed shall prevail.

## **2 Consents**

- 2.1 In so far as consent is required under the terms of any of the Securities or otherwise each of the Security Holders consents to the creation and continuance of each Security.
- 2.2 The Lender consents to the Company entering or having entered into the Debt Purchase Agreement (and such consent shall apply to any extension or variation thereto) and acknowledges that all Vesting Debts, any Returned Goods pertaining to them, and their Related Rights which, in each case, are vested absolutely and effectively in Close (save for the avoidance of doubt any such Vesting Debts, Returned Goods and/or Related Rights which are repurchased by, or otherwise transferred back to, the Company under the Debt Purchase Agreement or otherwise) do not form part of the Company's assets, property and/or undertaking and, therefore, shall be free from the Lender's Floating Charge.
- 2.3 For the avoidance of doubt, subject to clause 2.2, the Lender's Floating Charge shall remain in full force and effect and shall apply to all Debts, all Returned Goods and their Related Rights which may at any time be re-assigned by Close to the Company or are otherwise transferred back to the Company under the Debt Purchase Agreement or otherwise, and shall also apply to any sums due from Close to the Company from time to time.

## **3 Ranking**

- 3.1 Notwithstanding the terms of the Securities, any provisions as to ranking contained in them and their respective dates of creation, the Securities shall rank in the following order of priority:-
  - 3.1.1 Close's Floating Charge shall rank on the Non-Vesting Debts, the Non-Vesting Returned Goods and the Non-Vesting Related Rights, and on the proceeds thereof, prior and preferably to the Lender's Floating Charge to an unlimited extent;
  - 3.1.2 the Lender's Floating Charge shall rank on all and any of the assets, property and/or undertaking of the Company from time to time (other than the Non-Vesting Debts, the Non-Vesting Returned Goods and the Non-Vesting Related Rights), and on the proceeds thereof, prior and preferably to Close's Floating Charge to an unlimited extent;
  - 3.1.3 the Lender's Floating Charge shall rank on the Non-Vesting Debts, the Non-Vesting Returned Goods and the Non-Vesting Related Rights, and on the proceeds thereof, to an unlimited extent after the prior ranking provided for in clause 3.1.1 has been satisfied; and
  - 3.1.4 Close's Floating Charge shall rank on all and any of the assets, property and/or undertaking of the Company from time to time (other

than the Non-Vesting Debts, the Non-Vesting Returned Goods and the Non-Vesting Related Rights), and on the proceeds thereof, to an unlimited extent after the prior ranking provided for in clause 3.1.2 has been satisfied.

- 3.2 The amount of any Administrator's or Receiver's remuneration and all outgoings, costs, charges, expenses, liabilities and payments ranking by statute for payment in priority to the amount secured by the Securities shall be deducted from all receipts and recoveries under the relevant Security prior to their application towards the discharge or satisfaction of the amounts secured by the Securities.
- 3.3 In the event of the provisions of this deed being regarded by an Administrator, Receiver or any analogous insolvency practitioner or officer in any jurisdiction appointed under either Security or otherwise in respect of the Company (or all or any part of its assets) as failing to bind him/her or them in respect of all or any of the property, undertaking and/or assets of the Company, or the proceeds thereof, and in so far as the refusal or failure of such Administrator, Receiver or other insolvency practitioner or officer to be bound by this deed shall cause prejudice to a Security Holder, the other Security Holder shall compensate that Security Holder to the extent that it is enriched as a result.
- 3.4 For the avoidance of doubt, each of the parties hereto agrees that the proceeds of any Debt whether created before or after the enforcement of any Security, and whether an asset of Close or the Company, shall constitute solely a realisation of that Debt and no part of any Debt shall be attributable to a realisation of any other asset of the Company.

#### 4 Continuing Security

The Securities shall be continuing securities for repayment to the Security Holders of the money and liabilities thereby secured and the priority arrangements herein contained shall not be affected by any fluctuations in the amount from time to time due, owing or incurred by the Company on any account to any of the Security Holders or by the existence at any time of a credit or nil balance on any such account of the Company with any Security Holder.

#### 5 Enforcement of Security

- 5.1 Subject to clause 5.2 and clause 5.3, in the event that either Security Holder wishes to take any Enforcement Action, it shall notify the other Security Holder in writing of the Enforcement Action which it wishes to take (an "Enforcement Notification") and consult with the other Security Holder with a view to agreeing on the method by which such Enforcement Action is to be taken and, where appropriate, the person to be appointed as Administrator or Receiver in relation to such Enforcement Action.
- 5.2 Neither Security Holder shall take any Enforcement Action without the agreement of the other Security Holder pursuant to clause 5.1, provided that if following consultation in accordance with clause 5.1 no agreement on the method by which such Enforcement Action is to be taken and/or the person to be appointed as Administrator or Receiver in relation to such Enforcement Action (as appropriate) is reached between the Security Holders on or before the date falling 10 Business Days following the date upon which the Enforcement Notice in relation to such Enforcement Action is received by the relevant Security Holder pursuant to clause 5.1 (the "Consultation Longstop Date"), the Lender may take such Enforcement Action without any further consultation with, and/or the agreement of, Close and shall decide (in its sole discretion) on the method by which such Enforcement Action is to be taken and/or the person to be appointed as Administrator or Receiver (as appropriate).

- 5.3 In the event that, in relation to any Enforcement Action which a Security Holder wishes to take, (i) the Security Holders do not agree on the method by which such Enforcement Action is to be taken and/or the person to be appointed as Administrator or Receiver in relation to such Enforcement Action (as appropriate) by the Consultation Longstop Date in relation to such Enforcement Action and (ii) the Lender has not commenced such Enforcement Action and/or taken any steps to appoint an Administrator or Receiver in relation to such Enforcement Action (as appropriate) by the date falling 2 Business Days following that Consultation Longstop Date, Close may take such Enforcement Action without any further consultation with, and/or the agreement of, the Lender and shall decide (in its sole discretion) on the method by which such Enforcement Action is to be taken and/or the person to be appointed as Administrator or Receiver (as appropriate).

## 6 Operation of Accounts

- 6.1 Nothing in this deed or in the Close Floating Charge or the Debt Purchase Agreement shall prevent the Lender operating the bank accounts of the Company in the ordinary course of banking business, including, without limitation, collecting cheques and other payment orders or accepting monies for credit of the Company's bank accounts and allowing the Company to draw cheques and other payments and generally to withdraw funds from its bank accounts. The Company is permitted to open an account in the name of the Company designated in trust for Close to which may be credited monies, cheques and other payment orders and remittances but the Company may not draw cheques or make any other payment or withdraw funds from such trust account except by payment to Close.

- 6.2 Close shall make no claim against the Lender in connection with any Debt the proceeds of which are credited to any account of the Company with the Lender (other than any account in the name of the Company held in trust for Close) unless:-

6.2.1 prior to the Lender's receipt of such monies the Lender has received notice in writing from Close that a specified sum of money belongs or will belong to Close (and, where requested by the Lender, supported by evidence thereof); or

6.2.2 the Lender has procured the payment to the Lender of a sum which to the actual knowledge of the Lender should have been paid to Close,

in which case all such monies received by the Lender in respect of such Debts shall be held by the Lender in trust for Close.

## 7 Information

- 7.1 Whilst this deed subsists each Security Holder shall be at liberty from time to time to disclose to the other of them information concerning the Company and its affairs in such manner and to such extent as the disclosing Security Holder may decide.
- 7.2 Each Security Holder acknowledges the right of the other of them to the production and delivery of copies of the documents comprising or referred to in its Security.
- 7.3 If either Security Holder shall have any books or records of the Company in its possession, it will provide such access to those books and records as may reasonably be required by any Receiver or Administrator appointed by the other Security Holder.

**8 Floating Charges**

8.1 In so far as it may be necessary to give effect to the provisions of this Ranking Agreement, the Close Floating Charge and the Lender's Floating Charge are hereby varied and this deed shall be construed and receive effect as an instrument of alteration within the meaning of section 466 of the Companies Act 1985.

8.2 Each of the Security Holders confirms and undertakes to the other that it will within 31 days of the date of this deed register the required details of this deed at Companies House in order for this deed to constitute a valid instrument of alteration within the meaning of section 466 of the Companies Act 1985 in respect of its Security.

**9 Termination**

This deed shall cease to have further effect when one or more of the Securities shall have been fully and completely and irrevocably and unconditionally discharged.

**10 The Company's Acknowledgement**

The Company acknowledges the ranking priorities recorded in this deed and consents to the rest of the terms of this deed. The Company acknowledges that this deed does not create any rights in its favour and that it shall not be entitled to rely upon or enforce any of the terms of this deed as against either Security Holder.

**11 Entire Agreement**

This deed forms the entire agreement between the parties relating to the priority of their respective Securities and the application of the proceeds thereof and supersedes all earlier meetings, discussions, negotiations, correspondence, faxes, telexes, letters, e-mails, transactions, communications, understandings and arrangements of any kind so relating.

**12 Forbearance, Failures and Waivers**

12.1 No forbearance or failure by any party to exercise or assert or claim any rights or entitlement hereunder shall be construed (in the absence of a written agreement to a waiver or a written confirmation of a past waiver) as a waiver of that right or entitlement.

12.2 No waiver of any breach of any term of this deed shall (unless expressly agreed in writing by the waiving party) be construed as a waiver of a future breach of the same term or as authorising a continuation of a particular breach.

**13 Variations**

Save as otherwise provided herein, any variation of this deed shall be binding only if it is recorded in a document signed by or on behalf of each Security holder.

**14 Severability**

14.1 The provisions of this deed shall be severable and distinct from each other. If at any time any one or more of such provisions is or becomes invalid, illegal or unenforceable, the validity, legality and enforceability of each of the remaining provisions of this deed shall not in any way be affected, prejudiced or impaired thereby.

14.2 The provisions of clause 3.1 shall apply notwithstanding the invalidity or avoidance of any of the Securities.

**15 Facilities**

Nothing in this deed shall bind either the Lender or Close to make any advance or prepayment or to grant any credit or other facilities to the Company.

**16 Time and Indulgence**

The Lender and Close shall each be entitled to grant time or indulgence or to release or compound with the Company or otherwise deal with its Security without reference to the other Security Holder except to the extent regulated by this deed.

**17 Continuing Effect**

The ranking priorities set forth above shall apply even though a liquidator or Receiver or an Administrator shall be appointed under the Insolvency Act 1986 in relation to the Company.

**18 Assignment**

Neither of the Security Holders shall assign, transfer or otherwise dispose of its Security or any of its rights or obligations under them to any person (a "Transferee") or agree or attempt to do so unless the Transferee shall first have agreed with the other Security Holder to adhere to and be bound by all the provisions of this deed affecting the other Security Holder including this clause 18.

**19 Notices**

19.1 Any notice or other communication given or made under or in connection with the matters contemplated by this deed shall be in writing.

19.2 Any such notice or other communication (other than any legal proceedings arising hereunder) shall be addressed as provided in clause 19.3 and, if so addressed, shall be treated as having been duly given or made as follows:-

19.2.1 if delivered – at the time of delivery; or

19.2.2 if sent by post – 48 hours from the date of posting; or

19.2.3 if sent by facsimile transmission or electronic medium – at the time of transmission; or

19.2.4 if handed over – at the time of handing over.

19.3 The address for service in accordance with clause 19.2 shall be (in the case of the Lender) FAO: John Fulham, Bank of Scotland plc, New Uberior House, 11 Earl Grey Street, Edinburgh, EH3 9BN and (in the case of the other parties to this deed) the recipient's registered office. However, a party may notify the other parties to this deed of an alternative address for the purposes of clause 19.2 provided that such notification shall only be effective on:-

19.3.1 the date specified in the notification as the date on which the change is to take place; or

19.3.2 if no date is specified, the date falling five clear business days after notice of any such change has been given.

19.4 For the avoidance of doubt, the parties agree that the provisions of this clause shall not apply in relation to the service of any document by which any legal proceedings are commenced or continued or forming any part of such proceedings.

**20 Counterpart Delivery**

20.1 This deed may be executed in any number of counterparts and by each of the parties on separate counterparts.

20.2 Where executed in counterparts:

20.2.1 this deed will not take effect until each of the counterparts has been delivered;

20.2.2 each counterpart will be held as undelivered until the parties to this deed agree a date on which the counterparts are to be treated as delivered; and

20.2.3 the date of delivery may be inserted in the testing clause in the blank provided for the delivery date of this deed.



**21 Law and Jurisdiction**

21.1 This deed is governed by and shall be construed in accordance with Scots law.

21.2 The parties to this deed irrevocably submit to the non-exclusive jurisdiction of the Scottish courts to settle any disputes which may arise out of or in connection with this deed.

IN WITNESS WHEREOF the parties hereto have executed this deed as follows, with a delivery date of 27 JULY 2020:-

They are subscribed for and on behalf of CONFIDA FM LIMITED at 8 FOABES DRIVE, AYR, KA89 7E on 24TH JULY 2020 by:-

  
 IAN JAMES MURRAY Director  
  
 LORRAINE MURRAY Director/Secretary

They are subscribed for and on behalf of BANK OF SCOTLAND PLC at \_\_\_\_\_ on \_\_\_\_\_ 2020 by \_\_\_\_\_, who holds the position of \_\_\_\_\_ and is its duly authorised signatory:-

\_\_\_\_\_  
Authorised Signatory

WITNESS:

Signature \_\_\_\_\_

Full Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_



They are subscribed for and on behalf of CLOSE INVOICE FINANCE LIMITED at  
on \_\_\_\_\_ 2020 by \_\_\_\_\_, who holds the  
position of \_\_\_\_\_, and is its duly authorised signatory:-

\_\_\_\_\_  
Authorised Signatory

WITNESS:

Signature \_\_\_\_\_

Full Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

**RANKING AGREEMENT**

among

(1) CLOSE INVOICE FINANCE  
LIMITED

and

(2) BANK OF SCOTLAND PLC

-and

(3) CONFIDA FM LIMITED

2020

## RANKING AGREEMENT

among

- (1) **CLOSE INVOICE FINANCE LIMITED** (Company Number 935949), whose registered office is at 10 Crown Place, London, EC2A 4FT ("**Close**");
- (2) **BANK OF SCOTLAND PLC** (Company Number SC327000) whose registered office is at The Mound, Edinburgh, EH1 1YZ (the "**Lender**");

and

- (3) **CONFIDA FM LIMITED**, incorporated in Scotland with registered number SC562819 and having its registered office at Ground Floor, 8 Forbes Drive, Heathfield Business Park, Ayr, Scotland, KA8 9FG (the "**Company**")

WHEREBY IT IS AGREED among the parties hereto as follows:-

### 1 Definitions and Interpretation

- 1.1 In this deed, except where the context otherwise requires, the following expressions shall have the following meanings:-

"**Administrator**" has the same meaning as in Schedule B1 to the Insolvency Act 1986;

"**Close's Floating Charge**" means the floating charge by the Company in favour of Close over all the Company's property, rights and assets dated on or around the date hereof and to be registered with the Registrar or Companies;

"**Contract of Sale**" means any contract for the supply or hire of goods or the provision of services by the Company to any person;

"**Customer**" means any person who incurs an obligation to make payment to the Company under a Contract of Sale;

"**Debt Purchase Agreement**" means the agreement for the purchase of debts between Close and the Company dated on or around the date hereof and any extension of, amendment to or replacement of such agreement;

"**Debts**" means each present, future or contingent obligation of a Customer to make payment to the Company under a Contract of Sale (including the right to recover sums due following the determination, assessment or agreement of such obligation, interest, value added tax and all duties and charges);

"**Enforcement Action**" means the taking of any steps to appoint a Receiver or Administrator in respect of the Company (and/or all or any of its assets), appointing a Receiver or Administrator in respect of the Company (and/or all or any of its assets) or otherwise enforcing or exercising (or attempting to enforce or exercise) all or any part of a Security;

"**Lender's Floating Charge**" means the floating charge by the Company in favour of the Lender over all the Company's property, rights and assets created on 14 April 2020 and registered with the Registrar of Companies on 17 April 2020;

"**Non-Vesting Debts**" means Debts purchased by Close pursuant to the Debt Purchase Agreement which are not Vesting Debts (save for any such Debts which are repurchased by, or otherwise transferred back to, the Company under the Debt Purchase Agreement or otherwise);

**“Non-Vesting Related Rights”** means any Related Rights in relation to any Debt purchased by Close pursuant to the Debt Purchase Agreement (save for any such Debts which are repurchased by, or otherwise transferred back to, the Company under the Debt Purchase Agreement or otherwise) which are not vested absolutely and effectively in Close;

**“Non-Vesting Returned Goods”** means Returned Goods owned, or purportedly owned, by Close pursuant to the Debt Purchase Agreement, title to which is not vested absolutely and effectively in Close (save for any such Returned Goods which are repurchased by, or otherwise transferred back to, the Company under the Debt Purchase Agreement or otherwise);

**“Receiver”** includes a receiver or a manager or a receiver and manager or an administrative receiver as defined in section 251 of the Insolvency Act 1986 or a receiver of part only of the property of the Company or a receiver only of the income arising from any part of the Company’s property;

**“Related Rights”** means in relation to each Debt and all Returned Goods:-

- a) all the Company’s rights (but not obligations) as an unpaid vendor or under the relevant Contract of Sale including the Company’s rights to the payment of interest, the return of goods, of lien and stoppage in transit;
- b) the benefit of all insurances, securities, guarantees and indemnities;
- c) the right to any documents of title to the goods; and
- d) the right to all accounting records relating to the Debt and all documents evidencing the Contract of Sale and its performance;

**“Returned Goods”** means any goods relating to a Contract of Sale giving rise to a Debt which a Customer shall reject or return or intimate a wish to do so or which the Company or Close shall recover from a Customer;

**“Securities”** means the Lender’s Floating Charge and Close’s Floating Charge together and **“Security”** means any one of them;

**“Security Holders”** means the Lender and Close and **“Security Holder”** means either of them; and

**“Vesting Debts”** means any Debts purchased by Close pursuant to the Debt Purchase Agreement title to which are vested absolutely and effectively in Close.

1.2 In this deed, unless the context otherwise requires:-

- 1.2.1 references to any of the parties shall be construed so as to include their respective successors and permitted assignees;
- 1.2.2 references to a **“business day”** shall be construed as a reference to a day (other than a Saturday or Sunday) on which banks are generally open in London and Edinburgh for the transaction of business in the lawful currency of the United Kingdom;
- 1.2.3 references to a clause by number are references to the appropriately numbered clause of this deed;
- 1.2.4 references to this deed shall be to this deed as amended, varied, supplemented or novated from time to time;

- 1.2.5 references to any statute, law, decree or regulations shall be treated as references to such statute, law, decree or regulations as re-enacted, amended, extended or replaced from time to time;
  - 1.2.6 headings are inserted for ease of reference only and shall be ignored in the construction of this deed; and
  - 1.2.7 the singular includes the plural and vice versa and any gender includes any other.
- 1.3 If there shall be any conflict or inconsistency between any provision of this deed and any provision contained within a Security, the provision of this deed shall prevail.

## 2 Consents

- 2.1 In so far as consent is required under the terms of any of the Securities or otherwise each of the Security Holders consents to the creation and continuance of each Security.
- 2.2 The Lender consents to the Company entering or having entered into the Debt Purchase Agreement (and such consent shall apply to any extension or variation thereto) and acknowledges that all Vesting Debts, any Returned Goods pertaining to them, and their Related Rights which, in each case, are vested absolutely and effectively in Close (save for the avoidance of doubt any such Vesting Debts, Returned Goods and/or Related Rights which are repurchased by, or otherwise transferred back to, the Company under the Debt Purchase Agreement or otherwise) do not form part of the Company's assets, property and/or undertaking and, therefore, shall be free from the Lender's Floating Charge.
- 2.3 For the avoidance of doubt, subject to clause 2.2, the Lender's Floating Charge shall remain in full force and effect and shall apply to all Debts, all Returned Goods and their Related Rights which may at any time be re-assigned by Close to the Company or are otherwise transferred back to the Company under the Debt Purchase Agreement or otherwise, and shall also apply to any sums due from Close to the Company from time to time.

## 3 Ranking

- 3.1 Notwithstanding the terms of the Securities, any provisions as to ranking contained in them and their respective dates of creation, the Securities shall rank in the following order of priority:-
  - 3.1.1 Close's Floating Charge shall rank on the Non-Vesting Debts, the Non-Vesting Returned Goods and the Non-Vesting Related Rights, and on the proceeds thereof, prior and preferably to the Lender's Floating Charge to an unlimited extent;
  - 3.1.2 the Lender's Floating Charge shall rank on all and any of the assets, property and/or undertaking of the Company from time to time (other than the Non-Vesting Debts, the Non-Vesting Returned Goods and the Non-Vesting Related Rights), and on the proceeds thereof, prior and preferably to Close's Floating Charge to an unlimited extent;
  - 3.1.3 the Lender's Floating Charge shall rank on the Non-Vesting Debts, the Non-Vesting Returned Goods and the Non-Vesting Related Rights, and on the proceeds thereof, to an unlimited extent after the prior ranking provided for in clause 3.1.1 has been satisfied; and
  - 3.1.4 Close's Floating Charge shall rank on all and any of the assets, property and/or undertaking of the Company from time to time (other

than the Non-Vesting Debts, the Non-Vesting Returned Goods and the Non-Vesting Related Rights), and on the proceeds thereof, to an unlimited extent after the prior ranking provided for in clause 3.1.2 has been satisfied.

- 3.2 The amount of any Administrator's or Receiver's remuneration and all outgoings, costs, charges, expenses, liabilities and payments ranking by statute for payment in priority to the amount secured by the Securities shall be deducted from all receipts and recoveries under the relevant Security prior to their application towards the discharge or satisfaction of the amounts secured by the Securities.
- 3.3 In the event of the provisions of this deed being regarded by an Administrator, Receiver or any analogous insolvency practitioner or officer in any jurisdiction appointed under either Security or otherwise in respect of the Company (or all or any part of its assets) as failing to bind him/her or them in respect of all or any of the property, undertaking and/or assets of the Company, or the proceeds thereof, and in so far as the refusal or failure of such Administrator, Receiver or other insolvency practitioner or officer to be bound by this deed shall cause prejudice to a Security Holder, the other Security Holder shall compensate that Security Holder to the extent that it is enriched as a result.
- 3.4 For the avoidance of doubt, each of the parties hereto agrees that the proceeds of any Debt whether created before or after the enforcement of any Security, and whether an asset of Close or the Company, shall constitute solely a realisation of that Debt and no part of any Debt shall be attributable to a realisation of any other asset of the Company.

#### 4 **Continuing Security**

The Securities shall be continuing securities for repayment to the Security Holders of the money and liabilities thereby secured and the priority arrangements herein contained shall not be affected by any fluctuations in the amount from time to time due, owing or incurred by the Company on any account to any of the Security Holders or by the existence at any time of a credit or nil balance on any such account of the Company with any Security Holder.

#### 5 **Enforcement of Security**

- 5.1 Subject to clause 5.2 and clause 5.3, in the event that either Security Holder wishes to take any Enforcement Action, it shall notify the other Security Holder in writing of the Enforcement Action which it wishes to take (an "**Enforcement Notification**") and consult with the other Security Holder with a view to agreeing on the method by which such Enforcement Action is to be taken and, where appropriate, the person to be appointed as Administrator or Receiver in relation to such Enforcement Action.
- 5.2 Neither Security Holder shall take any Enforcement Action without the agreement of the other Security Holder pursuant to clause 5.1, provided that if following consultation in accordance with clause 5.1 no agreement on the method by which such Enforcement Action is to be taken and/or the person to be appointed as Administrator or Receiver in relation to such Enforcement Action (as appropriate) is reached between the Security Holders on or before the date falling 10 Business Days following the date upon which the Enforcement Notice in relation to such Enforcement Action is received by the relevant Security Holder pursuant to clause 5.1 (the "**Consultation Longstop Date**"), the Lender may take such Enforcement Action without any further consultation with, and/or the agreement of, Close and shall decide (in its sole discretion) on the method by which such Enforcement Action is to be taken and/or the person to be appointed as Administrator or Receiver (as appropriate).

- 5.3 In the event that, in relation to any Enforcement Action which a Security Holder wishes to take, (i) the Security Holders do not agree on the method by which such Enforcement Action is to be taken and/or the person to be appointed as Administrator or Receiver in relation to such Enforcement Action (as appropriate) by the Consultation Longstop Date in relation to such Enforcement Action and (ii) the Lender has not commenced such Enforcement Action and/or taken any steps to appoint an Administrator or Receiver in relation to such Enforcement Action (as appropriate) by the date falling 2 Business Days following that Consultation Longstop Date, Close may take such Enforcement Action without any further consultation with, and/or the agreement of, the Lender and shall decide (in its sole discretion) on the method by which such Enforcement Action is to be taken and/or the person to be appointed as Administrator or Receiver (as appropriate).

## 6 Operation of Accounts

- 6.1 Nothing in this deed or in the Close Floating Charge or the Debt Purchase Agreement shall prevent the Lender operating the bank accounts of the Company in the ordinary course of banking business, including, without limitation, collecting cheques and other payment orders or accepting monies for credit of the Company's bank accounts and allowing the Company to draw cheques and other payments and generally to withdraw funds from its bank accounts. The Company is permitted to open an account in the name of the Company designated in trust for Close to which may be credited monies, cheques and other payment orders and remittances but the Company may not draw cheques or make any other payment or withdraw funds from such trust account except by payment to Close.

- 6.2 Close shall make no claim against the Lender in connection with any Debt the proceeds of which are credited to any account of the Company with the Lender (other than any account in the name of the Company held in trust for Close) unless:-

6.2.1 prior to the Lender's receipt of such monies the Lender has received notice in writing from Close that a specified sum of money belongs or will belong to Close (and, where requested by the Lender, supported by evidence thereof); or

6.2.2 the Lender has procured the payment to the Lender of a sum which to the actual knowledge of the Lender should have been paid to Close,

in which case all such monies received by the Lender in respect of such Debts shall be held by the Lender in trust for Close.

## 7 Information

- 7.1 Whilst this deed subsists each Security Holder shall be at liberty from time to time to disclose to the other of them information concerning the Company and its affairs in such manner and to such extent as the disclosing Security Holder may decide.
- 7.2 Each Security Holder acknowledges the right of the other of them to the production and delivery of copies of the documents comprising or referred to in its Security.
- 7.3 If either Security Holder shall have any books or records of the Company in its possession, it will provide such access to those books and records as may reasonably be required by any Receiver or Administrator appointed by the other Security Holder.

## **8 Floating Charges**

- 8.1 In so far as it may be necessary to give effect to the provisions of this Ranking Agreement, the Close Floating Charge and the Lender's Floating Charge are hereby varied and this deed shall be construed and receive effect as an instrument of alteration within the meaning of section 466 of the Companies Act 1985.
- 8.2 Each of the Security Holders confirms and undertakes to the other that it will within 31 days of the date of this deed register the required details of this deed at Companies House in order for this deed to constitute a valid instrument of alteration within the meaning of section 466 of the Companies Act 1985 in respect of its Security.

## **9 Termination**

This deed shall cease to have further effect when one or more of the Securities shall have been fully and completely and irrevocably and unconditionally discharged.

## **10 The Company's Acknowledgement**

The Company acknowledges the ranking priorities recorded in this deed and consents to the rest of the terms of this deed. The Company acknowledges that this deed does not create any rights in its favour and that it shall not be entitled to rely upon or enforce any of the terms of this deed as against either Security Holder.

## **11 Entire Agreement**

This deed forms the entire agreement between the parties relating to the priority of their respective Securities and the application of the proceeds thereof and supersedes all earlier meetings, discussions, negotiations, correspondence, faxes, telexes, letters, e-mails, transactions, communications, understandings and arrangements of any kind so relating.

## **12 Forbearance, Failures and Waivers**

- 12.1 No forbearance or failure by any party to exercise or assert or claim any rights or entitlement hereunder shall be construed (in the absence of a written agreement to a waiver or a written confirmation of a past waiver) as a waiver of that right or entitlement.
- 12.2 No waiver of any breach of any term of this deed shall (unless expressly agreed in writing by the waiving party) be construed as a waiver of a future breach of the same term or as authorising a continuation of a particular breach.

## **13 Variations**

Save as otherwise provided herein, any variation of this deed shall be binding only if it is recorded in a document signed by or on behalf of each Security holder.

## **14 Severability**

- 14.1 The provisions of this deed shall be severable and distinct from each other. If at any time any one or more of such provisions is or becomes invalid, illegal or unenforceable, the validity, legality and enforceability of each of the remaining provisions of this deed shall not in any way be affected, prejudiced or impaired thereby.
- 14.2 The provisions of clause 3.1 shall apply notwithstanding the invalidity or avoidance of any of the Securities.



**15 Facilities**

Nothing in this deed shall bind either the Lender or Close to make any advance or prepayment or to grant any credit or other facilities to the Company.

**16 Time and Indulgence**

The Lender and Close shall each be entitled to grant time or indulgence or to release or compound with the Company or otherwise deal with its Security without reference to the other Security Holder except to the extent regulated by this deed.

**17 Continuing Effect**

The ranking priorities set forth above shall apply even though a liquidator or Receiver or an Administrator shall be appointed under the Insolvency Act 1986 in relation to the Company.

**18 Assignment**

Neither of the Security Holders shall assign, transfer or otherwise dispose of its Security or any of its rights or obligations under them to any person (a "Transferee") or agree or attempt to do so unless the Transferee shall first have agreed with the other Security Holder to adhere to and be bound by all the provisions of this deed affecting the other Security Holder including this clause 18.

**19 Notices**

19.1 Any notice or other communication given or made under or in connection with the matters contemplated by this deed shall be in writing.

19.2 Any such notice or other communication (other than any legal proceedings arising hereunder) shall be addressed as provided in clause 19.3 and, if so addressed, shall be treated as having been duly given or made as follows:-

19.2.1 if delivered – at the time of delivery; or

19.2.2 if sent by post – 48 hours from the date of posting; or

19.2.3 if sent by facsimile transmission or electronic medium – at the time of transmission; or

19.2.4 if handed over – at the time of handing over.

19.3 The address for service in accordance with clause 19.2 shall be (in the case of the Lender) FAO: John Fulham, Bank of Scotland plc, New Uberior House, 11 Earl Grey Street, Edinburgh, EH3 9BN and (in the case of the other parties to this deed) the recipient's registered office. However, a party may notify the other parties to this deed of an alternative address for the purposes of clause 19.2 provided that such notification shall only be effective on:-

19.3.1 the date specified in the notification as the date on which the change is to take place; or

19.3.2 if no date is specified, the date falling five clear business days after notice of any such change has been given.

19.4 For the avoidance of doubt, the parties agree that the provisions of this clause shall not apply in relation to the service of any document by which any legal proceedings are commenced or continued or forming any part of such proceedings.

**20 Counterpart Delivery**

20.1 This deed may be executed in any number of counterparts and by each of the parties on separate counterparts.

20.2 Where executed in counterparts:

20.2.1 this deed will not take effect until each of the counterparts has been delivered;

20.2.2 each counterpart will be held as undelivered until the parties to this deed agree a date on which the counterparts are to be treated as delivered; and

20.2.3 the date of delivery may be inserted in the testing clause in the blank provided for the delivery date of this deed.

**21 Law and Jurisdiction**

21.1 This deed is governed by and shall be construed in accordance with Scots law.

21.2 The parties to this deed irrevocably submit to the non-exclusive jurisdiction of the Scottish courts to settle any disputes which may arise out of or in connection with this deed.

IN WITNESS WHEREOF the parties hereto have executed this deed as follows, with a delivery date of 24 JULY 2020:-

They are subscribed for and on behalf of CONFIDA FM LIMITED at  
on \_\_\_\_\_ 2020 by:-

\_\_\_\_\_  
Director

\_\_\_\_\_  
Director/Secretary

They are subscribed for and on behalf of BANK OF SCOTLAND PLC at NEW UBERIOR HOUSE, EDINBURGH  
on 24th JULY 2020 by DARICE BURNS, who holds the position of MANAGER  
and is its duly authorised signatory:-

\_\_\_\_\_  
Authorised Signatory

WITNESS:

Signature \_\_\_\_\_

Full Name: MORNA BURNS

Address: NEW UBERIOR HOUSE

11 EARL GREY STREET

EH3 9BN

They are subscribed for and on behalf of CLOSE INVOICE FINANCE LIMITED at  
on \_\_\_\_\_ 2020 by \_\_\_\_\_, who holds the  
position of \_\_\_\_\_, and is its duly authorised signatory:-

\_\_\_\_\_  
Authorised Signatory

WITNESS:

Signature \_\_\_\_\_

Full Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

RANKING AGREEMENT

among

(1) CLOSE INVOICE FINANCE  
LIMITED

and

(2) BANK OF SCOTLAND PLC

and

(3) CONFIDA FM LIMITED

2020

## RANKING AGREEMENT

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- (1) **CLOSE INVOICE FINANCE LIMITED** (Company Number 935949), whose registered office is at 10 Crown Place, London, EC2A 4FT ("**Close**");
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and

- (3) **CONFIDA FM LIMITED**, incorporated in Scotland with registered number SC562819 and having its registered office at Ground Floor, 8 Forbes Drive, Heathfield Business Park, Ayr, Scotland, KA8 9FG (the "**Company**")

WHEREBY IT IS AGREED among the parties hereto as follows:-

### 1 Definitions and Interpretation

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"**Close's Floating Charge**" means the floating charge by the Company in favour of Close over all the Company's property, rights and assets dated on or around the date hereof and to be registered with the Registrar or Companies;

"**Contract of Sale**" means any contract for the supply or hire of goods or the provision of services by the Company to any person;

"**Customer**" means any person who incurs an obligation to make payment to the Company under a Contract of Sale;

"**Debt Purchase Agreement**" means the agreement for the purchase of debts between Close and the Company dated on or around the date hereof and any extension of, amendment to or replacement of such agreement;

"**Debts**" means each present, future or contingent obligation of a Customer to make payment to the Company under a Contract of Sale (including the right to recover sums due following the determination, assessment or agreement of such obligation, interest, value added tax and all duties and charges);

"**Enforcement Action**" means the taking of any steps to appoint a Receiver or Administrator in respect of the Company (and/or all or any of its assets), appointing a Receiver or Administrator in respect of the Company (and/or all or any of its assets) or otherwise enforcing or exercising (or attempting to enforce or exercise) all or any part of a Security;

"**Lender's Floating Charge**" means the floating charge by the Company in favour of the Lender over all the Company's property, rights and assets created on 14 April 2020 and registered with the Registrar of Companies on 17 April 2020;

"**Non-Vesting Debts**" means Debts purchased by Close pursuant to the Debt Purchase Agreement which are not Vesting Debts (save for any such Debts which are repurchased by, or otherwise transferred back to, the Company under the Debt Purchase Agreement or otherwise);

**"Non-Vesting Related Rights"** means any Related Rights in relation to any Debt purchased by Close pursuant to the Debt Purchase Agreement (save for any such Debts which are repurchased by, or otherwise transferred back to, the Company under the Debt Purchase Agreement or otherwise) which are not vested absolutely and effectively in Close;

**"Non-Vesting Returned Goods"** means Returned Goods owned, or purportedly owned, by Close pursuant to the Debt Purchase Agreement, title to which is not vested absolutely and effectively in Close (save for any such Returned Goods which are repurchased by, or otherwise transferred back to, the Company under the Debt Purchase Agreement or otherwise);

**"Receiver"** includes a receiver or a manager or a receiver and manager or an administrative receiver as defined in section 251 of the Insolvency Act 1986 or a receiver of part only of the property of the Company or a receiver only of the income arising from any part of the Company's property;

**"Related Rights"** means in relation to each Debt and all Returned Goods:-

- a) all the Company's rights (but not obligations) as an unpaid vendor or under the relevant Contract of Sale including the Company's rights to the payment of interest, the return of goods, of lien and stoppage in transit;
- b) the benefit of all insurances, securities, guarantees and indemnities;
- c) the right to any documents of title to the goods; and
- d) the right to all accounting records relating to the Debt and all documents evidencing the Contract of Sale and its performance;

**"Returned Goods"** means any goods relating to a Contract of Sale giving rise to a Debt which a Customer shall reject or return or intimate a wish to do so or which the Company or Close shall recover from a Customer;

**"Securities"** means the Lender's Floating Charge and Close's Floating Charge together and **"Security"** means any one of them;

**"Security Holders"** means the Lender and Close and **"Security Holder"** means either of them; and

**"Vesting Debts"** means any Debts purchased by Close pursuant to the Debt Purchase Agreement title to which are vested absolutely and effectively in Close.

1.2 In this deed, unless the context otherwise requires:-

- 1.2.1 references to any of the parties shall be construed so as to include their respective successors and permitted assignees;
- 1.2.2 references to a **"business day"** shall be construed as a reference to a day (other than a Saturday or Sunday) on which banks are generally open in London and Edinburgh for the transaction of business in the lawful currency of the United Kingdom;
- 1.2.3 references to a clause by number are references to the appropriately numbered clause of this deed;
- 1.2.4 references to this deed shall be to this deed as amended, varied, supplemented or novated from time to time;

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  - 1.2.6 headings are inserted for ease of reference only and shall be ignored in the construction of this deed; and
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- 2.1 In so far as consent is required under the terms of any of the Securities or otherwise each of the Security Holders consents to the creation and continuance of each Security.
- 2.2 The Lender consents to the Company entering or having entered into the Debt Purchase Agreement (and such consent shall apply to any extension or variation thereto) and acknowledges that all Vesting Debts, any Returned Goods pertaining to them, and their Related Rights which, in each case, are vested absolutely and effectively in Close (save for the avoidance of doubt any such Vesting Debts, Returned Goods and/or Related Rights which are repurchased by, or otherwise transferred back to, the Company under the Debt Purchase Agreement or otherwise) do not form part of the Company's assets, property and/or undertaking and, therefore, shall be free from the Lender's Floating Charge.
- 2.3 For the avoidance of doubt, subject to clause 2.2, the Lender's Floating Charge shall remain in full force and effect and shall apply to all Debts, all Returned Goods and their Related Rights which may at any time be re-assigned by Close to the Company or are otherwise transferred back to the Company under the Debt Purchase Agreement or otherwise, and shall also apply to any sums due from Close to the Company from time to time.

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- 3.1 Notwithstanding the terms of the Securities, any provisions as to ranking contained in them and their respective dates of creation, the Securities shall rank in the following order of priority:-
  - 3.1.1 Close's Floating Charge shall rank on the Non-Vesting Debts, the Non-Vesting Returned Goods and the Non-Vesting Related Rights, and on the proceeds thereof, prior and preferably to the Lender's Floating Charge to an unlimited extent;
  - 3.1.2 the Lender's Floating Charge shall rank on all and any of the assets, property and/or undertaking of the Company from time to time (other than the Non-Vesting Debts, the Non-Vesting Returned Goods and the Non-Vesting Related Rights), and on the proceeds thereof, prior and preferably to Close's Floating Charge to an unlimited extent;
  - 3.1.3 the Lender's Floating Charge shall rank on the Non-Vesting Debts, the Non-Vesting Returned Goods and the Non-Vesting Related Rights, and on the proceeds thereof, to an unlimited extent after the prior ranking provided for in clause 3.1.1 has been satisfied; and
  - 3.1.4 Close's Floating Charge shall rank on all and any of the assets, property and/or undertaking of the Company from time to time (other

than the Non-Vesting Debts, the Non-Vesting Returned Goods and the Non-Vesting Related Rights), and on the proceeds thereof, to an unlimited extent after the prior ranking provided for in clause 3.1.2 has been satisfied.

- 3.2 The amount of any Administrator's or Receiver's remuneration and all outgoings, costs, charges, expenses, liabilities and payments ranking by statute for payment in priority to the amount secured by the Securities shall be deducted from all receipts and recoveries under the relevant Security prior to their application towards the discharge or satisfaction of the amounts secured by the Securities.
- 3.3 In the event of the provisions of this deed being regarded by an Administrator, Receiver or any analogous insolvency practitioner or officer in any jurisdiction appointed under either Security or otherwise in respect of the Company (or all or any part of its assets) as failing to bind him/her or them in respect of all or any of the property, undertaking and/or assets of the Company, or the proceeds thereof, and in so far as the refusal or failure of such Administrator, Receiver or other insolvency practitioner or officer to be bound by this deed shall cause prejudice to a Security Holder, the other Security Holder shall compensate that Security Holder to the extent that it is enriched as a result.
- 3.4 For the avoidance of doubt, each of the parties hereto agrees that the proceeds of any Debt whether created before or after the enforcement of any Security, and whether an asset of Close or the Company, shall constitute solely a realisation of that Debt and no part of any Debt shall be attributable to a realisation of any other asset of the Company.

#### 4 Continuing Security

The Securities shall be continuing securities for repayment to the Security Holders of the money and liabilities thereby secured and the priority arrangements herein contained shall not be affected by any fluctuations in the amount from time to time due, owing or incurred by the Company on any account to any of the Security Holders or by the existence at any time of a credit or nil balance on any such account of the Company with any Security Holder.

#### 5 Enforcement of Security

- 5.1 Subject to clause 5.2 and clause 5.3, in the event that either Security Holder wishes to take any Enforcement Action, it shall notify the other Security Holder in writing of the Enforcement Action which it wishes to take (an "**Enforcement Notification**") and consult with the other Security Holder with a view to agreeing on the method by which such Enforcement Action is to be taken and, where appropriate, the person to be appointed as Administrator or Receiver in relation to such Enforcement Action.
- 5.2 Neither Security Holder shall take any Enforcement Action without the agreement of the other Security Holder pursuant to clause 5.1, provided that if following consultation in accordance with clause 5.1 no agreement on the method by which such Enforcement Action is to be taken and/or the person to be appointed as Administrator or Receiver in relation to such Enforcement Action (as appropriate) is reached between the Security Holders on or before the date falling 10 Business Days following the date upon which the Enforcement Notice in relation to such Enforcement Action is received by the relevant Security Holder pursuant to clause 5.1 (the "**Consultation Longstop Date**"), the Lender may take such Enforcement Action without any further consultation with, and/or the agreement of, Close and shall decide (in its sole discretion) on the method by which such Enforcement Action is to be taken and/or the person to be appointed as Administrator or Receiver (as appropriate).



- 5.3 In the event that, in relation to any Enforcement Action which a Security Holder wishes to take, (i) the Security Holders do not agree on the method by which such Enforcement Action is to be taken and/or the person to be appointed as Administrator or Receiver in relation to such Enforcement Action (as appropriate) by the Consultation Longstop Date in relation to such Enforcement Action and (ii) the Lender has not commenced such Enforcement Action and/or taken any steps to appoint an Administrator or Receiver in relation to such Enforcement Action (as appropriate) by the date falling 2 Business Days following that Consultation Longstop Date, Close may take such Enforcement Action without any further consultation with, and/or the agreement of, the Lender and shall decide (in its sole discretion) on the method by which such Enforcement Action is to be taken and/or the person to be appointed as Administrator or Receiver (as appropriate).

## 6 Operation of Accounts

- 6.1 Nothing in this deed or in the Close Floating Charge or the Debt Purchase Agreement shall prevent the Lender operating the bank accounts of the Company in the ordinary course of banking business, including, without limitation, collecting cheques and other payment orders or accepting monies for credit of the Company's bank accounts and allowing the Company to draw cheques and other payments and generally to withdraw funds from its bank accounts. The Company is permitted to open an account in the name of the Company designated in trust for Close to which may be credited monies, cheques and other payment orders and remittances but the Company may not draw cheques or make any other payment or withdraw funds from such trust account except by payment to Close.

- 6.2 Close shall make no claim against the Lender in connection with any Debt the proceeds of which are credited to any account of the Company with the Lender (other than any account in the name of the Company held in trust for Close) unless:-

6.2.1 prior to the Lender's receipt of such monies the Lender has received notice in writing from Close that a specified sum of money belongs or will belong to Close (and, where requested by the Lender, supported by evidence thereof); or

6.2.2 the Lender has procured the payment to the Lender of a sum which to the actual knowledge of the Lender should have been paid to Close,

in which case all such monies received by the Lender in respect of such Debts shall be held by the Lender in trust for Close.

## 7 Information

- 7.1 Whilst this deed subsists each Security Holder shall be at liberty from time to time to disclose to the other of them information concerning the Company and its affairs in such manner and to such extent as the disclosing Security Holder may decide.
- 7.2 Each Security Holder acknowledges the right of the other of them to the production and delivery of copies of the documents comprising or referred to in its Security.
- 7.3 If either Security Holder shall have any books or records of the Company in its possession, it will provide such access to those books and records as may reasonably be required by any Receiver or Administrator appointed by the other Security Holder.

## **8 Floating Charges**

- 8.1 In so far as it may be necessary to give effect to the provisions of this Ranking Agreement, the Close Floating Charge and the Lender's Floating Charge are hereby varied and this deed shall be construed and receive effect as an instrument of alteration within the meaning of section 466 of the Companies Act 1985.
- 8.2 Each of the Security Holders confirms and undertakes to the other that it will within 31 days of the date of this deed register the required details of this deed at Companies House in order for this deed to constitute a valid instrument of alteration within the meaning of section 466 of the Companies Act 1985 in respect of its Security.

## **9 Termination**

This deed shall cease to have further effect when one or more of the Securities shall have been fully and completely and irrevocably and unconditionally discharged.

## **10 The Company's Acknowledgement**

The Company acknowledges the ranking priorities recorded in this deed and consents to the rest of the terms of this deed. The Company acknowledges that this deed does not create any rights in its favour and that it shall not be entitled to rely upon or enforce any of the terms of this deed as against either Security Holder.

## **11 Entire Agreement**

This deed forms the entire agreement between the parties relating to the priority of their respective Securities and the application of the proceeds thereof and supersedes all earlier meetings, discussions, negotiations, correspondence, faxes, telexes, letters, e-mails, transactions, communications, understandings and arrangements of any kind so relating.

## **12 Forbearance, Failures and Waivers**

- 12.1 No forbearance or failure by any party to exercise or assert or claim any rights or entitlement hereunder shall be construed (in the absence of a written agreement to a waiver or a written confirmation of a past waiver) as a waiver of that right or entitlement.
- 12.2 No waiver of any breach of any term of this deed shall (unless expressly agreed in writing by the waiving party) be construed as a waiver of a future breach of the same term or as authorising a continuation of a particular breach.

## **13 Variations**

Save as otherwise provided herein, any variation of this deed shall be binding only if it is recorded in a document signed by or on behalf of each Security holder.

## **14 Severability**

- 14.1 The provisions of this deed shall be severable and distinct from each other. If at any time any one or more of such provisions is or becomes invalid, illegal or unenforceable, the validity, legality and enforceability of each of the remaining provisions of this deed shall not in any way be affected, prejudiced or impaired thereby.
- 14.2 The provisions of clause 3.1 shall apply notwithstanding the invalidity or avoidance of any of the Securities.

**15 Facilities**

Nothing in this deed shall bind either the Lender or Close to make any advance or prepayment or to grant any credit or other facilities to the Company.

**16 Time and Indulgence**

The Lender and Close shall each be entitled to grant time or indulgence or to release or compound with the Company or otherwise deal with its Security without reference to the other Security Holder except to the extent regulated by this deed.

**17 Continuing Effect**

The ranking priorities set forth above shall apply even though a liquidator or Receiver or an Administrator shall be appointed under the Insolvency Act 1986 in relation to the Company.

**18 Assignation**

Neither of the Security Holders shall assign, transfer or otherwise dispose of its Security or any of its rights or obligations under them to any person (a "Transferee") or agree or attempt to do so unless the Transferee shall first have agreed with the other Security Holder to adhere to and be bound by all the provisions of this deed affecting the other Security Holder including this clause 18.

**19 Notices**

19.1 Any notice or other communication given or made under or in connection with the matters contemplated by this deed shall be in writing.

19.2 Any such notice or other communication (other than any legal proceedings arising hereunder) shall be addressed as provided in clause 19.3 and, if so addressed, shall be treated as having been duly given or made as follows:-

19.2.1 if delivered – at the time of delivery; or

19.2.2 if sent by post – 48 hours from the date of posting; or

19.2.3 if sent by facsimile transmission or electronic medium – at the time of transmission; or

19.2.4 if handed over – at the time of handing over.

19.3 The address for service in accordance with clause 19.2 shall be (in the case of the Lender) FAO: John Fulham, Bank of Scotland plc, New Uberior House, 11 Earl Grey Street, Edinburgh, EH3 9BN and (in the case of the other parties to this deed) the recipient's registered office. However, a party may notify the other parties to this deed of an alternative address for the purposes of clause 19.2 provided that such notification shall only be effective on:-

19.3.1 the date specified in the notification as the date on which the change is to take place; or

19.3.2 if no date is specified, the date falling five clear business days after notice of any such change has been given.

19.4 For the avoidance of doubt, the parties agree that the provisions of this clause shall not apply in relation to the service of any document by which any legal proceedings are commenced or continued or forming any part of such proceedings.

**20 Counterpart Delivery**

20.1 This deed may be executed in any number of counterparts and by each of the parties on separate counterparts.

20.2 Where executed in counterparts:

20.2.1 this deed will not take effect until each of the counterparts has been delivered;

20.2.2 each counterpart will be held as undelivered until the parties to this deed agree a date on which the counterparts are to be treated as delivered; and

20.2.3 the date of delivery may be inserted in the testing clause in the blank provided for the delivery date of this deed.

**21 Law and Jurisdiction**

21.1 This deed is governed by and shall be construed in accordance with Scots law.

21.2 The parties to this deed irrevocably submit to the non-exclusive jurisdiction of the Scottish courts to settle any disputes which may arise out of or in connection with this deed.

IN WITNESS WHEREOF the parties hereto have executed this deed as follows, with a delivery date of 27 JULY 2020:-

They are subscribed for and on behalf of CONFIDA FM LIMITED at  
on \_\_\_\_\_ 2020 by:-

\_\_\_\_\_  
Director

\_\_\_\_\_  
Director/Secretary

They are subscribed for and on behalf of BANK OF SCOTLAND PLC at  
on \_\_\_\_\_ 2020 by \_\_\_\_\_, who holds the position of \_\_\_\_\_,  
and is its duly authorised signatory:-

\_\_\_\_\_  
Authorised Signatory

WITNESS:

Signature \_\_\_\_\_

Full Name: \_\_\_\_\_

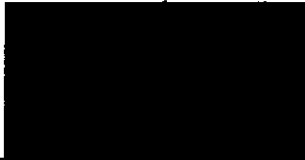
Address: \_\_\_\_\_

\_\_\_\_\_

They are subscribed for and on behalf of CLOSE INVOICE FINANCE LIMITED at Telford  
on 26 JULY 2020 by MICHELLE WILSON, who holds the  
position of SENIOR MANAGER, and is its duly authorised signatory:-



Authorised Signatory



WITNESS:

Signature

Full Name:

Address:

Michelle Wilson  
10 MANTRA GLOVE  
TELFORD TF2 9GV